AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10-14-88
Vol. 53 No. 199
Pages 40201-40394

federal register

Friday
October 14, 1988

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

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Presidential Documents

Title 3—

The President

Proclamation 5880 of October 12, 1988

Veterans Day, 1988

By the President of the United States of America

A Proclamation

Seventy years ago, on November 11, 1918, World War I ended by armistice. On that date each year, America calls to mind the ideals and achievements of U.S. forces in that conflict and throughout our history; and we salute and thank all the veterans of our military for their service, sacrifices, and love of country.

America, the land of liberty, seeks ever to defend freedom and to build the essentials of lasting peace. Experience has taught us that preparedness deters aggression and that weakness invites it. Innumerable Americans have preserved the peace by manning our defenses through the years; and, when we have been called upon as a people to resist the forces of aggression and tyranny, countless brave men and women have donned military uniform to do so. They have known that the defense of our heritage may demand even the supreme sacrifice; and many of them have made that sacrifice for our Nation. We and the generations to come can never forget them. Serving in wartime and in peacetime, our veterans have made us and kept us free and strong.

We can all testify proudly that the same love of country that inspires America's veterans during their military service remains with them in later years. Across our land, veterans continue to contribute to our Nation—in the private sector; in public office; in volunteer service; in efforts for their fellow veterans, hospitalized or with other needs; in activities for young people; in the patriotic, civic, religious, fraternal, and service groups that cement our communities and country together; and in support of the strong defenses America needs to maintain peace and freedom.

For these reasons and many more, all Americans should proudly pause on Veterans Day to express heartfelt thanks and esteem to the veterans of our land.

In order that we may pay fitting homage to those who have served in our Armed Forces, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor America's veterans.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Friday, November 11, 1988, as Veterans Day. I urge all Americans to recognize the valor and sacrifice of our veterans through appropriate public ceremonies and private prayers. I also call upon Federal, State, and local government officials to display the flag of the United States

and to encourage and take part in patriotic activities throughout our country. I invite the business community, churches, schools, unions, civic and fraternal organizations, and the media to support this national observance with suitable commemorative expressions and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

[FR Doc. 88-23932
Filed 10-13-88; 10:24 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Friday, October 14, 1988

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits; Medicare Eligible Individuals

AGENCY: U.S. Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management issues interim regulations to implement the Medicare Catastrophic Coverage Act of 1988. The interim regulations define Medicare eligible individuals who are entitled to a reduced health insurance premium under the law.

DATE: Interim rule effective January 1, 1989. Comments must be submitted on or before December 13, 1988.

ADDRESS: Comments may be sent or delivered to the U.S. Office of Personnel Management, Office of Retirement and Insurance Policy, Room 4351, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Margaret C. Randall, (202) 632–4634.

SUPPLEMENTARY INFORMATION: The Medicare Catastrophic Coverage Act of 1988, Pub. L. 100–360, was enacted on July 1, 1988. It expands benefits under Medicare Parts A and B effective January 1, 1989, and January 1, 1990, respectively. Some of the additional coverage provided under the new law duplicates coverage provided under the Federal Employees Health Benefits Program (FEHBP). In order to avoid having Federal annuitants pay premiums for overlapping coverage, section 422 of the law provides for a reduction in FEHBP premium rates for Medicare eligible Federal annuitants. The amount of the reduced premium and the manner in which it is administered will be determined by the Office of Personnel Management.

The purpose of this regulation is to define those who will be eligible for the reduced premiums.

Under section 553(b)(3)(B) of Title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived to provide entitlements clearly conferred by Pub. L. 100–360 to affected individuals beginning January 1, 1989.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees, annuitants, and former spouses.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance.

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

Accordingly, OPM amends 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; section 890.102 also issued under 5 U.S.C. 1104; Subpart I also issued under Pub. L. 100–360 section 422.

2. In Part 890, a new Subpart I is added to read as follows:

Subpart I—Rate Reduction for Medicare Eligible Federal Annuitants

Sec.
890.901 Entitlement.
890.902 Medicare eligible individual.

Subpart I—Rate Reduction for Medicare Eligible Federal Annuitants

§ 890.901 Entitlement.

In accordance with Pub. L. 100–360, beginning January 1, 1989, an enrollee who meets the definition of Medicare eligible individual in § 890.902 of this chapter or who has a covered family member who meets that definition is entitled to a reduction in his/her premium rate under the Federal Employees Health Benefits Program. The amount of the reduction and changes thereto will be published in the Federal Register.

§ 890.902 Medicare eligible individual.

Medicare eligible individual means an individual who:

(a)(1) Is enrolled in a Federal Employees Health Benefits plan and is:

(i) An annuitant as defined in 5 U.S.C. 8901(3), or

(ii) A former spouse as defined in 5 U.S.C. 8901(10); or

(2) Is a family member covered by the family enrollment of an annuitant or former spouse as defined in 5 U.S.C. 8901; and

(b) Is enrolled in Medicare Parts A and B; and

(c) Is a Medicare enrollee for whom Medicare is the primary payer of health benefits.

[FR Doc. 88–23729 Filed 10–13–88; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota and Marketing Regulations for the 1986 Through 1990 Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to adopt as a final rule three interim rules published in the Federal Register on September 9, 1986 (51 FR 32049), September 12, 1986 (51 FR 32620) and May 2, 1988 (53 FR 15543), which amended 7 CFR Part 729 and to amend 7 CFR Part 729 to implement two provisions of the Disaster Assistance Act of 1988 (the 1988 Act). The September 9, 1986, September 12, 1986, and May 2, 1988, interim rules are adopted without change except to the extent that the September 9, 1986, rule was itself amended by the May 2, 1988,

rule. Further, as required by the 1988 Act, this rule amends 7 CFR 729.343 to permit, insofar as the administration of 7 CFR Part 729 is concerned, farm operators to make a fall quota transfer from a farm without the farm owner's permission if the peanut quota has been cash leased. Also, in order to be in accord with provisions of the 1988 Act, 7 CFR 729.417 is amended to permit peanut producers three working days, rather than one working day, after their peanuts are inspected to decide how the peanuts will be marketed. Accordingly, this final rule leaves 7 CFR Part 729 unchanged except for the revisions in §§ 729.343 and 729.417.

EFFECTIVE DATE: October 14, 1988.

FOR FURTHER INFORMATION CONTACT: Paul P. Kume, Agricultural Program Specialist, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447–9003.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1521–1 and has been classified "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 geographical 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 Loans and Purchases; 10.051, as found in the Catalog of Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service 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 rule.

It has been determined by an 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/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 FR 29115 (June 24, 1983).

Information collection requirements contained in the regulations (7 CFR Part 729) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0560–0006.

A. Discussion of Comments

1. *The September 9, 1986 interim rule (51 FR 32049).* The September 9, 1986, interim rule set forth at 7 CFR 729.385 through 729.417 the regulations governing poundage quotas and marketings of the 1986–90 crops of peanuts including provisions with respect to: (1) Producer penalties for mismarketings of peanuts; (2) growing peanuts for experimental purposes; (3) use of producer marketing cards; and (4) other matters. Three comments were received. All comments addressed the provisions in 7 CFR 729.396 with respect to peanuts grown for experimental purposes. One comment supported that section as promulgated. The others addressed certain procedural issues which did not require amendment to that section. However, the commentors also suggested that § 729.396 of the regulations be clarified with respect to the certification by State seed foundations of peanuts grown for experimental purposes. This was clarified in the May 2, 1988, rule.

Also, the commentors objected that § 729.396 of the regulations did not permit experiment stations to market any of their nonquota peanuts for unrestricted use. Such sales, they argued, were needed to subsidize research. The experimental use exception arises from section 372 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1372) (the 1938 Act) which exempts commodities from penalties that might otherwise apply if the commodities are grown by a publicly-owned agricultural experiment station for experimental purposes only. That exemption, which is general in that it does not apply to peanuts alone, has been in place since the time when there were no poundage quotas for peanuts but, rather, acreage allotments which restricted the acreage which could be planted to peanuts without penalty. It was determined that to the extent nonquota peanuts are used for unrestricted commercial use the peanuts cannot be considered to have been grown for experimental purposes only. Therefore, the commentor's suggested revision (to permit some unrestricted nonquota marketings) was not adopted.

2. *The September 12, 1986, interim rule (51 FR 32620).* This interim rule amended 7 CFR 729.352 and 729.353 by relaxing the restrictions on "spring" (planting season) quota transfers and "fall" (post-planting season) quota transfers in view of the changes in governing statutory provisions made by the Food Security Act of 1985. The 1986 crop was the first crop subject to these changes and many producers did not know the full size of their quota at the time of planting their 1986 crop.

Two comments were received. One was from a sheller group. The other was from a peanut producer. One comment supported the rule. The other objected that handlers should be able to veto a quota transfer to a farm if the producer on a farm had a contract to sell part of its production as "additional" (nonquota) peanuts. This commentor felt that a quota transfer might provide an incentive for a producer to breach the sale contract.

The commentor's concerns involve matters of private contracts. Because of the liberal transfer and retransfer rules that applied to the 1986 crop, a producer could take advantage of an amplified quota and meet legitimate contractual obligations. For this reason and those outlined when the rule was published, it was determined that § 729.396 of the regulations should not be modified.

3. *May 2, 1988 rule (53 FR 15543).* The May 2, 1988 rule amended 7 CFR 729.322, 729.353, 729.396, and 729.428. These amendments concerned: (1) allocation of excess reserves; (2) "fall transfers"; (3) peanuts grown for experimental purposes and (4) the examination of electronic records. There were 197 comments. Of these, 195 addressed § 729.419 of the regulations which was not amended by the May 2, 1988, rule. These comments, therefore, were not responsive to the interim rule. All 195 comments regarding § 729.417 of the regulations requested that that section be revised to allow three working days, rather than one, for peanut producers to decide, after the peanuts are inspected and graded, whether the peanuts will be marketed as quota or additional peanuts and whether the peanuts will be sold privately or placed as collateral for a price support loan. As indicated below, § 729.417 of the regulations has been amended to allow three working days for the producer to make the marketing decision. That amendment has been made in order to conform with amendments to the 1938 Act made by the 1988 Act.

Some of these 195 comments also addressed matters covered in the interim rule. Of the total 197 comments,

184 were from farmers, 8 were from grower groups, 3 were from farm organizations, 1 was from a State ASC committee and 1 was from a Member of Congress.

Three comments suggested that the "fall transfer" provisions of the regulations should be amended to allow a farm operator to make a fall transfer of poundage quota without the farm owner's permission. In this final rule, § 729.343 of the regulations has been amended to permit operators to make such transfers without the farm owner's permission where the farm owner has cash-leased the quota to the farm operator. That change was made since the 1938 Act, as amended by the 1988 Act, eliminates the requirement for owner's approval for fall transfer only when the poundage quota has been cash-leased. It has been determined that further relaxation of the owner approval requirements for poundage quota transfers is not appropriate at this time. If the owner has a share of the crop, the owner may wish, rather than making a fall transfer, to carry forward the unused poundage quota as undermarketings for future crop years. The amendment of § 729.343 of the regulations made pursuant to the 1988 Act will not inhibit owners and operators of farms with poundage quota from undertaking, between themselves, whatever private arrangements they feel are needed to protect their respective interests in poundage quotas.

Two comments were received which concerned the desire of the commentors for governmental financial assistance for the electronic record keeping activities of buying points handling peanuts pledged as collateral for price support loans. Providing such assistance is beyond the scope of the regulations set forth in Part 729.

B. Amendments of Sections 729.343 and 729.417

Section 304 and the 1988 Act amends section 358a of the 1938 Act to provide that, in the case of a fall transfer by a cash lessee, the landowner shall not be required to sign the transfer authorization. Section 729.343 of the regulations is amended accordingly.

Section 304 of the 1988 Act also amends sections 358a of the 1938 Act to provide that a fall transfer may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded. The producer's fall transfer decision is interconnected with the producer's decision on how the peanuts will be marketed. Section 729.417 has been amended, accordingly, to allow three working days after inspection and grading, rather than one as now required, for the producer to make a decision on whether to market the peanuts as quota or additional peanuts and whether to market the peanuts by private sale or by pledging the peanuts as collateral for a price support loan.

Since these amendments of §§ 729.343 and 729.417 are made necessary by provisions in the 1988 Act, public comment with respect to the adoption of these amendments is unnecessary. These amendments are therefore made part of the final rule.

List of Subjects in 7 CFR Part 729

Poundage quotas, Peanuts.

Final Rule

Accordingly, with respect to 7 CFR Part 729, Subpart—Poundage Quota and Marketing Regulations for the 1986 Through 1990 crops of Peanuts:

PART 729—PEANUTS

1. The authority citation for Subpart—Poundage Quota and Marketing Regulations-for the 1986 Through 1990 crops of Peanuts—shall continue to read as follows:

Authority: 7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, 1375; 7 U.S.C. 1445c-2.

2. The interim rules amending this subpart which were published in the **Federal Register** on September 9, 1986 (51 FR 32049), September 12, 1986 (51 FR 32620) and May 2, 1988 (53 FR 15543) are adopted as final without change except that the September 9, 1986, rule is not adopted to the extent it was revised by the May 2, 1988 rule.

3. Section 729.343 is amended by adding a new sentence at the end of the section to read as follows:

§ 729.343 Transfers by sale or lease.

* * * * *

A fall transfer of farm poundage quota made pursuant to § 729.353 shall not require the approval of the owner of the transferring farm, if the poundage quota, as determined by the Agricultural Stabilization and Conservation Service, has been cash leased by that farm owner for that crop year.

§ 729.417 [Amended]

4. Section 729.417 is amended by changing the word "first" in the third sentence to the word "third" and by adding, in that same sentence, after the word "inspected" the words "and graded".

Signed at Washington, DC on October 7, 1988.

Milton Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88-23788 Filed 10-13-88; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 635]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 635 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 229,000 cartons during the period October 16 through October 22, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 635 (§ 910.935) is effective for the period October 16 through October 22, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

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

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

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

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

This regulation is consistent with the marketing policy for 1988–89. The committee met publicly on October 11, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a 9 to 4 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand for lemons has declined.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.935 is added to read as follows:

Note.—This section will not appear in the Code of Federal Regulations.

§ 910.935 Lemon Regulation 635.

The quantity of lemons grown in California and Arizona which may be handled during the period October 16, 1988, through October 22, 1988, is established at 229,000 cartons.

Dated: October 12, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–23897 Filed 10–13–88; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1475

Emergency Livestock Assistance

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim Rule.

SUMMARY: This interim rule sets forth at 7 CFR Part 1475 the regulations which implement livestock emergency programs authorized by the Agriculture Act of 1949 (the 1949 Act) as amended by the Disaster Assistance Act of 1988 (the 1988 Act). This interim rule provides that under these programs the Commodity Credit Corporation (CCC) may make assistance available to eligible owners of livestock who do not have adequate supplies of feed due to certain natural disasters.

The 1988 Act deleted the authority set forth in Section 407 of the 1949 Act which was the basis for the regulations currently set forth in 7 CFR Part 1475 with respect to the Livestock Feed Program and the Emergency Feed Program. Accordingly, this interim rule deletes these regulations.

EFFECTIVE DATES: This regulation is effective August 26, 1988. Comments must be received on or before November 14, 1988, in order to be assured of consideration.

ADDRESS: Send comments on the interim rule to: Director, Emergency Operations and Livestock Programs Division, ASCS, Department of Agriculture P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this rule will be made available for public inspection in Room 4089 South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Telephone: (202) 475–3605.

This interim rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal Assistance Program to which this interim rule applies are: Title—Commodity Loans and Purchases, Number 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 interim rule because the Commodity Credit Corporation (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 this rule.

An Environmental Evaluation with respect to the Emergency Livestock Program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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).

Background

The regulations at 7 CFR Part 1475 currently set forth the regulations which are used to administer the Emergency Feed Program and the Livestock Feed Program. These programs are authorized by the several statutes, including the CCC Charter Act, as amended, the Agricultural Act of 1949, as amended and the Food and Agriculture Act of 1977, as amended, and Pub. L. 86–299.

The 1988 Act consolidates in a new Title VI of the 1949 Act several existing and several new emergency livestock programs by deleting existing statutory provisions and, in lieu assistance thereof, setting forth new provisions. Accordingly, 7 CFR Part 1475 is amended to delete livestock regulations which were in effect under these deleted provisions.

Sections 605, 606, and 607 of the 1949 Act provide that the Secretary of

Agriculture shall make one or more of certain specified programs available to eligible livestock producers if a livestock emergency exists in a State, county or area. The Secretary has previously determined that such an emergency exists in certain counties. In order to implement programs for affected livestock producers in an expeditious manner, this interim rule only sets forth the regulations with respect to those programs which the Secretary has determined to implement in response to the existing livestock emergency. Regulations for the other programs will be developed when the Secretary determines that either the existing livestock emergency or a subsequent emergency warrants the implementation of such programs. This action will insure that such programs will be developed in response to then existing conditions and will, thereof, more efficiently address the emergency needs of affected livestock producers.

Section 602 of the 1949 Act sets forth the provisions which define the types of producers, livestock and feed which are subject to the Act. Generally, the term "livestock producer" means a person that is actively engaged in farming and that receives a substantial amount of total income from the production of grain or livestock. The term "livestock" means cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, and fish used for food that are:

(a) Part of a foundation herd (including producing dairy cattle) or offspring, or

(b) Are purchased as part of a normal operation. Section 603 of the 1949 Act provides that the Secretary shall provide emergency feed assistance for the preservation and maintenance of livestock where because of natural disasters the Secretary determines that a livestock emergency exists. In addition, if a program is made available in a county, producers in contiguous counties may also apply for participation in such a program. The term "substantial amount of total income" has been incorporated in the definition of "owner" which is set forth as 7 CFR 1475.3 to provide that such amount shall be 10 percent or more of the owner's total gross income.

Section 604 of the 1949 Act provides that a Governor of a State or a county Agricultural Stabilization and Conservation (ASC) committee may submit a request to the Secretary for the determination of the existence of a livestock emergency. The Secretary is required to respond to such a request within 30 days. Section 604(a) provides that if the Emergency Feed Program or the Emergency Feed Assistance Program has been implemented in a county prior to the enactment of the 1988 Act, that producers may, if otherwise eligible, continue to be eligible for such programs.

Section 605 of the 1949 Act specifies which programs are available to specified types of livestock producers. Section 605(a) provides that a "qualifying livestock producer" is a livestock producer who has suffered a substantial loss of production of feed normally produced on the farm as a result of the livestock emergency and does not have sufficient feed which is suitable for the producer's livestock. These producers are eligible to participate in the programs set forth in section 606 of the 1949 Act.

Section 605(b) of the 1949 Act provides that livestock producers who do not meet the qualifications of section 605(a) along with qualifying livestock producers as determined under section 605(a), shall be eligible to participate in the programs set forth in section 607 of the 1949 Act.

In accordance with section 606 of the 1949 Act, the Secretary is required to make one or more of the following assistance programs available to qualifying livestock producers in a State, county or area in which the Secretary has determined that an emergency exists which requires the implementation of such a program:

(a) The donation of feed grain held by the CCC to producers who are financially unable to purchase feed or to participate in any other program authorized under this part;

(b) The sale of feed grain held by CCC to producers for livestock feed in the case of a livestock emergency which occurs in 1988 at a price not to exceed 75 percent of the current basic county loan rate for such feed grain, or for any other emergency at 50 percent of the average market price of the commodity in the county or area involved;

(c) Reimbursement of any transportation and handling expenses incurred, not to exceed 50 percent, to a producer in connection with feed grain donations or sales of CCC-owned feed grain;

(d) Cost-share assistance for the purchase of feed at a price not to exceed 50 percent of the cost of feed purchased by a producer;

(e) Hay and forage transportation assistance to producers in an amount not to exceed 50 percent of the cost of transporting eligible quantities of purchased hay and forage from a point of purchase which is beyond a producer's normal trade area to the producer's livestock at a rate not to exceed $50 per ton of eligible hay or forage or $12.50 a ton of eligible silage; and;

(f) Livestock transportation assistance for producers in an amount not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations but not to exceed the lesser of $24 per head of a producer's eligible livestock or the local cost of the quantity of additional feed needed by the producer for the eligible livestock for the duration of the emergency. Section 606 also provides that CCC is authorized to provide for the furnishing of feed grain through a dealer or manufacturer and the replacement of feed grain so furnished from feed grain owned or controlled by CCC in those cases where livestock feed is purchased through CCC or donated by CCC. CCC may also make in-kind payments or reimbursements through the issuance of negotiable certificates which may be exchanged for CCC-owned commodities.

Section 607 of the 1949 Act provides that, if the Secretary determines that the livestock emergency also requires that additional assistance be made available one or more of the following provisions shall be made available to livestock producers:

(a) The donation of feed stored by CCC for use in feeding livestock stranded and unidentified as to owner, including the cost of transporting feed to a disaster area during such periods as determined by the Secretary,

(b) Reimbursement in an amount not to exceed 50 percent of the cost of installing pipelines or other facilities, including tanks or troughs for livestock water, constructing or deepening of wells for livestock water or developing springs or seeps for livestock water in drought areas to facilitate more efficient and better distributed grazing on land normally used for grazing;

(c) The reimbursement of not to exceed 50 percent of the cost of burning prickly pear cactus to make it suitable for animal feed; and

(d) Making available CCC-owned commodities in small lots for use in certificate exchanges.

Section 609 of the 1949 Act provides that the total amount of benefits which a person may receive under the programs specified in Title VI of the 1949 Act may not exceed $50,000. To the extent practicable, the term "person" is to be defined in the same manner as specified in section 1001 of the Food Security Act of 1985. Section 609(c) provides that no benefits may be received under Title VI of the 1949 Act if a disaster payment is made under the 1988 Act with respect to

such loss of production. Section 609(d) provides that the total amount of:

(a) Disaster payments made under the 1988 Act for crop losses which occurred in 1988, and

(b) Livestock emergency assistance benefits made as a result of 1988 disaster may not exceed $100,000. A person whose total combined benefits exceeds $100,000 may specify the programs under which the payments shall be made.

Section 610 of the 1949 Act provides that any person who has "qualifying gross revenues" in excess of $2.5 million is not eligible to receive benefits under Title VI of the 1949 Act. This section further provides that the term "qualifying gross income" means, if a majority of the person's annual income is received from farming and ranching operations, the gross revenue from such operations. For all persons, such term means the gross income from all sources. For purposes of this determination, 7 CFR 1475.5 provides that the term "person" shall be determined as provided in the regulations set forth at 7 CFR Parts 795 and 1497 which are applicable to maximum payment limitation provisions.

Title VI of the 1949 Act sets forth with specificity the major restrictions and components of the various livestock emergency assistance programs. Generally, these provisions are applicable to one or more of these programs. Acordingly, this interim rule sets forth in §§ 1475.1 through 1475.20 general definitions and requirements which are applicable to one or more of the programs specified in Title VI of the 1949 Act. These provisions are substantially similar to the regulations which were previously set forth at 7 CFR Part 1475.

The Secretary has determined to take the following specified action in response to the existing livestock emergency:

(a) Implementation of the livestock preservation program (section 606(a)(1));

(b) Implementation of the Emergency Feed Assistance Program (section 606(a)(2));

(c) Reimbursement of certain handling and transportation costs associated with the livestock preservation and emergency feed assistance programs (section 606(a)(3));

(d) The implementation of the Emergency Feed Program (section 606(a)(4));

(e) The implementation of the Crash Donation Program (section 606(b)(1)); and

(f) The implementation of the Prickly Pear Cactus Burning Program (section 606(b)(3)). Accordingly, except with respect to the assistance provided under section 606(a)(3), this interim rule sets forth in separate subparts the specific program regulations which in addition to the regulations set forth at §§ 1475.1 through 1475.20, are necessary to implement these programs. With respect to the assistance provided in accordance with section 606(a)(3), these provisions are included in the regulations which set forth the livestock preservation and emergency feed assistance programs.

Since livestock producers are currently suffering from severe impacts of the 1988 drought and other natural disasters, the provisions of this interim rule shall become effective upon publication in the **Federal Register**. Comments, however, are requested and will be taken into consideration in developing the final rule.

List of Subjects in 7 CFR Part 1475

Assistance grant programs—agriculture livestock.

Interim Rule

Accordingly, Chapter XIV of Title 7 of the Code of Federal Regulations is amended by revising Part 1475 to read as follows:

PART 1475—EMERGENCY LIVESTOCK ASSISTANCE

Subpart—General Provisions

Sec.

1475.1 General statement.
1475.2 Administration.
1475.3 Definitions.
1475.4 Program availability.
1475.5 Owner eligibility.
1475.6 Application and approval.
1475.7 Adjustment of total allowance.
1475.8 Disposition of feed.
1475.9 Termination and suspension of program.
1475.10 Maintenance of books and records.
1475.11 Liens and claims of creditors; setoffs.
1475.12 Limitation of authority.
1475.13 Appeals.
1475.14 Misrepresentation, scheme or device.
1475.15 Estates, trusts, and minors.
1475.16 Death, incompetency, or disappearance.
1475.17 Violations.
1475.18 Benefits limitation.
1475.19 Gross revenue limitation.
1475.20 Paperwork Reduction Act assigned numbers.

Subpart—Livestock Preservation Donation Program

1475.101 General statement.
1475.102 Eligibility.
1475.103 Assistance.
1475.104 Feeding period.

Subpart—Emergency Feed Assistance Program

1475.201 General statement.
1475.202 Sale of CCC-owned grain.

Subpart—Emergency Feed Program

1475.301 General statement.
1475.302 Cost-share assistance.

Subpart—Crash Feed Grain Donation Program

1475.401 General statement.
1475.402 Assistance.
1475.403 Feeding period.

Subpart—Prickly Pear Cactus Burning Program

Sec.

1475.501 General statement.
1475.502 Definitions.
1475.503 Eligibility.
1475.504 Assistance.

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 1072 (15 U.S.C. 714b and 714c); secs. 407 and 601–113 of the Agricultural Act of 1949, as amended, 63 Stat. 1055, as amended, 100 Stat. 926 (7 U.S.C. 1427 and 1471–1471j).

Subpart—General Provisions

§ 1475.1 General statement.

The regulations in this part set forth the terms and conditions of the programs which may be made available to eligible producers. The objective of these programs is to provide emergency feed assistance to eligible livestock owners in a State, county, or area approved by the Executive Vice President, CCC, where because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, a livestock emergency exists. These programs also provide feed assistance to eligible livestock owners for the preservation and maintenance of livestock in any county contiguous to a county where a livestock emergency has been determined to exist at any time during an eight-month period beginning on the date that such an emergency has been determined to exist in the other county. The program or programs which are made available in the event of the occurrence of a livestock emergency shall be determined by the Executive Vice President, CCC.

§ 1475.2 Administration.

(a) This part shall be administered by CCC under the general direction and supervision of the Executive Vice President, CCC. The program shall be carried out in the field by State and County Agricultural Stabilization and

Conservation committees (State and county committees).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 1475.3 Definitions.

In determining the meaning of the provisions of this part, unless the context indicates otherwise, words importing the singular include and apply to several persons and things, words importing the plural include the singular, words importing the masculine gender include the feminine, and words used in the present tense include the future as well as the present. The following terms shall have the following meanings:

"Animal unit" means a unit of measurement determined by CCC which is necessary for the maintenance of an adult female bovine animal used for beef purposes. Animal units for other types and classes of livestock shall be computed as follows:

(1) 2.00 units-dairy cows;

(2) 2.00 units-bulls 2 years old or older;

(3) 1.00 unit-cattle, beefalo, buffalo, horses, mules, or donkeys 1 year old or older;

(4) .50 unit-cattle, beefalo, buffalo, horses, mules, or donkeys 6 months to 1 year old and swine 1 year old or older;

(5) .33 unit-cattle, beefalo, buffalo, horses, mules, or donkeys less than 6 months old, and for swine 6 months to one year old;

(6) .20 unit-swine less than 6 months old and sheep and goats;

(7) .14 unit-lambs or kids;

(8) .05 unit-turkeys, geese, chickens, and ducks weighing 8 pounds or more; and

(9) .02 unit-turkeys, geese chicks and ducks weighing less than 8 pounds.

Animal units shall not be established for catfish or other fish used for commercial food production but a feed allowance shall be computed in accordance with § 1475.6 of this subpart.

"Approving official" means a representative of CCC who is authorized by the Executive Vice President, CCC, to approve an application for assistance made in accordance with this part.

"Area" means any part of a State or county including Indian reservations.

"ASCS" means the Agricultural Stabilization and Conservation Service.

"Commercial Feedlot" means an establishment that is primarily engaged in the fattening of beef cattle, goats, swine, and lambs in a confined area for a period of at least 30 days, on a fee or contract basis for profit.

"CCC" means the Commodity Credit Corporation.

"County" means a county or similar geographic area as determined by CCC.

"Crop year" means a period determined by CCC which begins on the date of the grazing of new pasture growth in the spring and ending 12 months later.

"DASCO" means the Deputy Administrator or Acting Deputy Administrator, State and County Operations, ASCS, U.S. Department of Agriculture.

"Dairy cow" means a bovine animal which is owned or leased for the purpose of producing milk for commercial marketing.

"Daily allowance" means for all livestock, except fish for food, ten pounds of feed grain equivalent per day per animal unit or lesser amount as determined by the State or county committee. The daily allowance for fish for food shall be one percent of the average weight of all fish for food owned by the producer.

"Eligible feed for cost share" means any type of feed (feed grain, oilseed meal, premix or mixed or processed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that best suits the owner's livestock operations which is consistent with acceptable feeding practices and which was not produced by the applicant or upon which assistance has not been paid. Any type of crop not normally considered as a feed grain may, as determined by CCC, be considered as a feed grain and be considered in making cost share assistance to the owner. If cost share assistance on such crop is requested by the owner, all such crops produced by the owner shall be considered when making a determination of the quantity of feed available. Such quantities shall not be used in determining the quantity of feed production loss.

"Eligible Livestock" means beef and dairy cattle, equine animals, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, and fish used for food. Buffalo and beefalo are also included when maintained on the same basis as beef cattle. Eligible livestock used for determining feed assistance are those livestock that are part of a foundation herd (including producing dairy cattle) or offspring or are purchased as part of a normal operation and not to obtain additional benefits under this part. Eligible livestock also includes:

(1) Livestock inherited by the owner, or

(2) Purchased by the owner as part of a complete farm operation.

"Equine animals" means horses, mules, and donkeys, and includes animals:

(1) Used for commercial food, or

(2) Kept for producing food and fiber on the owner's farm, such as draft horses, cow ponies, or breeding horses.

Eligible equine animals are limited to the number needed to produce food and fiber on the owner's farm or breed horses and mules to be used to produce food and fiber on the owner's farm, and does not include such animals which are used for recreational purposes or are running wild or uncontrolled on land owned or leased by the applicant.

"Equine animals for food" means those horses which are maintained for commercial sale to food processors for human consumption.

"Executive Vice President" means the Executive Vice President, CCC, or a designee of the Executive Vice President.

"Feed dealer or manufacturer" means a person engaged in selling processed feed who is approved by the county committee to advance processed feed from such person's inventory to approved applicants when requested to do so by the county committee under a feed dealer's agreement executed with CCC.

"Feeding period" means: (1) For all livestock except fish for food the period beginning on the later of the date of the application for assistance or the authorization of the implementation of the program and ending on the earlier date of the end of the crop year or the end of the grazing period if pasture (including wheat pasture) is the only crop produced. (2) For fish for food, the feeding period means beginning on the later of the date of the application for assistance, or the authorization for implementation of the program and ending on the earlier of the estimated

date the producer intends to harvest the fish, or the anticipated date when water temperature in the ponds is expected to be 54 degrees Fahrenheit or less.

"*Fish for food*" means those fish which are maintained for commercial sale to restaurants, food stores, fish haulers and processors for human consumption.

"*Foundation Livestock*" means eligible livestock that are kept for breeding and the reproduction of such livestock.

"*Handler*" means any person approved by the county committee to perform designated services in accordance with a grain handler agreement executed by such person and CCC.

"*Husbander*" means owner as defined in this subpart.

"*Livestock producer*" means a person that is actively engaged in farming, ranching, or aquaculture and that receives a substantial amount of total income from the production of grain and livestock, that is an established producer or husbander of livestock or a dairy producer who is:

(1) A citizen of, or legal resident alien in the United States;

(2) A farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in the United States, if they are engaged in livestock production or husbandry or dairy production;

(3) Any Indian tribe of the Indian Self-Determination and Education Assistance Act;

(4) Any Indian organization or entity chartered under the Indian Reorganization Act;

(5) Any tribal organization of the Indian Self-Determination and Education Assistance Act; and,

(6) Any economic enterprise of the Indian Financing Act of 1974.

"*Natural disaster*" means disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster.

"*Owner*" means the person who is actively engaged in farming as determined in accordance with Part 1497 of this chapter, who receives more than 10 percent of the owner's total gross income from the production of grain or livestock or the person who jointly owns the eligible livestock to be fed with the eligible feed which is to be purchased or acquired through donation in accordance with this part with respect to which transportation assistance will be paid or with respect to which cost-share assistance is provided in accordance with this part. A person who pledges livestock as security for a loan shall be considered as the owner for the purpose of this part if all other requirements of this part are met. Notwithstanding any other provisions of this section, livestock leased under a contractual agreement which has been in effect at least six months on the date of application for assistance under this part requires the lessee to furnish the feed for such livestock and provides for a beneficial interest in such livestock such as the right to market a share of the increase shall be considered as being owned by the lessee. An owner does not include: (1) State or local governments or subdivisions thereof; and (2) any individual or entity which is determined to be ineligible to receive payments or benefits in accordance with Part 1498 of this chapter.

"*Person eligible for assistance*" means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity.

"*Poultry*" means domesticated chickens, ducks, geese and turkeys.

"*Premix*" means formulations of one or more microingredients such as vitamins, trace minerals, or drugs, evenly mixed with a carrier. A premix is used to distribute microingredients evenly throughout a formula feed.

"*Processed feed*" means feed grain which contains not more than 90 percent by weight of any one feed grain which is in ground, rolled, steamed, pelletized, or otherwise processed provided that all of the ingredients of the whole grain are included in such mixture.

"*Program*" means an emergency livestock program authorized by this part.

"*Secretary*" means the Secretary of Agriculture or a designee of the Secretary.

"*State*" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

"*State committee*", "*State office*", "*county committee*", or "*county office*", means the respective ASC committee or ASCS office.

"*Substantial loss of production*" means the amount of feed produced by the owner (including pasture, forage and feed in storage) during the crop year which, because of a natural disaster, is at least 40 percent below the amount determined by the approving official, or such other amount as determined by the Executive Vice President, CCC, to be the normal production produced by the owner with respect to lands operated by the owner. Any loss of feed production which the approving official determines is attributable to:

(1) Overgrazing or

(2) Farming practices not recognized as being normal in the area shall not be included in determining a substantial loss of production.

Loss of feed production on land leased by the producer for less than six months prior to the date of application for assistance under this part shall not be included in determining a substantial loss of production unless otherwise allowed by the Executive Vice-President CCC.

"*Warehouse*" means a warehouse which is currently operating in accordance with a valid Uniform Grain Storage Agreement executed with CCC.

§ 1475.4 Program availability.

(a) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in a State, or an area of the State, or a county committee determines that such an emergency exists in the county or area within the county the Governor or the county committee may submit a request for a determination by the Secretary of a livestock emergency in the State, county, or area thereof and for emergency livestock feed assistance under this part. A determination that a livestock emergency due to natural disaster may also be made for a State, county or area thereof by the Secretary whether or not a request for assistance is submitted. The request of a Governor or county committee for a livestock emergency determination and for emergency livestock feed assistance shall include recommendations to the Secretary of those options that will fully use feed available through local sources. The request submitted by a county committee for a livestock emergency determination must be submitted to the State committee and must contain:

(1) A County Feed Loss Assessment Report, Form CCC–650;

(2) If the request is due to the occurrence of drought or excess moisture, the rainfall data by month expressed in inches and percent of normal for the current crop year and the 2 previous calendar years;

(3) The type of assistance requested; and

(4) A report of an on-site visit by the county committee and a State committee representative stating existing production conditions;

(b) The State committee shall forward such a request with a recommendation of whether the request should be approved to DASCO.

(c) The Executive Vice-President, CCC, shall make a final determination as to whether a livestock emergency exists not later than 30 days after

receipt of any request made in accordance with paragraph (c) of this section and shall notify the Governor or the county committee of such determination.

(d) Owners in any county contiguous to a county that has been designated as a livestock emergency county shall be eligible to receive emergency livestock assistance under this part at any time during the eight-month period beginning on the date on which the emergency was determined to exist in the other county.

§ 1475.5 Owner eligibility.

Subject to the terms and conditions in this part, an owner may be approved to participate in a program established in accordance with this part.

§ 1475.6 Application and approval.

(a) Any owner of livestock may file an application for participation in a program made available by CCC in an approved county. When an application is filed, the owner or a duly authorized representative of the owner shall execute the certification contained in Form CCC-642.

(b) An application must be filed at the county office in an approved county or in a county office in a contiguous county.

(c)(1) The owner, or a duly authorized representative of an owner, shall:

(i) Furnish all the information specified on the application;

(ii) Certify that the owner meets the requirements of the applicable program; and

(iii) Provide any other information which the approving official determines to be necessary to determine the owner's eligibility.

(2) Applications for assistance due to production losses because of a livestock emergency determined to exist prior to January 1, 1989 shall be filed for payment or benefit prior to March 31, 1989.

(3) For livestock emergencies determined to exist after January 1, 1989:

(i) Applications must be filed prior to January 1, of the applicable calendar year in which the livestock emergency occurred, and

(ii) With respect to producers in a county contiguous to a county approved for disaster assistance, applicants must file not later than last day of the eight month period after the Secretary determines that a livestock emergency exists in the other county.

(d)(1) With respect to those programs which require that an eligible livestock owner must have suffered a substantial loss of production of feed, in determining whether a substantial loss of production of feed exists, the amount of feed which is produced by the owner shall be converted to a feed grain equivalent. A feed grain equivalent shall be determined by CCC by dividing the total digestive nutrients (TDN) of the crop (as reflected in Morrisons Feed and Feeding) or (as reflected in the National Academy of Science Series) by the TDN for grain sorghum. The amount of the loss of production shall be determined by comparing the normal feed production produced on the affected acreage by the owner to the actual production of feed on the affected acreage. A loss of pasture production shall be based on the normal carrying capacity of such pasture.

(2) A substantial loss of production may, as determined by CCC, include feed stocks produced in the current crop year which were damaged or destroyed by a natural disaster while in storage. Feed stocks not totally destroyed shall be appraised on the basis of the remaining value of such stocks as livestock feed.

(3) The determination of a substantial loss of production with respect to pasture, range, or other grazing land shall be computed based on the loss of current year grazing. County committees shall establish the normal carrying capacity for each type of grazing for the county and the maximum degree of loss for each type of grazing. Any production loss attributed to overgrazing in a prior crop year shall be excluded.

(4) In determining a substantial loss of production with respect to feed grain, silage, green chop, hay, and other roughage, the current crop year acreage and normal yields for such crops shall be used.

(5) Any loss of production otherwise computed shall be reduced due to the receipt of other government benefits which are paid to the owner for livestock feed normally grown by the owner. For 1988, no cost-share asistance shall be made on loss of production on the same loss for which the producer received a disaster payment in accordance with Part 1477 of this title.

(e) Feed on hand owned by the owner of eligible livestock on the date of application shall include, but is not limited to:

(1) Feed grain, silage, green chop, hay, pasture, and other roughage;

(2) Any prior crop year or current crop year production of feed still on hand;

(3) Feed grain stored in a bin or other storage facility under a previous year CCC price support loan that is in excess of the amount of grain pledged as collateral for such loan;

(4) Any prior crop year or current crop year feed grain pledged as collateral for a CCC price support loan that has been redeemed and is still on hand;

(5) Any prior crop year or current crop year feed that is sold during the current crop year by considering the date of delivery of the feed as the date sold;

(6) Any feed grain pledged as collateral for a CCC price support loan during the current crop year;

(7) Pasture, range, or other grazing land owned by the owner and any benefits from any pasture or grazing rights purchased or leased as part of the owner's normal farming operation;

(8) Grazing benefits from hay or grain crops which are grazed instead of harvested including any temporary grazing of crops such as wheat;

(9) Temporary winter cover crops available for grazing;

(10) Any feed produced by the owner in a county or an area not designated as an approved county or area;

(11) Any feed utilized in a feedlot for the commercial feeding of livestock;

(12) Any prior or current crop year feed sold or contracted for sale during the current crop year including any current year grain under loan;

(13) Any donated feed on hand; and

(14) Any other feed that may be determined by approving officials in accordance with instructions issued by DASCO including adjustments based upon other government benefits such as:

(i) FCIC indemnity payments less the premium, and

(ii) Crop disaster payments which are paid to the owner.

(f) The total quantity of feed available to the owner shall be the quantity owned as of the date of application minus any purchased feed on hand.

(g)(1)(i) The gross feed allowance determined with respect to an owner of livestock, other than fish for food, shall not exceed the product obtained by multiplying:

(A) The smaller of 10 pounds per day per animal unit, or whatever lesser quantity is determined to be adequate by the State or county committee; times

(B) The number of days in the feeding period; times

(C) The number of eligible animal units.

(ii) The net feed allowance determined with respect to an owner shall be the gross feed allowance less the total quantity of feed available including feed grain, hay, silage, pasture and range converted to feed grain equivalent and any other source of feed, including purchased feed, determined by the approving official to be available to the owner for feeding eligible livestock during the feeding period.

(iii) The total allowance determined with respect to an owner for the entire feeding period shall be the smaller of the net allowance or the amount of feed production loss by the owner.

(2) The gross feed allowance determined with respect to an owner of fish for food shall not exceed the average pounds of fish owned by the producer times the number of days in the feeding period times 1 percent. The average weight of the fish shall be determined by:

(i) Determining the weight of the fish at the time of application;

(ii) Determining the estimated weight of the fish at harvest time; and

(iii) Dividing the sum of paragraph (g)(2)(i) and (ii) of this section by 2.

(h)(1) The country committee or designee shall review each application. The county committee and, if designated by the county committee, the county executive director, is authorized to approve or disapprove all applications provided the applicant is not a county committee member or an ASCS employee.

(2) The State committee, or a designeee, is authorized to approve or disapprove applications of the county committee members and all ASCS employees except with respect to the State Executive Director.

(3) DASCO, or a designee shall approve or disapprove applications of State committee members and the State Executive Director.

(4) All applications forwarded to a higher authority for consideration shall be accompanied by committee recommendations. No application shall be approved unless the owner meets all eligibility requirements. Information furnished by the applicant and any other information, including knowledge of the county and State committee members concerning the owner's normal operations, shall be taken into consideration in making recommendations and approvals. If information furnished by the owner is incomplete or ambiguous and sufficient information is not otherwise available with respect to the owner's farming operations in order to make a determination as to the owner's eligibility, the owner's application shall not be approbed until sufficient additional information is provided by the owner.

(5) An applicant shall be notified in writing of the action taken with respect to an application by the approving official.

§ 1475.7 Adjustment of total allowance.

(a)(1) The determination of the total allowance available to the owner may be decreased as the result of assistance made available to the owner after such a determination has been made.

(2) If there is an increase or a reduction in the number of the owner's eligible livestock, this fact shall be promptly reported to the approving official and such official shall make an adjustment in the owner's net allowance. This increase or reduction shall be made by revising the net allowance on the application by the result of multiplying the amount of the change in animal uinits, times the number of days remaining in the feeding period times the dailiy allowance. This adjusted net allowance may be further adjusted by the approving official in order to establish a total allowance which the approving official determines to be adequate. After adjusting the net allowance and recomputing the total allowance, the county office shall notify the owner of the current total allowance.

(3) If, due to a change in total allowance an excess amount of assistance was provided to the owner, the owner must refund such excess including applicable interest as determined by DASCO.

(b) If additional feed, including pasture, becomes available to the owner from production of any land operated by the owner during the feeding period, this fact shall be promptly reported to the county office and proper adjustments shall be made.

§ 1475.8 Disposition of feed.

(a)(1) Feed grain or other livestock feed obtained under this part shall not be exchanged for any ingredients, services, cash, credit, or any other thing of value.

(2) An owner may feed eligible livestock feed to any livestock the applicant owns, after a determination has been made that the owner's eligible livestock were the only livestock used in determining the owner's total allowance.

(b) An amount of feed equal to that acquired under the program shall be fed to the applicant's eligible livestock.

(c) The total quantity of feed purchased in accordance with this part must be fed to the owner's livestock within the feeding period. The county committee may consider feed grain as having been fed within the feeding period if the county committee determines that failure to timely feed the total allowance of such feed grain was due to conditions beyond the control of the owner. The amount of feed grain remaining which may be considered as being timely fed shall not exceed a 10-day supply of feed for the producer's eligible livestock.

(d)(1) If the owner does not feed the feed grain or other livestock feed as provided in paragraphs (a) and (b) of this section, with respect to the unfed amount the owner shall pay to CCC:

(i) With respect to purchased CCC-owned feed grain, the difference between the price paid for such feed grain and the posted county price thereof, or such other value as determined by CCC, based on the price of such type of feed grain sold in the county where the application was made, and

(ii) With respect to cost-share assistance, the amount of assistance received plus interest as determined by CCC.

(2) If the owner has failed to report a change in the livestock operation of the owner as required by this subpart and excess assistance was provided to the owner, the owner shall pay to CCC:

(i) With respect to purchased CCC-owned feed grain, the difference determined under paragraph (d)(1)(i) of this section for any feed grain which was purchased in excess of the quantity that CCC would have approved if such report had been made,

(ii) With respect to cost-share assistance, the amount of cost-share assistance which was received plus interest, as determined by CCC, based on the quantity in excess of the quantity that CCC would have approved if such report had been made.

(iii) The kind and quantity of feed grain on which price adjustments shall be based shall be the kind and quantity acquired from CCC.

§ 1475.9 Termination and suspension of program.

The county committee may at any time during the operation of a program recommend suspension or termination of the program. The State committee may at any time during the operation of a program suspend of terminate the program with the concurrence of DASCO. DASCO may suspend or terminate the program at any time. The suspension or termination of the program in a county shall not apply to any assistance approved prior to the effective date of the suspension or termination of the program.

§ 1475.10 Maintenance of books and records.

Warehousemen, handlers, dealers, and owners shall maintain and retain financial books and records which will permit verification of all transactions with regard to such deliveries for at least three years, following the end of the calendar year in which assistance

was provided, or for additional period as CCC may request. An examination of such books and records by a duly authorized representative of the United States Government shall be permitted at any time during business hours. The owner shall, within 30 days after a request by the county committee, submit any requested information with respect to the owner's livestock feeding operation.

§ 1475.11 Liens and claims of creditors; setoffs.

Any payment or portion thereof due any person under this Part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. government. The regulations governing set-offs and withholdings found at Part 13 of this title shall be applicable to this Part.

§ 1475.12 Limitation of authority.

No delegation herein to a State or county committee or a commodity office shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee or employee of the Department of Agriculture.

§ 1475.13 Appeals.

Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at Part 780 of this chapter.

§ 1475.14 Misrepresentation, scheme or device.

A person who is determined by the State committee or the county committee to have:

(a) Adopted any scheme or other device which tends to defeat the purpose of this program;

(b) Made any fraudulent representation; or

(c) Misrepresented any fact affecting a program determination shall be ineligible to receive assistance under this program with respect to the crop year involved.

§ 1475.15 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an owner shall be eligible for assistance under this subpart only if such person meets one of the following requirements:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1475.16 Death, incompetency, or disappearance.

In the case of death, incompetency or disappearance, of any owner who is eligible to receive assistance in accordance with this part, such person or persons specified in Part 707 of this title may receive such assistance.

§ 1475.17 Violations.

(a) *Disposal of grain.* (1) If the owner has failed to utilize the entire quantity of livestock feed purchased under a program, the owner shall not dispose of any remaining quantity of such livestock feed except as specified by CCC.

(2) Except as permitted by CCC, if feed acquired from CCC is made available to any other person, or if a delivery order is used for obtaining grain other than a feed grain, the owner shall be subject to such civil penalties and to such criminal liabilities as are provided by applicable State and Federal statutes.

(b) *Fraudulent representations.* Any warehouseman, handler, dealer, or any other person may be suspended from participation in a program in accordance with Part 1407 of this chapter if such person has:

(1) Made a false certification, representation or report in accordance with this subpart; or

(2) Otherwise failed to comply with any provisions of this part or any contracts entered into in accordance with this part.

(3) The making of such fraudulent representations shall make such person liable in accordance with applicable State and Federal criminal and civil statutes.

§ 1475.18 Benefits limitation.

(a) The total amount of benefits that a person, as determined in accordance with Part 1497 of this title, shall be entitled to receive annually under one or more of the programs established under this part, may not exceed $50,000 per calendar year.

(b) Notwithstanding paragraph (a) of this section, for the 1988 calendar year only, the amount of assistance received by a person, as defined in Part 795 of this title, shall be determined based on the date of sale as shown on the receipt for such assistance. All receipts with a date of sale between August 26, 1988, and January 1, 1989, shall be subject to the $50,000 limitation for calendar year 1988. For purchases or donation of CCC-owned grain, the date of issuance of the delivery order shall be used to determine benefits to be attributed to the 1988 calendar year payment limitation.

(c) No person may receive benefits under this part which is attributable to lost production of a feed commodity due to a natural disaster in 1988 to the extent that such person receives a disaster payment in accordance with Part 1477 of this title with respect to such loss of production.

(d) No person may receive 1988 disaster payments in accordance with Part 1477 of this title or payments and benefits in accordance with this part for livestock emergency losses suffered as a result of a 1988 livestock emergency to the extent that such payment or benefits would cause the combined total amount of such payments or benefits to be received by such person to exceed $100,000. A person may elect whether to receive the $100,000 in such payments and benefits as provided in this part, but not to exceed $50,000 in a calendar year, or in a combination of payments and benefits as provided in accordance with this part and Part 1477 of this title.

§ 1475.19 Gross revenue limitation.

A person, as defined in Parts 795 and 1499 of this title, as applicable, who has annual gross income in excess of $2.5 million shall not be eligible to receive assistance under this part. For the purposes of this determination, annual gross income means:

(a) With respect to a person who receives more than 50 percent of such person's gross income from farming, ranching, and forestry operations, the total gross income received from such operations, and

(b) With respect to a person who receives 50 percent or less of such person's gross income from farming, ranching, and forestry operations, the total gross income from all sources.

§ 1475.20 Paperwork Reduction Act assigned numbers.

The information collection requirements of this part shall be submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and it is anticipated that an OMB Number will be assigned.

Subpart—Livestock Preservation Donation Program

§ 1475.101 General statement.

(a) This subpart sets forth the terms and conditions of the Livestock Preservation Donation Program. This program shall only be in effect upon a determination that a livestock emergency exists in a State, county or area and it has been announced that this program is in effect. Information regarding the availability of the program in a county may be obtained from State and county ASCS offices.

(b) In order to be eligible to participate in the program, an owner of livestock must have suffered a substantial loss of production of feed as defined in § 1475.3 of this part. The objective of the program is to provide CCC-owned feed grains to livestock owners who are financially unable to purchase feed, or to otherwise participate in any other program authorized under this part. The Livestock Preservation Donation Program is for use by those livestock owners whose need for replacing and repairing losses of buildings, equipment, supplies, and other related matters will leave insufficient cash or credit to buy feed for livestock. The owner must establish to the satisfaction of the approving official that:

(1) Without assistance the owner's livestock would perish or be sold at distress prices; and

(2) The owner has insufficient cash or credit to buy feed for eligible livestock.

§ 1475.102 Eligibility.

(a) A livestock owner may be approved to participate in the program if it is determined that in addition to the provisions of §§ 1475.1 through 1475.20 that:

(1) The livestock owner's resources have been so damaged by the disaster that the owner is incapable of buying feed at market prices;

(2) The livestock owner has insufficient cash or credit to buy feed for eligible livestock;

(3) The owner's livestock would perish or be sold at distress prices without donation of feed grains under this program;

(4) The livestock owner does not have sufficient livestock feed to feed the livestock through the period of the emergency; and

(5) The livestock owner is unable to participate in any other livestock program which is currently in effect in accordance with this part.

(b) With respect to the determinations made in accordance with paragraphs (a) (2) through (4) of this section, the approving official must determine that under prevailing local conditions the owner's financial resources preclude the owner from obtaining sufficient quantities of feed from normal suppliers without:

(1) Imperiling continuance of the farming operations;

(2) Placing the owner in default with respect to existing financial obligations;

(3) Causing the owner to engage in unsound borrowing practices; or

(4) Resulting in excessive disposal of livestock by the owner.

(5) Purchased feed shall be considered as an available asset in determining whether an owner is suffering an undue financial hardship. In making this determination, the approving official shall take into consideration the normal financial resources of producers in the area. If the owner is a partnership, the resources of the partnership and all of the partners shall be taken into consideration in determining the eligibility of the partnership to receive assistance.

§ 1475.103 Assistance.

(a) The livestock owner shall establish that the livestock operation and the owner operation have been so damaged by the disaster that sufficient cash or credit does not exist which may be used to purchase necessary feed grain at present market prices. The owner shall not sell or dispose of in any way, except for feed for the owner's livestock, CCC-donated feed grain. The owner shall reimburse CCC at a rate equal to the value of the feed grain, as determined by CCC, on the date the feed grain was made available to the livestock owner for any CCC-donated grain which is on hand after the end of the emergency period that exceeds a 10-day supply.

(b) CCC shall designate the kind of CCC-owned feed grain to be donated under this program and the delivery point at which such feed grain shall be made available. The delivery point may be in the eligible emergency county, contiguous county, or any other location as designated by the Executive Vice-President CCC. In those instances where feed grain is not available in such a county, CCC may reimburse the eligible livestock owner for the cost of transportation of the feed grain at a rate determined by DASCO.

(c) Transportation assistance will be provided to eligible owners based on the smaller of the following:

(1) The loaded mileage from the warehouse storage location to the county line of the county in which the livestock owner is located; or

(2) When the eligible owner delivers grain to a feed dealer for processing, the loaded mileage from the warehouse storage location to such feed dealer's facility.

(d) The maximum amount of CCC-donated feed grain made available to an owner under this subpart shall be limited to the total allowance determined by CCC in accordance with § 1475.6 of this part.

§ 1475.104 Feeding period.

The feeding period established under this subpart for eligible owners shall be limited to not more than 150 days.

Subpart—Emergency Feed Assistance Program

§ 1475.201 General statement.

(a) This subpart sets forth the terms and conditions of the Emergency Feed Assistance Program. This program shall be in effect only upon a determination that a livestock emergency exists in a State, county or area and it has been announced that this program is in effect. Information regarding the availability of the program in a county may be obtained from State and county ASCS offices.

(b) In order to be eligible to participate in the program, as owner of livestock must have suffered a substantial loss of production of feed as defined in § 1475.3 of this part. The objective of the program is to provide CCC-owned grain to eligible owners at reduced prices.

§ 1475.202 Sale of CCC-owned grain.

(a) CCC shall designate the kind of CCC-owned feed grain to be sold under this program and the delivery point at which such feed grain shall be made available. The delivery point may be in the eligible county, contiguous county, or any other locations as designated by the Executive Vice-President CCC. In those instances where feed grain is not available in the emergency county or contiguous county, CCC may reimburse the eligible livestock owner for transportation of such feed grain to the owner's eligible county line at a rate determined by DASCO. Sales of CCC-owned grain shall be made in a quantity which does not exceed the total allowance determined by CCC in accordance with § 1475.6 of this part, which will permit feeding of grain to eligible livestock by the owner for a feeding period that will not extend beyond the date feed normally becomes available in the county.

(b) After payment is received by CCC, delivery shall be authorized by issuance of non-transferable delivery orders by

CCC stating the kind and quantity of grain to be delivered. Quantities authorized by delivery orders shall not exceed the quantity of grain determined in accordance with paragraph (a) of this section.

(c) The owner shall take physical delivery of the grain as soon as possible after issuance of the delivery order but not earlier than the date of such issuance and not later than a date determined by DASCO which would normally permit feeding of the grain as specified in paragraph (a) of this section. Title and risk of loss to the grain specified in the delivery order and stored at a warehouse or handler's facility shall pass to the owner upon issuance of the delivery order. The owner shall promptly present the delivery order to the warehouseman or handler. CCC shall not be responsible for storage charges after the date of issuance of the delivery order but shall be responsible for handling charges at a rate not to exceed the rate provided in CCC's agreement with the warehouse or the handler. In cases where there is an underdelivery in quantity of the eligible grain, the owner shall not make settlement with the warehouse or handler but shall promptly notify the county office which issued the delivery order and a revised delivery order will be issued to the owner or a refund of underdelivered feed grain will be made to the owner. Differences in quality between the grain delivered to the owner and the grain described in the loading order issued to the warehouseman or handler by the county office shall be settled between the warehouseman or handler and CCC.

(d)(1) Where CCC-owned feed grain is not available in an area in which an eligible county is located and there are no CCC-approved handlers or dealers in such area, CCC shall ship the required quantity of feed grain to the area and consign such grain to the county committee. Title and risk of loss shall pass to the owner upon delivery of the feed grain into the owner's conveyance or whenever the owner takes possession of the feed grain if such possession occurs prior to placing the feed grain in such conveyance.

(2) The sale price shall not be subject to adjustment for the grade and quality actually delivered into the producer's conveyance.

(3) The feed grain shall be weighed at destination if scales approved by CCC are available. If such scales are not available, settlement weights shall be as determined by CCC.

(4) CCC shall bear charges for transportation to the delivery point, for unloading the feed grain from the carrier's conveyance, for loading the feed grain into the owner's conveyance, and for determining the weight of the feed grain.

(e)(1) An owner may elect to receive eligible feed grain under the provisions of this section through a feed dealer provided the owner executes a power of attorney authorizing the feed dealer to execute the delivery order on behalf of the owner. Payment for the feed grain shall be made to CCC at the county office where the application for feed grain is filed when requesting the delivery order. Feed grain purchased by a feed dealer on behalf of the owner shall not be exchanged for any ingredient, service, cash, credit, or any other thing of value.

(2) The feed dealer shall provide such county office, in writing, the names of agents, such as company representatives, authorized to sign the delivery order on behalf of the feed dealer at the time of delivery of feed grain. The feed dealer shall:

(i) Take delivery of the feed grain before the expiration date of the delivery order;

(ii) Take physical delivery of the feed grain at each warehouse where the feed grain is located;

(iii) Not be reimbursed for transportation of feed grain received on behalf of the applicant; and

(iv) Present to such county office a statement signed by the owner and feed dealer certifying that the processed feed contained feed grain in the same quantity, type, and same or better grade as purchased by the producer.

(f) An owner who desires to have grain pelletized, ground, rolled, custom mixed, or otherwise processed may do so if the feed is processed from the feed grain purchased from CCC or the feed accepted from the processor is processed from the same kind of feed grain stated on the delivery order which grades the same or better as compared to such feed grain. The quantity of feed grain processed by the processor and delivered to the owner shall be the same quantity as the feed grain purchased from CCC, except for minor milling losses. CCC shall not be responsible for any charges involving processing, bagging, added freight incurred for processing in transit or any other cost which is incurred which would not have been incurred except for the processing of such feed grain.

(g) The sales price of eligible feed grain made available by CCC in response to any livestock emergency determined to exist prior to January 1, 1989, shall be 75 percent of the current basic county loan rate established for the county in which the feed grain is stored and made available for delivery by CCC. If no such county loan rate is established by CCC, the sales price shall be established at a comparable rate as determined by DASCO. With respect to such assistance provided for any livestock emergency determined to occur on or after January 1, 1988, the sales price of eligible feed grain shall be 50 percent of the posted county price determined by CCC in the county in which the feed grain is stored. If no such posted county price is established, the sales price shall be established at a comparable rate as determined by DASCO.

(h) The quantity of feed grain delivered to an owner shall not exceed the total quantity approved for sale by CCC by more than 5 percent. Differences in quantity between the grain delivered to the owner and the quantity of grain described in the delivery order issued to the warehouseman or handler that was removed from the delivery point in excess of 105 percent shall be considered as open stocks and shall be settled between the livestock owner and the warehouseman. Differences in quantity between the grain delivered to the livestock owner and the quantity of feed grain described in the delivery order issued to the warehouseman or handler between 100 and 105 percent should be paid by the owner to CCC at 100 percent of the current posted county price as of the date the delivery order was issued to the livestock owner in the county issuing the delivery order.

(i) An amount equal to the purchase price times the quantity not delivered to the owner shall be refunded to the owner in those cases in which the total approved quantity shown on the delivery order and paid for by the applicant is not delivered to the owner.

(j) When an owner desires to purchase feed grain pursuant to an approved application, the owner must make a payment to CCC, in the manner specified by the county committee, with respect to the quantity of grain to be purchased prior to issuance of a delivery order for such feed grain. The county committee may waive such prior payment requirement if a State or Federal agency certifies to CCC that such agency will finance part or all of the cost of the purchase. If such agency agrees to make payment directly to CCC as specified by the county committee, such a certification may be accepted by the county committee in lieu of cash to the extent of the amount so certified.

Subpart—Emergency Feed Program

§ 1475.301 General statement.

(a) This subpart sets forth the terms and conditions of the Emergency Feed Program. This program shall be in effect only upon a determination that a livestock emergency exists in a State, county or area, and it has been announced that this program is in effect. The objective of the program is to provide cost-share assistance to eligible owners of livestock for the purchase of necessary feed. Information regarding the availability of the program in a county may be obtained from State and county ASCS offices.

(b) In order to be eligible to participate in the program, an owner of livestock must have suffered a substantial loss of production of feed as defined in § 1475.3 of the part.

§ 1475.302 Cost-share assistance.

(a) An owner of eligible livestock who has submitted an application for participation in the program in accordance with § 1475.1 of this part shall receive cost-share assistance only if the owner presents evidence of the purchase of feed to the approving official. If the approving official determines that the owner has met the conditions set forth in § 1475.1 of this part and cost-share assistance has been authorized with respect to such purchases, the owner shall be reimbursed at the rate specified in paragraph (b) of this section.

(b) The rate of cost-share assistance shall be 50 percent of the cost of eligible feed not to exceed five cents per pound feed grain equivalent. In no case may assistance be provided with respect to an amount of purchased feed which is greater that the total feed allowance determined in accordance with § 1475.6(g) of this part. For program purposes, premix, mixed, processed, and liquid or dry supplemental feed shall be considered to be feed grain equivalent on a pound for pound basis.

(c) Acceptable evidence which may be presented to an approving official is limited to a sales document or receipt which:

(1) Is signed by the seller, unless the approving official waives such requirement; and

(2) Contains:

(i) The dates of purchase and delivery, and

(ii) The kind, price, and quantity of feed purchased. Cost-share assistance may not be paid with respect to eligible feed until the feed has been delivered to the owner.

(d) Eligible costs of feed purchases are limited to the purchase price paid by the owner at the point of delivery and may include as determined by the approving official:

(1) Costs normally associated with the preparation of mixed or processed feed,

(2) The cost of leasing or purchasing grazing rights for temporary pasture;

(3) The cost of leasing range or other grazing but not to exceed the smaller of:

(i) 50 percent of the cost of grazing per eligible animal unit per day or,

(ii) An amount announced by the Executive Vice President, CCC; and

(4) The cost of feed for eligible livestock in a feed lot but not to exceed the smaller of:

(i) 50 percent of the cost per eligible animal unit per day, or

(ii) An amount determined by DASCO.

Subpart—Crash Feed Grain Donation Program

§ 1475.401 General statement.

(a) This subpart sets forth the terms and conditions of the Crash Feed Grain Donation Program. This program shall be in effect upon a determination that a sudden livestock emergency in a State, county or area requires the implementation of the program. The objective of the program is to provide CCC-owned feed grains on a donation basis to livestock which are:

(1) Stranded;

(2) Unidentified by owner; and

(3) In danger of perishing after the occurrence of a sudden natural disaster.

(b) The Crash Feed Grain Donation Program is for use after a sudden major disaster has occurred and conditions are such that livestock cannot be tended to in a normal manner and would probably perish without the implementation of this program. Livestock owners who have their livestock under control and are capable of caring for them are not eligible to receive CCC-donated grain under this subpart.

§ 1475.402 Assistance.

(a) Assistance is for eligible livestock which are commingled, stranded, and unidentified as to the livestock owner.

(b) The State committee, or its designee, shall determine the eligibility and the amount of assistance which shall be made available in the area for donation under this subpart.

(c) CCC-owned grain donated under this program shall not be sold or disposed of in any way except for feed for the livestock stranded and unidentified as to its owner.

(d) CCC shall designate the kind of CCC-owned grain to be donated under this program and the delivery point at which such grain shall be made available. The delivery may be any other location as designated by CCC.

(e) The maximum amount of CCC-donated grain under this subpart shall be limited to the total allowance that the approving official determines is needed for the emergency period.

(f) Assistance shall include the cost of transporting the feed from the delivery point to the affected area.

§ 1475.403 Feeding period.

The feeding period established under this subpart shall not exceed 45 days.

Subpart—Prickly Pear Cactus Burning Program

§ 1475.501 General statement.

This subpart sets forth the terms and conditions of the Prickly Pear Cactus Burning Program. This program shall be in effect only upon a determination that a livestock emergency exists in a State, county or area and it has been announced that this program is in effect. Information regarding the availability of the program in a county may be obtained from State and county ASCS offices. The objective of the program is to provide cost-share assistance not to exceed 50 percent of the cost of propane or butane used to burn the spines from prickly pear cactus to make it suitable for livestock feed. The livestock owner may be approved to participate in the program if the producer has an inadequate quantity of feed on hand.

§ 1475.502 Definitions.

"Butane" means either of two isomeric flammable gaseous paraffin hydrocarbons obtained from petroleum or natural gas and used for fuel.

"Propane" means a heavy flammable gaseous paraffin hydrocarbon found in crude petroleum and natural gas and used for fuel.

§ 1475.503 Eligibility.

A livestock owner may be approved to participate in the program only if the livestock owner has insufficient feed to maintain the farm's livestock for the period of the emergency.

§ 1475.504 Assistance.

(a) The maximum amount of cost-share assistance under this program shall be limited to 50 percent of the cost of butane or propane used to burn the prickly pear not to exceed 14 cents per day per animal unit.

(b) Prickly pear cactus made suitable for livestock feed shall not be considered as feed on hand in determining whether an owner is eligible to participate in this program or

any other program implemented in accordance with this part.

(c) Feed obtained from burning prickly pear cactus for which assistance is obtained under this part shall only be used by the eligible owner to feed such owner's livestock.

Signed at Washington, D.C. on October 11, 1988.

Vern Neppl,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-23814 Filed 10-12-88; 9:00 am]

BILLING CODE 3410-05-M

TENNESSEE VALLEY AUTHORITY

18 CFR Parts 1300 and 1301

Ethical and Other Conduct Standards

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: TVA is revising its employee ethics and conduct rules on (1) gifts, entertainment, and favors, and (2) acts affecting personal financial interests. The changes clarify the current policies as approved by the Office of Government Ethics.

EFFECTIVE DATE: October 14, 1988.

FOR FURTHER INFORMATION CONTACT: Paul R. Shlemon, Designated Agency Ethics Official, Robert H. Thompson, Alternate Agency Ethics Official, 400 West Summit Hill Drive, E10 C54 C-K, Knoxville, Tennessee 37902 (Telephone 615-632-6429 or 632-4171).

SUPPLEMENTARY INFORMATION: Executive Order 11222 prohibits employees from soliciting or accepting gifts, favors, or other things of monetary value from persons or organizations with whom TVA does business, unless permitted by regulation. TVA is adding regulatory provisions clarifying its policy on acceptance of (1) food and refreshments in the course of widely attended group functions, and (2) local transportation when no payment can be made and other arrangements are impracticable.

Section 208 of Title 18 of the United States Code prohibits an employee from participating personally and substantially as a Government employee in any proceeding, contract, claim, or other "particular matter" in which there is a financial interest on the part of the employee, the employee's spouse or minor child, or an organization with which the employee has certain kinds of affiliation. The statute allows remote or inconsequential financial interests to be exempted from the prohibition by general rule. TVA's existing general rule exempting certain bonds and notes is being revised to limit the exemption to interests of $5,000 or less. TVA is also adding three new section 208 exemptions covering interests in (1) well-diversified mutual funds, (2) certain retirement plans, and (3) the development or approval of TVA power rate schedules which may exist by virtue of an officer or employee being, or having an interest in, a power user. TVA is also redesignating the rule, formerly at 18 CFR 1301.4, as 18 CFR 1300.735-14(c).

All of the above revisions have been approved by the Office of Government Ethics. TVA has determined these rules involve agency personnel management and so are not subject to notice and comment procedures, the Regulatory Flexibility Act, or Executive Order 12291.

In addition, TVA, in conformity with the request of the Office of the Federal Register, is revising the authority citations appearing in 18 CFR Part 1301.

List of Subjects

18 CFR Part 1300

Conflicts of interest, Ethical conduct, Financial disclosure, Government employees.

18 CFR Part 1301

Administrative practice and procedure, Freedom of Information, Privacy, and Sunshine Acts.

For the reasons set forth in the preamble, Title 18, Chapter XIII of the Code of Federal Regulations is amended as follows:

PART 1300—ETHICAL AND OTHER CONDUCT STANDARDS AND RESPONSIBILITIES OF EMPLOYEES AND SPECIAL GOVERNMENT EMPLOYEES

1. The authority citation for Part 1300 is revised to read as follows:

Authority: 16 U.S.C. 831-831dd; E.O. 11222, 3 CFR 1964-1965 Comp., p. 306 (as amended); 5 CFR 735.104. Section 1300.735-14(c) is issued in accordance with 18 U.S.C. 208(b). Sections 1300.735-21 through 1300.735-23 and 1300.735-37 through 1300.735-39 are issued under authority of 16 U.S.C. 831-831dd.

2. Section 1300.735-12 paragraph (b) is revised to read as follows:

§ 1300.735-12 Gifts, entertainment, and favors.

* * * * *

(b) An employee may: (1) Accept a gift or favor or other thing of monetary value when the circumstances make it clear that it is an obvious family or personal relationship (such as that between the parents, children, or spouse of the employee and the employee) which motivates the gift and its acceptance rather than the business of the persons concerned;

(2) Accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Accept food and refreshments, not lavish in kind, offered free in the course of a widely attended group function such as a reception, siminar, conference or training session, at which attendance is desirable because it will assist the employee in performing his or her official duties; however, the benefit to TVA in having the employee attend must outweigh the entertainment value of the event. The Chairman, Directors, Executive Vice President, Senior Vice Presidents, General Counsel, Inspector General, and Vice Presidents shall determine for their staffs the propriety of attendance at such functions and the acceptance of such amenities; such determinations for Senior Vice Presidents, the General Counsel, and Vice Presidents shall be made by the Executive Vice President, and determinations for the Chairman, Directors, Executive Vice President, or Inspector General shall be made by themselves with prior Designated Agency Ethics Official consultation. All such determinations required by this § 1300.735-12(b)(3) shall be made in advance and shall take into account whether the timing or circumstances of the event and the sponsor's current relationship with TVA might create an appearance of impropriety;

(4) Accept local transportation while on official business when no provision for individual payment can be made and alternative arrangements are clearly impracticable such as transportation from an airport to a remote site for business purposes;

(5) Accept loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees such as home mortgage loans; and

(6) Accept unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

* * * * *

3. Section 1300.735-14 is amended by adding paragraph (c) to read as follows:

§ 1300.735-14 Financial interests.

* * * * *

(c) In accordance with the provisions of 18 U.S.C. 208(b)(2) (1982), TVA has

exempted the following financial interests of its employees from the requirements of 18 U.S.C. 208(a) upon the ground that such interests are too remote or too inconsequential to affect the integrity of such employees' services. When any of the following exemptions applies only to a limited range of official actions, rather than all official acts, the range of actions will be specified within the language of the exemption.

(1) An investment in a business enterprise in the form of ownership of bonds, notes, and other evidences of indebtedness which are not convertible into shares of preferred or common stock and have no warrants attached entitling the holder to purchase stock provided that the estimated market value of the interest does not exceed $5,000;

(2) An investment in the form of shares in the ownership of enterprises, including preferred and common stocks whether voting or nonvoting, or warrants to purchase such shares, or evidences of indebtedness convertible into such shares provided that the estimated market value of the interest does not exceed $5,000 and does not exceed 1 percent of the estimated market value of all the outstanding shares of the enterprise;

(3) Shares or investments in a well-diversified money market or mutual fund;

(4) Vested interests in a pension fund arising out of former employment and to which no further contributions are being made in the employee's behalf, provided that, if the pension plan is a defined benefit plan, the assets of the plan are diversified. For the purpose of this provision, payments are not considered to be made "in the employee's behalf" if they are made solely to maintain adequate plan funding rather than to provide specific benefits for the employee; or

(5) The interest an employee has by virtue of his or her personal or family use of electric power or through his or her interests in an organization using electric power generated or distributed by TVA, for purposes of his or her official actions at TVA in the process of developing or approving TVA power rate schedules.

§ 1300.735-41b [Amended]

4. Section 1300.735-41b is amended by changing the reference "1301.4" to read "1300.735-14(c)."

§ 1300.735-43 [Amended]

5. Section 1300.735-43 is amended by changing the reference "1301.4" to read "1300.735-14(c)."

§ 1300.735-49 [Amended]

6. Section 1300.735-49 is amended by changing the reference "1301.4" to read "1300.735-14(c)."

PART 1301—PROCEDURES

1. The authority citation for Part 1301 is removed.

2. The authority citation for Subpart A is revised to read as follows:

Authority: 16 U.S.C. 831-831dd, 5 U.S.C. 552.

§ 1301.4 [Removed]

3. Section 1301.4 is removed.

4. The authority citation for Subpart B is revised to read as follows:

Authority: 16 U.S.C. 831-831dd, 5 U.S.C. 552a.

5. The authority citation for Subpart C is revised to read as follows:

Authority: 16 U.S.C. 831-831dd, 5 U.S.C. 552b.

Dated: October 3, 1988.

W.F. Willis,

Executive Vice President and Chief Operating Officer.

[FR Doc. 88-23649 Filed 10-13-88; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 19, 112 and 146

[T.D. 88-63]

Customs Regulations Amendments Relating to the Suspension or Revocation of the Rights of a Proprietor To Operate a Bonded Warehouse, the Privilege of Operating a Container Station, a Cartman's or Lighterman's License or the Activated Status of a Foreign Trade Zone and Associated Privileges

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations setting forth the conditions under which the rights, privileges or licenses of bonded warehouses, container stations, cartmen, lightermen and Foreign Trade Zone (FTZ) operators can be suspended or revoked. These changes focus on the status of corporate operators or license holders liable to suspensions or revocations because of the conviction of a corporate officer of a felony or misdemeanor if the misdemeanor involves theft, smuggling or a theft-connected crime. The purpose of the changes is to make it clear that resignation of the officer before conviction does not avoid the suspension or revocation jeopardy to the corporate license, rights or privileges.

The changes also no longer limit, where applicable, suspensions or revocations to situations where there is a conviction. In the absence of a conviction, commission of acts constituting a felony, theft, smuggling or theft-related crime, subject to the protections afforded by the administrative procedures applicable, will be sufficient under the changes to warrant suspension or revocation.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: Currita Waddy, Office of the Chief Counsel, (202) 566-2482.

SUPPLEMENTARY INFORMATION:

Background

Included among the reasons enumerated for suspending or revoking the right of a proprietor to operate a bonded warehouse (19 CFR 19.3(e)(3)), suspending or revoking the privilege of operating a container station (19 CFR 19.48(a)(3)), suspending or revoking the license of a cartman or lighterman (19 CFR 112.30(a)(5)), or suspending the activated status of a Foreign Trade Zone (FTZ), or the privileges of an FTZ user (19 CFR 146.82(a)(3)), is the conviction of a corporate officer of a felony, or conviction of a misdemeanor involving theft, smuggling or a theft-connected crime. However, it has come to the attention of the Customs Service that these provisions have been literally interpreted as precluding suspension or revocation if the offending corporate officer resigns and leaves the corporation before conviction. Customs proposed to clarify the regulations and avoid this interpretation with respect to cartman and lighterman in a notice of proposed rule making published in the **Federal Register** on August 26, 1986 (51 FR 30376). Another notice was published on October 30, 1987 (52 FR 41734), to extend the proposal to the similar reasons for suspensions or revocations applicable to bonded warehouses, container stations and FTZ's, which were subject to the same misinterpretation.

Since commission of the type of offense involved under existing provisions applicable to FTZ operators is sufficient, without a conviction, for a suspension, Customs also proposed making commission of an offense similarly sufficient by itself for suspensions or revocations involving

bonded warehouses, container stations, cartmen and lightermen.

A total of three comments were received in response to the proposed amendments.

Analysis of Comments

Two commenters agreed that the existing regulations allow a wrongdoer corporate officer to resign to avoid disciplinary action against their corporation and commended the proposed amendments as closing this loophole.

Another commenter objected to both proposals. First, this commenter stated that they were strongly opposed to the proposed changes as overly broad since the proposed amendments would suspend a right, license or privilege for any felony or misdemeanor involving theft by a corporate officer. This commenter contended that the crime serving as the basis of the disciplinary action should be related to the importation or exportation of goods into or out of the United States or should be connected with the corporate officer's responsibilities with respect to a corporate warehouse proprietor, container station operator, cartman, lighterman or FTZ operator. This commenter also objected to suspension or revocation on the basis of an alleged commission of an illegal act and claimed that such action should be restricted to conviction.

However, Customs does not agree. While the relationship of a crime to importing or exporting or to responsibilities under a bond, privilege or license may be pertinent to the type of disciplinary action proposed, that should not be a controlling consideration. Crimes relating to matters other than the importation or exportation of goods, or to a licensee's responsibilities, are, nevertheless, related to the broader considerations of trust inherent in the entitlement to the rights, privileges or licenses issued by the Customs Service.

Further, we do not agree that disciplinary action should only be based on a conviction rather than the commission of acts constituting a specified offense. Suspensions or revocations are not based on mere allegations, but are subject to the administrative due process procedures provided in the applicable Customs regulations. In those procedures, a finding that a corporate wrongdoer is not guilty in a criminal trial does not bind the Customs Service in an administrative proceeding. Further, in the administrative proceeding, Customs is not determining a criminal penalty, but is making a judgment as to the corporation's fitness to continue under a right, privilege or license originally granted by Customs.

Finally, one commenter expressed concern about the statement in the "Background" section of the **Federal Register** notice that the person's employment status at the time of conviction with respect to the corporate operator or licensee was "unimportant." This commenter stated that this factor is important, but should not be determinative, and that Customs may take into account the fact than an innocent corporation immediately terminated the offending officer upon discovery of the wrongdoing. We agree that employment status is not entirely irrelevant. The decision to suspend or revoke will be make upon consideration of all facts pertinent to a particular case. We regret the misconstruction of our intentions which the language objected to unintentionally may have conveyed to some readers.

For the above reasons, the amendments to the Customs Regulations are adopted as proposed.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the regulation amendments will not have significant impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was James C. Hill, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 19

Customs duties and inspection, Imports, Warehouses.

19 CFR Part 112

Administrative practices and procedures, Customs duties and inspection, Imports.

19 CFR Part 146

Customs duties and inspection, Foreign Trade Zones, Imports.

Amendments to the Regulations

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The authority citation for Part 19 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * § 19.48 also issued under 19 U.S.C. 1499, 1623. * * *

§ 19.3 [Amended]

2. Section 19.3(e)(3) is amended by removing the semicolon, replacing it with a period, and adding the following at the end of the paragraph: "Any change in the employment status of the corporate officer, (e.g., discharge, resignation, demotion, or promotion) prior to conviction of a felony or prior to conviction of a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision;"

3. Section 19.48(a)(3) is revised to read as follows:

§ 19.48 Suspension or revocation of the privilege of operating a container station; hearings.

(a) * * *

(3) The container station operator or an officer of a corporation which has been granted the privilege of operating a container station is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime. Any change in the employment status of the corporate officer (e.g., discharge, resignation, demotion, or promotion) prior to conviction of a felony or prior to conviction of a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision;

* * * * *

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

1. The authority citation for Part 112 is revised to read as follows:

Authority: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

2. Section 112.30(a)(5) is revised to read as follows:

§ 112.30 Suspension or revocation of license.

(a) * * *

(5) The holder of such a license or an officer of a corporation holding such a license is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime. Any change in the employment status of the corporate officer (e.g., discharge, resignation, demotion, or promotion) prior to conviction of a felony or prior to conviction of a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision;

* * * * *

PART 146—FOREIGN TRADE ZONES

1. The authority citation for Part 146 continues to read in part as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (Gen. Hdnote 11), 1623, 1624. * * *

2. Section 146.82(a)(3) is revised to read as follows:

§ 146.82 Suspension.

(a) * * *

(3) The operator, or any officer of a corporation which has been granted the right to operate a zone, is convicted of or has committed acts which would constitute a felony, or misdemeanor involving theft, smuggling, or a theft-connected crime. Any change in the employment status of the corporate officer (e.g., discharge, resignation, demotion, or promotion) prior to conviction of a felony or prior to conviction of a misdemeanor involving theft, smuggling, or a theft-connected crime, resulting from acts committed while a corporate officer, will not preclude application of this provision;

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 15, 1988.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 88–23549 Filed 10–13–88; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Office of the Assistant Secretary for Public and Indian Housing

Office of the Assistant Secretary for Community Planning and Development

24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 232, 234, 235, 240, 251, 252, 255, 511, 570, 813, 882, 887, 888, 904, 905, 913, 960, 964, 966, and 970

[Docket No. N–88–1876]

Announcement of Effective Dates; Corrections

AGENCY: Office of the Secretary; Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Office of the Assistant Secretary for Public and Indian Housing; Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of announcement of effective dates for certain recent final and interim rules; Corrections.

SUMMARY: Section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), requires HUD to wait thirty calendar days of continuous session of Congress before it makes a published rule effective. This notice announces the effective dates for certain recently published final and interim rules. Thirty calendar days of continuous session of Congress have now expired in the present Congress since these rules were published. For an explanation of subject matter on the rules, see **"SUPPLEMENTARY INFORMATION".**

The notice also corrects several sections of the final rule, "Resident Management in Public Housing", published September 7, 1988 (53 FR 34676), by inserting the rule's effective date wherever it applies; corrects the **"FOR FURTHER INFORMATION CONTACT"** person in the final rule for "Single Family Mortgage Instruments", published September 6, 1988 (53 FR 34279); and corrects two sections in the final rule, "Full Insurance and Coinsurance of Mortgages Covering Nursing Homes and Similar Projects", published August 31, 1988 (53 FR 33724) to comply with congressional and departmental intent. Finally, this Notice corrects the terminology used in the preamble and rule text of the interim rule entitled "Public Housing Program; Demolition or Disposition of Public Housing Projects "published on August 17, 1988 (53 FR 30984).

DATES: For effective dates see **"SUPPLEMENTARY INFORMATION".**

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755–7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The effective date provision of each of the published rules affected by this Notice stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announced that future notice of the rule's effectiveness would be published in the **Federal Register.** Thirty calendar days of continuous session of Congress have expired in the present Congress since each of these rules was published. Accordingly, the effective dates are being announced in this Notice.

The Department is correcting, at this time, the final rule published on September 7, 1988 (53 FR 34676), that established a new program of resident management in public housing, and contained several places in §§ 964.3 (c)(2) and (d)(1), 964.5(b), 964.25, 964.33(c), and 964.35(b) for the effective date, when known, to be inserted in the text of the rule. This Notice also corrects the final rule published on September 6, 1988 (53 FR 34279) that permitted a change in present HUD practice concerning the use of mortgage forms in HUD single family mortgage insurance programs. That rule identified an incorrect "For Further Information Contact" person to be contacted for any information concerning those particular forms.

In addition, this Notice corrects the rule published on August 31, 1988 (53 FR 33724) entitled "Full Insurance and Coinsurance of Mortgages Covering Nursing Homes and Similar Projects." On May 3, 1988, the Department published a final rule implementing section 410 of the Housing and Community Development Act of 1987, which included amendments to 24 CFR 232.6 to adopt new certification provisions set out in the 1987 Act (53 FR 15671–15672). The Department, however, varied the statutory requirements slightly to require that only an appropriate State agency—and not a lender—could select a financial consultant to make the market study specified in section 410. Additionally, the Department provided in the May 3

final rule that the State, as well as the Secretary, would have to find the required market study to be acceptable.

Each of these changes in the statutory formulation was objected to by the House Committee on Banking, Finance and Urban Affairs in its June 29, 1988, Report on the Omnibus McKinney Homeless Assistance Act of 1988 (Report 100–718, Part 2, 100th Congress, 2d Session at pp. 47–48).

In the August 31, 1988, rule, the Department responded to the Committee's concern by modifying § 232.6 to reflect the Committee's directions. However, through inadvertence, only one of the two alterations of the rule was included. Today's correction modifies the section in accordance with the Committee's direction and HUD's intention at the time of publishing the August 31, 1988, final rule. A parallel correction is made to § 252.303(a)(2)(iii).

In the August 17, 1988, publication of its interim rule entitled "Public Housing Program; Demolition or Disposition of Public Housing Projects", the Department erred in making reference to "units deprogrammed" in a context where it was intended to refer to "units approved for deprogramming". This Notice revises one paragraph of the rule preamble and one paragraph of the published interim rule to correct this error.

Accordingly, the purpose of this notice is to announce the effective dates for the rules listed below and to make the necessary corrections described above for the final rules published in the **Federal Register** on August 31, 1988 (53 FR 33724), September 6, 1988 (53 FR 34279), September 7, 1988 (53 FR 34676), and August 17, 1988 (53 FR 30984), as follows:

PARTS 200, 203, 204, 213, 220, 221, 222, 234, 235 AND 240—[AMENDED]

1. *24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 234, 235, and 240:* Single Family Mortgage Instruments, Final Rule published September 6, 1988 (53 FR 34279), Docket No. R–88–1410; FR 2434.

DATES:

Effective Date: October 6, 1988.

In addition, on page 34279, third column, correct name, title and telephone number listed in **"FOR FURTHER INFORMATION CONTACT"** to read:

Donald B. Alexander, Chief Attorney, Loan Origination Section, Home Mortgage Division, * * * (202) 755–7070 (This is not a toll-free number).

PARTS 232, 251, 252 AND 255—[AMENDED]

2. *24 CFR Parts 232, 251, 252, and 255:* Full Insurance and Coinsurance of Mortgages Covering Nursing Homes and Similar Projects, Final Rule published August 31, 1988 (53 FR 33724), Docket No. R–88–1361; FR–2256.

DATES:

Effective Date: October 6, 1988.

§ 232.6 [Amended]

In addition, § 232.6(a)(2), on page 33735, column one, at line 8 in paragraph (2), the phrase "lender shall not coinsure" is corrected to read "Secretary shall not insure".

Section 232.6(2)(iii), on page 33735, column one, is corrected by striking out the phrase "is certified as acceptable by an appropriate State official, and".

§ 252.303 [Amended]

Section 252.303(a)(2)(iii), on page 33744, is corrected by striking out the phrase "certified as acceptable by an appropriate State official, and is".

PARTS 511, 813, 882, 887, 888 AND 960—[AMENDED]

3. *24 CFR Parts 511, 813, 882, 887, 888, and 960:* Section 8 Housing Vouchers, Final Rule published September 6, 1988 (53 FR 34372), Docket No. R–88–1332; FR 2170.

DATES:

Effective Date: October 6, 1988.

PART 570—[AMENDED]

4. *24 CFR Part 570:* Community Development Block Grants; Relocation, Displacement and Acquisition, Interim Rule published August 17, 1988 (53 FR 31234), Docket No. R–88–1405; FR–2474.

DATES:

Effective Date: October 6, 1988, retroactive to October 1, 1988.

Comment Due Date: October 17, 1988.

5. *24 CFR Part 570:* Urban Development Action Grant (UDAG); Selection Criteria, Final Rule published August 29, 1988 (53 FR 33026), Docket No. R–88–1383; FR 2449.

DATES:

Effective Date: October 6, 1988.

6. *24 CFR Part 570:* Community Development Block Grants; Final Rule published September 6, 1988 (53 FR 34416), Docket No. R–85–1204; FR–1895.

DATES:

Effective Date: October 6, 1988.

PARTS 904, 905, 913, 960 AND 966—[AMENDED]

7. *24 CFR Parts 904, 905, 913, 960, and 966:* Tenancy and Administrative Grievance Procedure for Public Housing; Public Housing—Tenancy and Administrative Grievance Procedure, Final Rule published August 30, 1988 (53 FR 33216), Docket No. R–88–1020; FR–1164.

DATES:

Effective Date: November 7, 1988.

PART 964—[AMENDED]

8. *24 CFR Part 964:* Resident Management in Public Housing, Final Rule published September 7, 1988 (53 FR 34676), Docket No. R–88–1398; FR–2519.

DATES:

Effective Date: October 7, 1988.

§§ 964.3, 964.5, 964.25, 964.33 and 964.35 [Amended]

Correct §§ 964.3 (c)(2) and (d)(1), 964.5(b), 964.25, 964.33(c) and 964.35(b), beginning on page 34680 and ending on page 34683, by removing the instructions "[insert effective date of this rule]", wherever it appears, and inserting in their place, "October 7, 1988."

PART 970—[AMENDED]

9. *24 CFR Part 970:* Public Housing Program; Demolition or Disposition of Public Housing Projects, Interim Rule published August 17, 1988 (53 FR 30984), Docket No. R–88–1407; FR–2463.

DATES:

Effective Date: October 6, 1988.

Comment Due Date: October 17, 1988.

In addition, on page 30986, third column, first full paragraph, the preamble paragraph is corrected to read as follows:

The Department has also determined that Part 970 should not apply to demolition or disposition of units approved for deprogramming before February 5, 1988 (the effective date of the 1987 Act). Units are deprogrammed for varying reasons, and because of this, the Department invites public comment concerning whether Part 970's requirements ought to be applied to some or all housing units approved for deprogramming after February 5, 1988, and in the future. This interim rule, by its silence, extends coverage to all units approved for deprogramming after February 5, 1988.

§ 970.2 [Amended]

On page 30987, third column, the amendment adding a new paragraph (g) to § 970.2 is corrected to read as follows:

(g) Units approved for deprogramming before February 5, 1988.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Date: October 11, 1988.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 88-23781 Filed 10-13-88; 8:45 am]

BILLING CODE 4210-32-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's interim regulation on Payment of Premiums, which was published on June 30, 1988 (53 FR 24906). Appendix B to the interim regulation contains a table setting forth the interest rates that are required by statute to be used in valuing a plan's vested benefits for purposes of determining the amount of the premium due to the PBGC. This amendment adds to that table the interest rate applicable to plan years beginning in October 1988.

EFFECTIVE DATE: October 14, 1988.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW. Washington, DC 20006; telephone 202-778-8823 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, amended section 4006 of the Employee Retirement Income Security Act of 1974 ("ERISA") to establish a two-part premium structure for single-employer plans, *i.e.*, a flat rate per capita assessment and a variable rate assessment based on a plan's unfunded vested benefits, effective for plan years beginning on or after January 1, 1988. Under amended ERISA section 4006(a)(3)(E)(iii)(II), the interest rate used in valuing a plan's vested benefits for purposes of determining the amount of the plan's unfunded vested benefits must equal 80% of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

The Pension Benefit Guaranty Corporation's (the "PBGC's") interim regulation on Payment of Premiums (53 FR 24906 (June 30, 1988)) implements these new premium rules. Under § 2610.23(b)(1) of the regulation, the interest rate for valuing vested benefits is determined by reference to the annual yield for 30-year Treasury constant maturities as reported in Federal Reserve Statistical Release G.13 and H.15. The required interest rate for a given "premium payment year" (the plan year for which the premium is being paid) is 80% of this rate for the calendar month preceding the calendar month in which the premium payment year begins. As a convenience, the PBGC established an Appendix B to the interim regulation containing a table setting forth the required interest rates for premium payment years beginning in January 1988 and thereafter.

The PBGC is amending Appendix B to add the required interest rate for premium payment years beginning in October 1988. Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(d)(3).

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Appendix B to Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for Part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by sec. 9331, Pub. L. 100-203, 101 Stat. 1330.

2. Appendix B to Part 2610 is amended by adding to the table of interest rates therein a new entry to read as follows. The explanatory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate [1]
• • • • •	
October 1988	7.25

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15, for the calendar month preceding the calendar month in which the premium payment year begins.

Issued in Washington, DC, on this 11th day of October, 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-23790 Filed 10-13-88; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning November 1, 1988. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after November 1, 1988, and will remain

in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8824 (202–778–8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR Part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The recent amendments to Title IV made by the Pension Protection Act ("PPA"), a part of the Omnibus Budget Reconciliation Act of 1987, increase the amount of plan benefits for which an employer is responsible upon plan termination. These new termination rules apply to plan terminations with respect to which the 60-day advance notice to affected parties (the notice of intent to terminate) is issued after December 17, 1987. (For more detail, see the PBGC's Notice of Revised Termination Rules, 53 FR 1905 (January 22, 1988).) However, the PPA does not change the Title IV valuation rules.

Under amended ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in Part 2619. Plans terminating in a standard termination may, for purposes of the notice given to the PBGC, use these formulas to value benefit liabilities, although this is not required. (Such plans may value benefit liabilities that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Plans that terminate on or after January 1, 1986 (the effective date of the Single-Employer Pension Plan Amendments Act of 1986) and issued notices of intent to terminate prior to December 18, 1987, or against which the PBGC instituted involuntary termination proceedings before that date, shall continue to be responsible for benefit commitments under the plan and to value guaranteed benefits and/or benefit commitments.

Appendix B in Part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulations. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since September 1, 1988 (53 FR 30674 (Aug. 15, 1988)). Although the PBGC usually changes its rates by an interval of ¼ percent, rapid changes in financial markets have indicated that a decrease of ½ percent in warranted at this time. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after November 1, 1988, which set reflects an decrease of ½ percent in the immediate interest rate to 7¾ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after November 1, 1988, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 is revised to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362, as amended by secs. 9312–13, Pub. L. 100–203, 101 Stat. 1330.

2. Rate Set 75 of Appendix B is revised and Rate Set 76 of Appendix B is added to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Gy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2, are defined in § 2619.45.

Rate set	For plan with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*		
75	9–1–88	11–1–88	8.25	1.0750	1.0625	1.0400	7	8
76	11–1–88		7.75	1.0700	1.0575	1.0400	7	8

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.
[FR Doc. 88-23691 Filed 10-13-88; 8:45 am]
BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.
ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of November 1988.

EFFECTIVE DATE: November 1, 1988.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington DC 2006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 553(b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subject in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest

* * * * *

(c) *Interest Rates.*

For valuation dates occurring in the month—	The values of i_t are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
•		•		•		•		•			•		•			
November 1988	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, D.C., on this 4th day of October 1988.
Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.
[FR Doc. 88-23692 Filed 10-13-88; 8:45 am]
BILLING CODE 7708-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-54

[ADM 5420.40D]

GSA-Sponsored Advisory Committees

AGENCY: Office of Administration, GSA.
ACTION: Final rule.

SUMMARY: This regulation sets forth revisions to policies and procedures in GSA regarding the establishment, renewal, operation, and control of advisory committees under GSA's responsibility. These revisions are necessary to comply with recent guidelines concerning advisory committees. The revisions are intended to provide the most up-to-date procedures needed to effectively carry out the advisory committee function in GSA.

EFFECTIVE DATE: October 14, 1988.

FOR FURTHER INFORMATION CONTACT: Kenneth L. George, Organization and Productivity Improvement Division, Office of Management Services, Office of Administration, General Services Administration, Washington, DC 20405; telephone (202-566-0086).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

List of Subjects in 41 CFR Part 105-54

Advisory committees, Government property management, Reporting requirements.

1. Part 105-54 is revised to read as follows:

PART 105-54 ADVISORY COMMITTEE MANAGEMENT

Sec.
105-54.000 Scope of part.

Subpart 105-54.1—General Provisions

105-54.101 Applicability.
105-54.102 Definitions.
105-54.103 Policy.
105-54.104 Responsibilities.

Subpart 105-54.2—Establishment of Advisory Committees

105-54.200 Scope of subpart.
105-54.201 Proposals for establishing advisory committees.
105-54.202 Review and approval of proposals.

105–54.203 Advisory committee charters.
105–54.203–1 Preparation of charters.
105–54.203–2 Active charters file.
105–54.203–3 Submission to Library of Congress.
105–54.204 Advisory committee membership.

Subpart 105–54.3—Advisory Committee Procedures

105–54.300 Scope of subpart.
105–54.301 Meetings.
105–54.302 Committee records and reports.
105–54.303 Fiscal and administrative provisions.
105–54.304 Cost guidelines.
105–54.305 Renewal of advisory committees.
105–54.306 Amendment of advisory committee charters.
105–54.307 Termination of advisory committees.
105–54.308 Responsibilities of the Administrator.
105–54.309 Added responsibilities of Service and Staff Office Heads and Regional Administrators.
105–54.310 Advisory committee duties of the GSA Committee Managment Officer.
105–54.311 Complaint procedures.

Subpart 105–54.4—Reports

105–54.400 Scope of subpart.
105–54.401 Reports on GSA Federal Advisory Committees.

Authority: Pub. L. 92–463 dated October 6, 1972, as amended; and 5 U.S.C. 552.

§ 105–54.000 Scope of part.

This part sets forth policies and procedures in GSA regarding the establishment, operation, termination, and control of advisory committees for which GSA has responsibility. It implements the Federal Advisory Committee Act (Pub. L. 92–463), which authorizes a system governing the establishment and operation of advisory committees in the executive branch of the Federal Government, and Executive Order 11686 of October 7, 1972, which directs the heads of all executive departments and agencies to take appropriate action to ensure their ability to comply with the provisions of the Act.

Subpart 105–54.1—General Provisions

§ 105–54.101 Applicability.

This Part 105–54 applies to all advisory committees for which GSA has responsibility. This part also applies to any committee that advises GSA officials even if the committee were not established for that purpose. This applicability, however, is limited to the period of the committee's use as an advisory body. This part does not apply to:

(a) An advisory committee exempted by an Act of Congress;

(b) A local civic group whose primary function is to render a public service in connection with a Federal program;

(c) A State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies;

(d) A meeting initiated by the President or one or more Federal official(s) for the purpose of obtaining advice or recommendations from one individual;

(e) A meeting with a group initiated by the President or one or more Federal official(s) for the sole purpose of exchanging facts or information;

(f) A meeting initiated by a group with the President or one or more Federal official(s) for the purpose of expressing the group's views, provided that the President or Federal official(s) does not use the group recurrently as a preferred source of advice or recommendations;

(g) A committee that is established to perform primarily operational as opposed to advisory functions. Operational functions are those specifically provided by law, such as making or implementing Government decisions or policy. An operational committee would be covered by the Act if it becomes primarily advisory in nature;

(h) A meeting initiated by a Federal official(s) with more than one individual for the purpose of obtaining the advice of individual attendees and not for the purpose of utilizing the group to obtain consensus advice or recommendations. However, such a group would be covered by the Act when an agency accepts the group's deliberations as a source of consensus advice or recommendations;

(i) A meeting of two or more advisory committee or subcommittee members convened solely to gather information or conduct research for a chartered advisory committee, to analyze relevant issues and facts, or to draft proposed position papers for deliberation by the advisory committee or a subcommittee of the advisory committee; and

(j) A committee composed wholly of full-time officers or employees of the Federal Government.

§ 105–54.102 Definitions.

(a) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group or any subcommittee thereof that is:

(1) Established by statute,

(2) Established or utilized by the President, or

(3) Established or utilized by any agency official to obtain advice or recommendations that are within the scope of his/her responsibilies.

The term "advisory committee" excludes the Advisory Committee on Intergovernmental Relations and any committees composed wholly of full-time officers or employees of the Federal Government.

(b) "Presidential advisory committee" means any committee that advises the President. It may be established by the President or by the Congress, or may be used by the President to obtain advice or recommendations.

(c) "Independent Presidential advisory committee' means any Presidential advisory committee not assigned by the President, or the President's delegate, or by the Congress in law, to an agency for administrative and other support and for which the Administrator of General Services may provide administrative and other support on a reimbursable basis.

(d) "Committee member" means an individual who serves by appointment on a committee and has the full right and obligation to participate in the activities of the committee, including voting on committee recommendations.

(e) "Staff member" means any individual who serves in a support capacity to an advisory committee.

(f) "Secretariat" means the General Services Administration's Committee Management Secretariat. Established pursuant to the Federal Advisory Committee Act, it is responsible for all matters relating to advisory committees, and carries out the Administrator's responsibilities under the Act and Executive Order 12024.

(g) "Utilized" (or used), as stated in the definition of "advisory committee" above, refers to a situation in which a GSA official adopts a committee or other group composed in whole or in part of other than full-time Federal officers or employees with an established existence outside GSA as a preferred source from which to obtain advice or recommendations on a specific issue or policy within the scope of his/her responsibilities in the same manner as that official would obtain advice or recommendations from an established advisory committee.

§ 105–54.103 Policy.

The basic GSA policy on committee management is as follows:

(a) Advisory committees will be formed or used by GSA only when specifically authorized by law, or by the President, or specifically determined as a matter of formal record by the Administrator of General Services to be in the public interest in connection with the performance of duties imposed on GSA by law;

(b) Advisory committees will not be used to administer a function that is the assigned responsibility of a service or staff office;

(c) The assigned responsibility of a GSA official may not be delegated to any committee;

(d) No advisory committee may be used for functions that are not solely advisory unless specifically authorized by statute or Presidential directive. Making policy decisions and determining action to be taken with respect to any matter considered by an advisory committee is solely the responsibility of GSA; and

(e) In carrying out its responsibilities, GSA will consult with and obtain the advice of interested groups substantially affected by its programs. The use of advisory committees for this purpose is considered to be in the public interest and necessary for the proper performance by GSA of its assigned functions.

§ 105-54.104 Responsibilities.

(a) Responsibility for coordination and control of committee management in GSA is vested in the Associate Administrator for Administration, who serves as the GSA Committee Management Officer (CMO). This Officer carries out the functions prescribed in section 8(b) of the Federal Advisory Committee Act. In doing so, the Officer controls and supervises the establishment, procedures, and accomplishments of GSA-sponsored advisory committees. The Organization and Productivity Improvement Division, Office of Management Services, Office of Administration, provides staff resources and furnishes the Staff Contact Person (SCP) to the CMO.

(b) The Head of each Service and Staff Office and each Regional Administrator selects a Committee Management Officer (CMO) to coordinate and control committee management within the service, staff office, or regional office and to act as liaison to the GSA Committee Management Officer. The duties of the CMOs are as follows:

(1) Assemble and maintain the reports, records, and other papers of any GSA-sponsored committee during its existence (Arrangements may be made, however, for the Government chairperson or other GSA representative to retain custody of reports, records, and other papers to facilitate committee operations. After the committee is terminated, all committee records are disposed of following existing regulations.); and

(2) Under agency regulations in 41 CFR 105-60, carry out the provisions of 5 U.S.C. 552 with respect to the reports, records, and other papers of GSA-sponsored advisory committees.

Subpart 105-54.2—Establishment of Advisory Committees

§ 105-54.200 Scope of subpart.

This subpart prescribes the policy and procedures for establishing advisory committees within GSA.

§ 105-54.201 Proposals for establishing advisory committees.

(a) The Administrator approves the establishment of all GSA Federal Advisory Committees.

(b) When it is decided that it is necessary to establish a committee, the appropriate Head of the Service or Staff Office (HSSO) must consider the functions of similar committees in GSA to ensure that no duplication of effort will occur.

(c) The HSSO proposes the establishment of a Central Office or regional advisory committee within the scope of assigned program responsibilities. In doing so, the HSSO assures that advisory committees are established only if they are essential to the conduct of agency business. Advisory committees are established only if there is a compelling need for the committees, the committees have a truly balanced membership, and the committees conduct their business as openly as possible under the law and their mandate. Each proposal is submitted to the GSA Committee Management Officer for review and coordination and includes:

(1) A letter addressed to the Committee Management Secretariat signed by the HSSO with information copies for the Administrator, Deputy Administrator, the Associate Administrator for Congressional and Industry Relations, and the Special Counsel for Ethics and Civil Rights, describing the nature and purpose of the proposed advisory committee; why it is essential to agency business and in the public interest; why its functions cannot be performed by an existing committee of GSA, by GSA, or other means such as a public hearing; and the plans to ensure balanced membership;

(2) A notice for publication in the **Federal Register** containing the Administrator's certification that creation of the advisory committee is in the public interest and describing the nature and purpose of the committee; and

(3) A draft charter for review by the Committee Management Secretariat.

(d) Subcommittees that do not function independently of the full or parent advisory committee need not follow the requirements of paragraph (c) of this section. However, they are subject to all other requirements of the Federal Advisory Committee Act.

(e) The requirements of paragraphs (a) through (c) of this section apply to any subcommittee of a chartered committee, whether its members are drawn in whole or in part from the full or parent advisory committee, that functions independently of the parent advisory committee, such as by making recommendations directly to a GSA official rather than for consideration by the chartered advisory committee.

§ 105-54.202 Review and approval of proposals.

(a) The GSA Committee Management Officer reviews each proposal to make sure it conforms with GSA policies and procedures. The Officer sends the letter of justification, including the draft charter, to the Committee Management Secretariat. The Secretariat reviews the proposal and provides its views within 15 calendar days of receipt, if possible. The Administrator retains final authority for establishing a particular advisory committee.

(b) When the Secretariat notifies the Officer that establishing the committee conforms with the Federal Advisory Committee Act, the Officer obtains the Administrator's approval of the charter and the **Federal Register** notice. The Officer publishes the notice in the **Federal Register** at least 15 calendar days before the filing of the charter under § 105-54.203 with the standing committees of the Senate and the House of Representatives having legislative jurisdiction over GSA. The date of filing constitutes the date of establishment.

§ 105-54.203 Advisory committee charters.

No advisory committee may operate, meet, or take any action until the Administrator approves its charter and the Committee Management Officer sends a copy of it to the standing committees of the Senate and the House of Representatives having legislative jurisdiction over GSA.

§ 105-54.203-1 Preparation of charters.

Each committee charter contains the following information:

(a) The committee's official designation;

(b) The committee's objectives and the scope of its activities;

(c) The period of time necessary for the committee to carry out its purpose (if the committee is intended to function as a standing advisory committee, this should be made clear);

(d) The official to whom the committee reports, including the official's name, title, and organization;

(e) The agency and office responsible for providing the necessary support for the committee;

(f) A description of the duties for which the committee is responsible (if the duties are not solely advisory, the statutory or Presidential authority for additional duties shall be specified);

(g) The estimated annual operating costs in dollars and person-years for the committee;

(h) The estimated number and frequency of committee meetings;

(i) The committee's termination date, if it is less than 2 years from the date of its establishment; and

(j) The date the charter is filed. This date is inserted by the GSA Committee Management Officer after the Administrator approves the charter.

§ 105-54.203-2 Active charters file.

The GSA Committee Management Officer retains each original signed charter in a file of active charters.

§ 105-54.203-3 Submission to Library of Congress.

The GSA Committee Management Officer furnishes a copy of each charter to the Library of Congress when or shortly after copies are filed with the requisite committees of the Congress. Copies for the Library are addressed: Library of Congress, Exchange and Gift Division, Federal Documents Section, Federal Advisory Committee Desk, Washington, DC 20540.

§ 105-54.204 Advisory committee membership.

(a) Advisory committees that GSA establishes represent the points of view of the profession, industry, or other group to which it relates, taking into account the size, function, geographical location, affiliation, and other considerations affecting the character of a committee. To ensure balance, the agency considers for membership a cross-section of interested persons and groups with professional or personal qualifications or experience to contribute to the functions and tasks to be performed. This should be construed neither to limit the participation nor to compel the selection of any particular individual or group to obtain different points of view relevant to committee business. The Administrator designates members, alternates, and observers, as appropriate, of advisory committees. He/she designates a Federal officer or employee to chair or attend each meeting of each advisory committee. The Administrator also designates GSA employees to serve on advisory committees sponsored by other Government agencies. The HSSO or Regional Administrator submits nominations and letters of designation for the Administrator's signature to the GSA Committee Management Officer and to the Special Counsel for Ethics and Civil Rights for review and forwarding to the Administrator.

(b) Discrimination is prohibited on the basis of race, color, age, national origin, religion, sex, or mental and physical handicap in selecting advisory committee members.

(c) Nominees for membership must submit a Statement of Employment and Financial Interests (provided to the nominee by the HSSO or Regional Administrator) and may not be appointed until cleared by the Designated Agency Ethics Official.

Subpart 105-54.3—Advisory Committee Procedures

§ 105-54.300 Scope of subpart.

This subpart sets forth the procedures that will be followed in the operation of advisory committees within GSA.

§ 105-54.301 Meetings.

(a) Each GSA advisory committee meeting is open to the public unless the Administrator decides otherwise;

(b) Each meeting is held at a reasonable time and in a place reasonably accessible to the public;

(c) The meeting room size is sufficient to accommodate committee members, committee or GSA staff, and interested members of the public;

(d) Any private citizen is permitted to file a written statement with the advisory committee;

(e) Any private citizen is permitted to speak at the advisory committee meeting, at the chairperson's discretion;

(f) All persons attending committee meetings at which classified information will be considered are required to have an adequate security clearance;

(g) The Designated Federal Officer (who may be either full time or permanent part-time) for each advisory committee and its subcommittees does the following:

(1) Approves or calls the meetings of the advisory committee;

(2) Approves the meeting agenda, which lists the matters to be considered at the meeting and indicates whether any part of the meeting will be closed to the public under the Government in the Sunshine Act (5 U.S.C. 552b(c)). Ordinarily, copies of the agenda are distributed to committee members before the date of the meeting;

(3) Attends all meetings (no part of a meeting may proceed in the Designated Federal Officer's absence);

(4) Adjourns the meeting when he or she determines that adjournment is in the public interest; and

(5) Chairs the meeting when asked to do so.

(h) The Committee Chairperson makes sure that detailed minutes of each meeting are kept and certifies to their accuracy. The minutes include:

(1) Time, date, and place;

(2) A list of the following persons who were present;

(i) Advisory committee members and staff;

(ii) Agency employees; and

(iii) Private citizens who presented oral or written statements;

(3) The estimated number of private citizens present;

(4) An accurate description of each matter discussed and the resolution of the matter, if any; and

(5) Copies of each report or other document the committee received, issued, or approved.

(i) The responsible HSSO or the Regional Administrator publishes at least 15 calendar days before the meeting a notice in the **Federal Register** that includes:

(1) The name of the advisory committee as chartered;

(2) The time, date, place, and purpose of the meeting;

(3) A summary of the agenda; and

(4) A statement whether all or part of the meeting is open to the public of closed; and if closed, the reasons why, and citing the specific exemptions of the Government is the Sunshine Act (5 U.S.C. 552b) as the basis for closure;

(j) In exceptional circumstances and when approved by the General Counsel or designee, less than 15 calendar days notice may be given, provided the reasons for doing so are included in the committee meeting notice published in the **Federal Register**;

(k) Notices to be published in the **Federal Register** are submitted to the Federal Register Liaison Officer (CAID). At least five workdays are needed for printing of the notice;

(l) Meetings may also be announced by press release, direct mail, publication in trade and professional journals, or by notice to special interest and community groups affected by the Committee's deliberations. This procedure cannot be a substitute for **Federal Register** publication;

(m) The fact that a meeting may be closed to the public under the exemptions of the Government in the Sunshine Act does not relieve GSA of

the requirement to publish a notice of it in the **Federal Register**. The Administrator may authorize an exception to this requirement for reasons of national security if the HSSO requests it at least 30 calendar days before the meeting, with the concurrence of the General Counsel of designee.

(n) An advisory committee meeting is not open to the public, nor is the attendance, appearance, or filing of statements by interested persons permitted, if the Administrator decides that the meeting is exempted under the Government in the Sunshine Act (5 U.S.C. 552b (c)) and there is sufficient reason to invoke the exemption. If only part of the meeting concerns exempted matters, only that part is closed. The HSSO or Regional Administrator submits any decisions concerning the closing of meetings in writing to the Administrator for approval at least 30 calendar days in advance of the meeting. These decisions clearly set forth the reasons for doing so, citing the specific exemptions used from the Government in the Sunshine Act in the meeting notice published in the **Federal Register**. They are made available to the public on request. The Administrator may waive the 30-day requirement when a lesser period of time is requested and adequately justified.

(o) If any meeting or portion of a meeting is closed to public attendance, the advisory committee issues a report at lease annually setting forth a summary of its activities and such related matters as would be informative to the public, consistent with the policy of 5 U.S.C. 552(b). Notice of the availability of the report and instructions on how to gain access to it are published in the **Federal Register** no later than 60 days after its completion. In addition, copies of the report are filed with the Library of Congress.

(p) The General Counsel reviews all requests to close meetings.

(q) The HSSO or Regional Administrator publishes the meeting notices in the **Federal Register**, including the reasons why all or part of the meeting is closed, citing the specified exemptions used from the Government in the Sunshine Act.

§ 105-54.302 Committee records and reports.

(a) Subject to the Freedom of Information Act (5 U.S.C. 552), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were available to or prepared for or by a GSA advisory committee are available (until the committee ceases to exist) for public inspection and copying in the office of the Government Chairperson or Designated Federal Officer. Requests to inspect or copy these records are processed under 41 CFR 105–60.4. Except where prohibited by a contract entered into before January 5, 1973, copies of transcripts, if any, of committee meetings are made available by the Government chairperson or Designated Federal Officer to any person at the cost of duplication. After the committee's work ends, disposition of the committee documents and the release of information from them are made in accordance with Federal records, statutes, and regulations.

(b) Subject to 5 U.S.C. 552(b) and instructions of the Committee Management Secretariat, the Government chairperson or Designated Federal Officer files at least eight copies of each report an advisory committee makes, including any report on closed meetings with the Library of Congress at the time of its issuance. Where appropriate, the chairperson also files copies of background papers that consultants to the advisory committee prepare with the Library of Congress. The transmittal letter identifies the materials being furnished, with a copy of the transmittal provided to the GSA Committee Management Officer.

§ 105-54.303 Fiscal and administrative provisions.

(a) Each HSSO and each Regional Administrator ensures that under established GSA procedures, records are kept that fully disclose the disposition of funds at the disposal of an advisory committee and the nature and extent of the committee's activities.

(b) When GSA is assigned to provide administrative support for a Presidential advisory committee, the Agency Liaison Coordinator in the Office of the Deputy Regional Administrator, National Capital Region, as a part of its support, arranges with the Office of Finance, Office of the Comptroller, for maintaining all financial records.

(c) Unless otherwise provided in a Presidential order, statute, or other authority, the GSA service or staff office sponsoring an advisory committee provides support services for the committee.

(d) The guidelines in paragraph (e) through (l) of this section are established under section 7(d) of the Federal Advisory Committee Act, 86 Stat. 773. They apply to the pay of members, staff, and consultants of an advisory committee, except that nothing in this paragraph will affect a rate of pay or a limitation on a rate of pay that is established by statute or a rate of pay established under the General Schedule classification and pay system in Chapter 51 and Subchapter III of Chapter 53 of Title 5, U.S.C.

(e) The members of GSA advisory committee established pursuant to the Administrator's authority under section 205(g) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(g)), are not compensated, since, by law, members so appointed shall service without compensation. A person who (without regard to his or her service with an advisory committee) is a full-time Federal employee will normally receive compensation at the rate at which he or she would otherwise be compensated.

(f) When required by law, the pay of the members of GSA advisory committees will be fixed to the daily equivalent of a rate of the General Schedule in 5 U.S.C. 5332 unless the members are appointed as consultants and compensated as provided in paragraph (h) of this section. In determining an appropriate rate of pay for the members, GSA must give consideration to the significance, scope, and technical complexity of the matters with which the advisory committee is concerned and the qualifications required of the members of the advisory committee. GSA may not fix the pay of the members of an advisory committee at a rate higher than the daily equivalent of the maximum rate for a GS–15 under the General Schedule, unless a higher rate is mandated by statute, or the Administrator has personally determined that a higher rate of pay under the General Schedule is justified and necessary. Such a determination must be reviewed by the Administrator annually. Accordingly, the Administrator may not fix the pay of the members of an advisory committee at a rate of pay higher than the daily equivalent of a rate for a GSA 18, as provided in 5 U.S.C. 5332.

(g) The pay of each staff member of an advisory committee is fixed at a rate of the General Schedule, General Management Schedule, or Senior Executive Service pay rate in which the staff member's position would be placed (5 U.S.C. Chapter 51). GSA cannot fix the pay of a staff member higher than the daily equivalent of the maximum rate for GS–15 unless the Administrator decides that under the General Schedule, General Management Schedule, or Senior Executive Service classification system, the staff member's position should be higher than GS–15. The Administrator must review this decision annually.

(1) In establishing compensation rates, GSA must comply with applicable

statutes, regulations, Executive Orders, and administrative guidelines.

(2) A staff member who is a Federal employee serves with the knowledge of the Designated Federal Officer and the approval of the employee's direct supervisor. A staff member who is a non-Federal employee is appointed under agency procedures, after consultation with the advisory committee.

(h) The pay of a consultant to an advisory committee will be fixed after giving consideration to the qualifications required of the consultant and the significance, scope, and technical complexity of the work. The rate of pay will not exceed the maximum rate of pay which the agency may pay experts and consultants under 5 U.S.C. 3109 and must be in accordance with any applicable statutes, regulations, Executive Orders, and administrative guidelines.

(i) Advisory committee and staff members, while performing their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem instead of subsistence, as authorized by 5 U.S.C. 5703 for persons employed intermittently in the Government service.

(j) Members of an advisory committee and its staff who are blind or deaf or who otherwise qualify as handicapped persons (under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)), and who do not otherwise qualify for assistance under 5 U.S.C. 3102, as an employee of an agency (under section 3102(a)(1) of Title 5), may be provided the services of a personal assistant.

(k) Under this paragraph, GSA may accept the gratuitous services of a member, consultant, or staff member of an advisory committee who agrees in advance to serve without compensation.

(l) A person who immediately before his or her service with an advisory committee was a full-time Federal employee may receive compensation at the rate at which he or she was compensated as a Federal employee.

§ 105-54.304 Cost guidelines.

(a) The reporting and estimating of the costs of advisory committees include direct obligations for the following items:

(1) Pay compensation of committee members; consultants to the committee; all permanent, temporary, or part-time (GM, GS, WB, or other) positions which are a part of or support the committee; and all overtime related to committee functions (Compensation should reflect actual or estimated Federal person-years or parts thereof devoted to a committee's activities. It includes the compensation of Federal employees assigned to committees, on a reimbursable or nonreimbursable basis, from agencies or departments other than to which the committee reports.);

(2) Personnel benefits associated with the above compensation (13 percent of basic payroll);

(3) Travel costs (including per diem) of committee members; consultants; and all permanent, temporary, or part-time positions which are a part of or support the committee;

(4) Transportation of things, communications, and printing and reproduction;

(5) Rent for additional space acquired for committee use;

(6) Other services required by the committee, including data processing services, management studies and evaluations, contractual services, and reimbursable services; and

(7) Supplies, materials, and equipment acquired for committee use.

(b) The reporting and estimating of the cost of advisory committees does not include indirect or overhead costs; e.g., the costs of the committee management system (committee management officers, etc.).

§ 105-54.305 Renewal of advisory committees.

(a) Each advisory committee being continued is renewed for successive 2-year periods beginning with the date when it was established according to the following, except for statutory advisory committees: (For renewal of statutory advisory committees, see paragraph (b) of this section.)

(1) Advisory committees are not renewed unless there is a compelling need for them, they have balanced membership, and they conduct their business as openly as possible under the law.

(2) The renewal of a committee requires that the responsible HSSO submit to the GSA Committee Management Officer the following:

(i) An updated charter with an explanation of the need for the renewal of the committee. The charter and explanation are furnished 60 calendar days before the 2-year anniversary date of the committee.);

(ii) A letter signed by the HSSO to the Director, Committee Management Secretariat, with information copies to the Administrator and the Deputy Administrator, setting forth:

(A) An explanation of why the committee is essential to the conduct of agency business and is in the public interest;

(B) GSA's plan to attain balanced membership of the committee; and

(C) An explanation of why the committee's functions cannot be performed by GSA, another existing GSA advisory committee, or other means such as a public hearing;

(iii) A notice for publication in the **Federal Register** describing the nature and purpose of the committee and containing a certification by the Administrator that renewing the advisory committee is in the public interest.

(3) On receiving the above documents, the GSA Committee Management Officer submits the renewal letter to the Committee Management Secretariat not more than 60 calendar days nor less than 30 days before the committee expires. Following receipt of the Committee Management Secretariat's views on the committee renewal, the Officer obtains the Administrator's approval of the charter and the **Federal Register** notice. The Officer publishes notice of the renewal in the **Federal Register** and files copies of the updated charter. The 15-day notice requirement does not apply to committee renewals, notices of which may be published concurrently with the filing of the charter.

(b) Each statutory advisory committee is renewed by the filing of a renewal charter upon the expiration of each successive 2-year period following the date of enactment of the statute establishing the committee according to the following:

(1) The procedures in paragraph (a)(2) of this section apply to the renewal of a statutory committee except that neither prior consultation with the Committee Management Secretariat nor a **Federal Register** notice is required. Accordingly, the letter that paragraph a(2)(ii) requires is sent to the Administrator rather than the Committee Mangement Secretariat. Due to the nature of a committee the law established, the explanation of the need to continue the committee's existence is less extensive than the explanation for the continuation of a non-statutory committee; and

(2) The GSA Committee Management Officer provides the Committee Management Secretariat with a copy of the filed charter.

(c) An advisory commitee required to file a new charter may not take any action other than preparing the charter between the date it is to be filed and the date it is actually filed.

§ 105-54.306 Amendment of advisory committee charters.

(a) A charter is amended when GSA decides that the existing charter no longer accurately reflects the objectives

or functions of the committee. Changes may be minor, such as revising the name of the committee or modifying the estimated number or frequency of meetings, or they may be major dealing with the basic objectives or composition of the committee. The Administrator retains final authority for amending the charter of an advisory committee. Amending an existing advisory committee charter does not constitute renewal of the committee.

(b) To make a minor amendment, the Administrator approves the amended charter and has it filed according to § 105–54.203–1.

(c) To make a major amendment, the Committee Management Officer submits an amended charter and a letter to the Committee Management Secretariat, signed by the HSSO with the concurrence of the General Counsel or designee, requesting the Secretariat's views on the amended language, along with an explanation of the purpose of the changes and why they are necessary. The Secretariat reviews the proposed changes and notifies the Committee Management Officer of its views within 15 calendar days of receiving it, if possible. The Administrator has the charter filed according to § 105–54.203–1.

(d) Amending an existing charter does not constitute renewal of the committee.

§ 105–54.307 Termination of advisory committees.

(a) The sponsoring HSSO terminates an advisory commitee that has fulfilled the purpose stated in its charter. The official takes action to rescind any existing orders relating to the committee and to notify committee members, the GSA Committee Management Officer, and the Committee Management Secretariat of the termination.

(b) Failing to continue an advisory committee by the 2-year anniversary date terminates the committee, unless its duration is provided for by law.

§ 105–54.308 Responsibilities of the Administrator.

The Administrator must ensure:

(a) Compliance with the Federal Advisory Committee Act and this chapter;

(b) Issuance of administrative guidelines and management controls that apply to all advisory committees established or used by the agency;

(c) Designation of a Committee Management Officer to carry out the functions specified in section 89(b) of the Federal Advisory Committee Act;

(d) Provision of a written determination stating the reasons for closing any advisory committee meeting to the public;

(e) A review, at least annually, of the need to continue each existing advisory committee, consistent with the public interest and the purpose and functions of each committee;

(f) The appointment of a Designated Federal Officer for each advisory committee and its subcommittee;

(g) The opportunity for reasonable public participation in advisory committee activities; and

(h) That the number of committee members is limited to the fewest necessary to accomplish committee objectives.

§ 105–54.309 Added responsibilities of service and staff office heads and regional administrators.

(a) No later than the first meeting of an advisory committee, submit to committee members, committee staff, consultants, and appropriate agency management personnel a written statement of the purpose, objectives, and expected accomplishments of the committee;

(b) Solicit in writing or in a formal meeting at least annually the views of committee members on the effectiveness, activities, and management of the committee, including recommendations for improvement. Review comments to determine whether improvements or corrective action is warranted. Retain recommendations until the committee is terminated or renewed.

(c) Involve key management personnel of the agency whose interests are affected by the committee in committee meetings, including reviewing reports and establishing agendas.

(d) Periodically, but not less than annually, review the level of committee staff suport to make sure that expenditures are justified by committee activity and benefit to the Government.

(e) Monitor the attendance and participation of committee members and consider replacing any member who misses a substantial number of scheduled meetings.

(f) Establish meeting dates and distribute agendas and other materials well in advance.

§ 105–54.310 Advisory committee duties of the GSA Committee Management Officer.

In addition to implementing the provisions of section 8(b) of the Federal Advisory Committee Act, the GSA Committee Management Officer carries out all responsibilities delegated by the Administrator. The Officer ensures that sections 10(b), 12(a), and 13 of the Act are implemented by GSA to provide for appropriate record keeping. Records include, but are not limited to:

(a) A set of approved charters and membership lists for each advisory committee;

(b) Copies of GSA's portion of the Annual Report of Federal Advisory Committees.

(c) Guidelines on committee management operations and procedures as maintained and updated; and

(d) Determinations to close advisory committee meetings.

§ 105–54.311 Complaint procedures.

(a) Any person whose request for access to an advisory committee document is denied may seek administrative review under 41 CFR 105–60, which implements the Freedom of Information Act. (See GSA Order, GSA regulations under the "Freedom of Information Act" (ADM 7900.3A).)

(b) Aggrieved individuals or organizations may file written complaints on matters not involving access to documents with the Deputy Administrator, General Services Administration, Washington, DC 20405. Complaints must be filed within 90 calendar days from the date the grievance arose. The Deputy Administrator promptly acts on each complaint and notifies the complainant in writing of the decision.

Subpart 105–54.4—Reports

§ 105–54.400 Scope of subpart.

This subpart sets forth the reports required by this Part 105–54 and prescribes instructions for submission of the reports.

§ 105–54.401 Reports on GSA Federal Advisory Committees.

(a) The Committee Management Secretariat periodically issues reporting instructions and procedures. The GSA Committee Management Officer files a report each fiscal year providing program, financial, and membership information. The Secretariat uses the information in preparing recommendations and status reports on advisory committee matters and in assisting the President in preparing and submitting a fiscal year report to the Congress. Instructions for preparing GSA's submission are provided by the GSA Committee Management Officer.

(b) Reports on closed meetings are required as specified in § 105–54.301(o).

Dated: October 3, 1988.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 88-23632 Filed 10-13-88; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 424

[BERC-300-CN]

Medicare Program; Indirect Part B Payment Procedure

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

ACTION: Final rule; correction.

SUMMARY: On July 28, 1988, we published a final rule concerning the Part B payment procedure. In it were several technical errors; we are correcting them in this notice.

EFFECTIVE DATE: These corrections are effective August 29, 1988.

FOR FURTHER INFORMATION CONTACT: Julie Brown, 301-966-4669.

SUPPLEMENTARY INFORMATION: In FR Doc 88-16995, beginning on page 28384, in the issue of July 28, 1988, make the following corrections on page 28388, in column 2:

(1) Revise the amendatory language of item 4 to read as follows: "Section 424.66 is amended to revise the section heading, remove paragraphs (a) and (b), redesignate paragraphs (c) and (d) as (a) and (b), respectively, and revise them. As amended, § 424.66 reads as follows:". The prior amendatory language incorrectly stated that redesignated paragraph (b) was added as new.

§ 424.66 [Corrected]

(2) In paragraph (a)(3) of § 424.66, change the reference in line 4 from § 405.1679 to § 424.36.

(3) In the title of § 424.66(b), line 1, add the word "*for* after the word "*paid*", so that it reads, "*services paid for by the entity*".

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: October 6, 1988.

James V. Oberthaler,

Deputy Assistant Secretary for Information and Resource Management.

[FR Doc. 88-23778 Filed 10-13-88; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 80621-8131]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Notice of bag limit reductions.

SUMMARY: The Secretary of Commerce (Secretary) reduces to zero the bag limits in the exclusive economic zone (EEZ) for king mackerel from the Atlantic migratory group. The bag limit reductions are required by 50 CFR 642.22(b) and are necessary to protect the overfished king mackerel resource.

EFFECTIVE DATE: Reduction of the bag limits is effective at 0001 hours, local time, October 17, 1988, until 2400 hours, local time, March 31, 1989.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP), as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR Part 642. Regulations effective July 1, 1988 (53 FR 25611, July 8, 1988), implemented catch limits recommended by the Councils for the Atlantic migratory group of king mackerel for the current fishing year (April 1, 1988 through March 31, 1989). The management area for Atlantic migratory group of king mackerel extends from the Virginia/North Carolina border to, (1) from April 1 through October 31, a line extending directly west from the Monroe/Collier County, Florida, boundary (25°48'N. latitude), and (2) from November 1 through March 31, a line extending directly east from the Volusia/Flagler County, Florida, boundary (29°25'N. latitude).

Under § 642.22(b), when specified conditions are met and after consulting with the Councils, the Secretary is required to reduce to zero a bag limit for a migratory group by publishing a notice in the **Federal Register**. The Secretary finds that, for the Atlantic migratory group of king mackerel, the specified conditions have been met. Further, he has consulted with the Councils and they agree with his finding and concur in this action. Hence, the bag limits for king mackerel from the Atlantic migratory group are reduced to zero effective 0001 hours, local time, October 17, 1988, through the end of the current fishing year. During this period, king mackerel from the Atlantic migratory group caught in the EEZ in the recreational fishery, or by a person fishing under the bag limit, must be returned immediately to the sea with a minimum of harm.

Other Matters

This action is required by 50 CFR 642.22(b) and complies with E.O. 12291.

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

List of Subjects in 50 CFR Part 642

Fisheries. Fishing.

Dated: October 11, 1988.

Richard H. Schaefer,

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

[FR Doc. 88-23822 Filed 10-11-88; 5:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 199
Friday, October 14, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

Federal Employees' Group Life Insurance Program; Annual Basic Pay Rate for Less Than Full-Time Employees

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is proposing to revise its regulations to provide a systematic method for determining the amount of annual pay under the Federal Employee's Group Life Insurance (FEGLI) Program for employees whose tour of duty is less than full time. These rules define "annual rates of pay" for the purpose of establishing the amount of an employee's basic and additional optional life insurance (e.g., for withholding of contributions, settlement of death claims, etc.).

DATE: Comments must be received on or before December 13, 1988.

ADDRESS: Send comments to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bill Smith, (202) 632–4634.

SUPPLEMENTARY INFORMATION: These regulations are being issued in order to assure consistency in computing rates of pay for both retirement and life insurance benefits for those employees who work less than a full-time tour of duty. 5 CFR 831.703 provides a computational method for Civil Service Retirement System (CSRS) annuity determinations for CSRS employees who have part-time service on or after April 7, 1986. "Annual rate of basic pay" is defined in 5 CFR 843.102 for the basic employee death benefit under the Federal Employees Retirement System (FERS) Act of 1986 for intermittent and part-time employees. For life insurance purposes, 5 CFR 870.302 is being revised to bring the FEGLI regulations into conformity with the CSRS and FERS provisions for determining rates of pay for employees who work less than fulltime

For a regularly scheduled part-time employee, the annual basic pay rate will be the basic pay applicable to the employee's tour of duty in a 52-week work year. However, the hours in a basic pay status are used if they are higher than the tour of duty hours. For example, a part-time employee who was being paid at the annual rate of $25,963 (or $12.44 per hour) but whose tour of duty was 20 hours a week, would have an annual rate of $12,938 ($12.44 per hour X 1040 hours). However, if the same employee actually earned basic pay during 1144 hours (averaging 22 hours per week) in the 52-week work year, the annual rate of basic pay would be $14,231 ($12.44 per hour X 1144 hours).

To determine the annual rate of an intermittent employee, who does not have a regularly scheduled tour of duty, the employee's hourly rate of pay will be multiplied by the number of hours he or she worked at basic pay rates (up to full-time) in the 52-week work year immediately preceding the end of the pay period. Intermittent employees do not have a regularly scheduled tour of duty and normally work fewer hours than full-time employees.

This method of looking back at the preceding 52-week period assures that provisions for determining rates of pay for employees who work less than full-time are the same for life insurance and retirement purposes.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM in amending Title 5, Code of Federal Regulations, as follows:

PART 870—BASIC LIFE INSURANCE

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

Authority: 5 U.S.C. 8716.

2. In § 870.302, paragraph (d) is removed and paragraphs (b) and (c) are revised to read as follows:

Subpart C—Amount of Insurance

* * * * *

§ 870.302 Annual rates of pay.

* * * * *

(b)(1) A pay rate other than an annual salary is converted to an annual rate by multiplying the prescribed rate by the number of pay units in a 52-week work year.

(2) The annual pay of a part-time employee who has a regularly scheduled tour of duty is the product of the employee's final hour rate of pay and the higher of—

(i) The number of hours that the employee was entitled to basic pay whether in a duty or paid leave status (not to exceed 2000 for Postal employees or 2080 for non-Postal employees) in the 52-week work year immediately preceding the end of the applicable pay period; or

(ii) The number of hours in the employee's regularly scheduled tour of duty in a 52-week work year.

(3) The annual pay of an intermittent employee who does not have a scheduled tour of duty is the product of the employee's hourly rate of pay and the number of hours that the employee was entitled to basic pay whether in a duty or paid leave status (not to exceed 2000 hours for Postal employees or 2080 hours for non-Postal employees) in the 52-week work year immediately preceding the end of the applicable pay period.

(4) If the part-time or intermittent employee's current appointment began less than 52 weeks prior to the end of the applicable pay period, the number of hours that the employee was entitled to basic pay is computed by multiplying the number of hours that the employee

was paid basic pay by a fraction whose numerator is 52 and whose denominator is the number of weeks between the date of appointment and the end of the applicable pay period.

(c) The annual pay for an employee who legally and concurrently serves in more than one position is the sum of the annual basic pay fixed by law or regulation for each position.

[FR Doc. 88-23728 Filed 10-13-88; 8:45 am]
BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

Indemnification of Licensees That Manufacture, Produce, Possess, or Use Radiopharmaceuticals or Radioisotopes for Medical Purposes

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to conduct a negotiated rulemaking and schedule for the negotiated rulemaking proceeding.

SUMMARY: Section 19 of the Price-Anderson Amendments Act of 1988 requires the NRC to conduct a "negotiated rulemaking" to determine whether to enter into indemnity agreements with persons licensed by the Commission or by an Agreement State for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes ("radiopharmaceutical licensees"). This notice establishes the schedule and format for the negotiated rulemaking proceeding.

DATES: The first session of the negotiated rulemaking proceeding will be held on November 14 and 15, 1988, beginning at 9:00 a.m. and concluding at 5:00 p.m. each day.

ADDRESSES: The session will be held in Room 2 F-21 of NRC Headquarters, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The session will be open to the public and will be transcribed.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-1623.

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1988, the President signed into law the Price-Anderson Amendments Act of 1988, Pub. L. 100-408. Section 19 of the Act requires the Nuclear Regulatory Commission (NRC) to conduct a variant of a negotiated rulemaking to determine whether to enter into indemnity agreements with persons licensed by the Commission or by an Agreement State for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes ("radiopharmaceutical licensees"). Within thirty days after enactment (September 19, 1988), the NRC was required to designate a convenor from a list of individuals recommended by the Administrative Conference of the United States (ACUS) to conduct the "negotiated rulemaking." Within seven months of enactment (March 20, 1989), the convenor is to provide recommendations on whether the Commission should enter into indemnity agreements with radiopharmaceutical licensees. If the convenor recommends that the Commission indemnify any of these licensees, the convenor must also submit to the Commission a draft proposed rule setting forth the terms and conditions of such indemnification. If the convenor recommends that indemnity be provided, the Commission must publish the recommendations as a notice of proposed rulemaking.

The Commission is hereby announcing its intent to initiate the negotiated rulemaking proceeding required by the Act, and is inviting participation in the proceeding by persons who may be affected by the rulemaking.

Convenor

On August 24, 1988, the ACUS submitted a list of thirty-two potential convenors to the NRC. After evaluating these candidates, the Commission has designated Mr. Howard S. Bellman as the convenor for this rulemaking proceeding. Mr. Bellman, a former Secretary of the Wisconsin Department of Industry, Labor, and Human Relations, has served as the Commission's convenor and facilitator for the negotiated rulemaking on the high-level radioactive waste Licensing Support System. He not only has experience in the negotiated rulemaking process, but also knowledge of the NRC regulatory framework and the federal regulatory process. In addition, he has substantial arbitration and mediation experience. Mr. Bellman can be reached at 119 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53703, Telephone: 608-255-9393.

Procedures

Section 19 of the Price-Anderson Amendments Act of 1988 requires the Commission, to the extent consistent with the provisions of the Act, to conduct the "negotiated rulemaking" in accordance with the Administrative Procedure Act, 5 U.S.C. 553, and the guidance provided in ACUS Recommendation 82-4, "Procedures for Negotiating Proposed Regulations." 1 CFR 305.82-4. Although the Act requires the Commission to conduct a "negotiated rulemaking," the proceeding required by the Act deviates in some important respects from the usual model for a negotiated rulemaking. Consequently, some of the ACUS recommendations will not be relevant to the Price-Anderson rulemaking.

In negotiated rulemaking, the representatives of persons who may be affected by a rule, including the agency, convene as a group over a period of time to try to reach concensus on a draft proposed rule. The agency then uses this consensus as the basis for a proposed rule which the agency issues for notice and comment. Traditionally, the agency itself makes the determination that a particular issue within its jurisdiction might be effectively addressed through the use of negotiated rulemaking. A convenor is then retained by the agency to evaluate the feasibility of conducting the negotiated rulemaking, including the identification of the scope of issues to be addressed, the interests that may be affected by the rulemaking, the parties that would represent those interests, and an assessment of their willingness to participate in good faith in the negotiated rulemaking proceeding. In this instance, the Price-Anderson Amendments Act of 1988 requires the Commission to conduct the "negotiated rulemaking", apart from any initial decision by the Commission on the necessity or desirability of the rulemaking or any assessment of feasibility by the convenor. In addition, the Act establishes a schedule for completion of the rulemaking.

Ordinarily, the objective of negotiated rulemaking is to develop a consensus on a proposed rule. Consensus, in the context of negotiated rulemaking, is usually defined as no objection being made by any participant to the draft rulemaking text. Unless consensus is reached on the draft rulemaking text, the agency is free to decide whether to proceed with a proposed rule, and what form such a proposed rule should take. In the proceeding contemplated by section 19 of the Act, however, the convenor is required to submit a recommendation on the indemnification issue to the Commission regardless of whether consensus is reached by the participants. Furthermore, if the convenor recommends that indemnity

be provided for radiopharmaceutical licensees, he is required to submit a proposed rule setting forth the terms and conditions of such indemnification together with the procedures for execution of such indemnification agreements. In this circumstance, the Commission is then required to publish the recommendations of the convenor as a notice of proposed rulemaking, regardless of whether any consensus was reached among the participants. Therefore, the Section 19 "negotiated rulemaking" proceeding contains elements of both consensus-building and arbitration.

The Commission has modified the format for this proceeding in order to conform to this unique statutory mandate. The Commission has considered the following recommendations from ACUS Recommendation 82–4 as appropriate to this rulemaking—

• An agency should select and consult with a convenor at the earliest practicable time about the feasibility of the use of negotiated rulemaking (ACUS Recommendation 4).

As required by the Price-Anderson Amendments Act of 1988 the Commission has selected a convenor from the list of individuals recommended by ACUS.

• If the agency and the convenor agree that regulatory negotiation is appropriate, the convenor should be responsible for determining primarily the interests that will likely be substantially affeced by a proposed rule, the individuals that will represent those interests in negotiations, and the scope of issues to be addressed, and a schedule for completing the work (ACUS Recommendation 5).

As noted above, the Price-Anderson Amendments Act of 1988 mandated that the Commission conduct a "negotiated rulemaking" on the indemnification of "radiopharmaceutical licensees." Therefore, the general scope of the rulemaking has already been established. The Commission has consulted the convenor on the scope of the issues in the rulemaking and how potentially affected interests should be identified. The convenor, due to the short statutory time schedule for the rulemaking, will not have the opportunity to solicit, individually, the participation of affected interests, or to discuss the rulemaking issues with the potentially affected interests. The convenor intends to establish the scope of issues based on the position statements required of any person who wishes to participate in the rulemaking proceeding.

Because of this "negotiated rulemaking" proceeding involves arbitration, in that the convenor is required to make a binding recommendation to the Commission regardless of whether consensus is reached, the Commission has not itself established a negotiating committee in order to avoid the exclusion of any affected interest. Rather, the convenor will form the negotiating committee based on an evaluation of the detailed position statements required of any person who desires to participate in the proceeding.

The Commission has also consulted with the convenor on the format and schedule for the rulemaking proceeding.

• To ensure that the appropriate interests have been identified and have had the opportunity to be represented in the negotiating group, the agency should publish in the **Federal Register** a notice that it is contemplating developing a rule by negotiation and indicate in the notice the issues involved and the participants and interests already involved (ACUS Recommendation 7).

The Commission is issuing this notice to alert potentially affected interests of the proceeding, and to invite participation by those affected interests. A copy of the notice will be mailed to NRC licensees, Agreement States, and other organizations that the Commission believes may be interested in participating.

• The agency should designate a senior official to represent it in the negotiations and should identify that official in the **Federal Register** notice (ACUS Recommendation 8).

The Commission has designated Mr. Stuart A. Treby, Assistant General Counsel for Rulemaking and Fuel Cycle, Office, of the General Counsel, to serve as the Commission's negotiator and to represent it in the proceeding.

• It may be that, in particular proceedings, certain affected interests will require reimbursement for direct expenses to be able to participate at a level that will foster broadly based successful negotiations * * * and the agency should consider reimbursing the expenses of such participants" (ACUS Recommendation 9).

Because of the arbitration aspects of this rulemaking proceeding, the Commission does not believe that it is appropriate to reimburse any of the participants in the proceeding.

• The goal of the negotiating group should be to arrive at a consensus on the proposed rule (ACUS Recommendation 11).

As noted above, in the proceeding contemplated by section 19 of the Act, the convenor is required to submit a recommendation on the indemnification issue to the Commission regardless of whether consensus is reached by the participants. However, the convenor will attempt to develop a consensus of the participants in this proceeding as a basis for any proposed rule that he might recommend to the Commission.

• The negotiating group should be authorized to close its meeting to the public only when necessary to protect confidential data or when, in the judgment of the participants, the likelihood of achieving consensus would be significantly enhanced (ACUS Recommendation 12).

The meetings in this proceeding will be open to the pubilc. Furthermore, members of the public will be given the opportunity to express their opinions at a designated time during each meeting. In addition, the prepared statements of the participants in the proceeding, and any minutes of the proceeding, will be placed in the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20036.

Schedule

Five sessions have been scheduled for the negotiated rulemaking proceeding—

1. November 14, 15, 1988.
2. December 5, 6, 7, 1988.
3. December 19, 20, 1988.
4. January 11, 12, 1989.
5. February 9, 10, 1989.

All meetings will begin at 9:00 a.m. and end at 5:00 p.m. each day, and will be held at the Commission's headquarters, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

The session on November 14 and 15, 1988, will be devoted to the oral presentation of position statements by the participants and the exchange of the detailed position statements required for participation in the proceeding. The time allotted for each presentation will be determined by the number of participants. At this meeting, the convenor will also address the guidelines for the proceeding. The session scheduled for December 5, 6, 7, 1988, will be devoted to responses to the position statements. The remaining sessions will be devoted to attempting to develop a consensus on any proposed rule that may be desirable. In connection with these later sessions, the participants should be prepared to engage in the drafting of proposed rules that they would find acceptable.

Participation in the Rulemaking Proceeding

The Act establishes a broad scope for the proceeding. The issue of concern is the indemnification of "persons licensed by the Commission or by an Agreement State for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical

purposes." However, any recommendation developed in the proceeding, either by a consensus of the participants, or by the convenor, may be confined to any subclass of these licensees. The Commission has identified the following interests as being potentially affected by this proceeding—

- Private practice physicians
- Clinics
- Hospitals
- Nuclear pharmacies
- Mobile nuclear medical services
- Teletherapy services
- In vitro blood testing labs
- Medical radioisotope manufacturers
- Radiopharmaceutical manufacturers
- Patient associations
- Agreement States
- Commercial insurers
- Other Federal agencies such as the Food and Drug Administration
- Transporters of radioisotopes or radiopharmaceuticals to be used for medical purposes
- Environmental interest organizations

Any person who desires to participate in the rulemaking proceeding must notify the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of its intent to participate. Such notification must be postmarked no later than November 7, 1988. In addition, such notification must be accompanied by a detailed written position statement that addresses the following issues—

- The representative of the person or organization who will participate in the proceeding
- The nature of the person's interest that may be affected by the rulemaking
- The nature and extent of the risk to public health and safety posed by the activity of concern
- Whether financial protection for such risk is available to licensees from commercial sources
- The position of the person on whether a proposed rule on indemnification of radiopharmaceutical licensess, or any class thereof, is necessary, and a rationale for the position
- Any other facts pertinent to the indemnification issue

A copy of the notification and the written position statement should also be forwarded to the convenor, Mr. Howard S. Bellman, 119 Martin Luther King Jr. Boulevard, Madison, Wisconsin 53703.

Persons with similar interests are encouraged to consolidate their position statements and their participation in the proceeding. The convenor, if necessary for the efficient conduct of the proceeding, has the authority to require the consolidation of participants who have substantially the same interest that may be affected by the proceeding. The convenor also has the authority, based on his evaluation of whether a person has submitted the detailed information required in the written position statement, to determine who will participate in the proceeding other than as a member of the public.

Dated at Rockville, Maryland this 12th day of October 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-23889 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 260, 284, 385, and 388

[Docket No. RM87-17-000]

Natural Gas Data Collection System; Commission Staff Response to and Notice of Availability of Revised Record Formats

Issued October 7, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Staff response to Order No. 493 Implementation Conference and notice of availability of revised record formats for FERC Form Nos. 8, 11, 14 and 16.

SUMMARY: On September 12 and 13, 1988, Commission staff conducted a conference to implement the provisions of Order Nos. 493 (53 FR 15023 (Apr. 27, 1988)) and 493-A (53 FR 30027 (Aug. 10, 1988)). This staff response addresses technical questions and requests for clarification presented during the conference. This response also addresses proposals submitted by participants at the conference. Certain of these proposals have been incorporated in the record formats. The revised formats for FERC Form Nos. 8, 11, 14 and 16 are now available. A proposed format for tariff filing is also available for comment purposes only. Staff requests further comment on the revised record formats and the procedures for submitting filings on an electronic medium. In addition to comments on specific issues, staff requests that respondents address the need for an additional conference after revised record formats for rate, tariff and certificate filings are issued. Finally, staff is revising the software programs provided for FERC Form Nos. 8 and 11 to correct deficiencies and to incorporate the revisions decribed in this document.

DATE: An original and two copies of any comments should be filed no later than October 21, 1988. All comments should reference Docket No. RM87-17-000 and be identified as "Supplemental Comments on the Order No. 493 Implementation Conference."

ADDRESS: Comments and requests for revised software programs should be directed to: Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 7010, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: William C. Anderson, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 (202) 357-8824.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), and electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in ASCII file format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

I. Footnotes

A. Revised Procedure

Staff agrees to revise the footnote procedure for the record formats in Order No. 493. The record formats will be revised to include a four-character footnote reference number (footnote ID) in each record. The footnote reference number field will be defined as a character field and may be left blank if no footnote applies. Under this procedure, footnotes will be referenced

at the record level. The same footnote can be applied to more than one record by using the same footnote reference number. If a footnote applies to one or more items within a record, each item should be identified at the beginning of the footnote text. The footnote record for all filings, with the exception of FERC Form No. 15, will be formatted as follows:

Item	Character position	Data type
Schedule ID	1–2	Character.
Record ID	3–4	Numeric.
Sequence number	5–10	Do.
Footnote ID	11–14	Character.
Footnote text	15–146	Do.
Filler	147–255	Character (blank filled).

The footnote procedure for FERC Form No. 15 will not be revised since Order No. 493–A adopted the previously existing format for filing on magnetic tape and clarified that natural gas companies can use the same format for diskette filings.

B. Schedule of Availability of Revised Record Formats

Revised record formats for FERC Form Nos. 8, 11, 14 and 16 are available concurrently with this staff response. Revised formats for FERC Form Nos. 2 and 2–A will be available after the Commission issues an order in Docket No. RM88–18–000 (*See* Part IV–A of this response).

The revised record formats for FERC Form Nos. 8, 11, 14 and 16 are available through the Commission Issuance Posting System (CIPS). When downloading files from the CIPS, users should note that all record format files require margin settings of 5 for the left margin and 92 for the right margin.

Revised record formats for FERC Form Nos. 2 and 2–A will be available only on diskette from the Commission's photocopying contractor through the Public Reference Branch in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

II. Filing Support

A. Revised Software

On August 4, 1988, the Commission released software for FERC Form Nos. 8 and 11 to print the data filed on an electronic medium. The software is available to anyone, without guarantee. Staff notes that natural gas companies are not obligated to use Commission-provided software. Since the release of the software, staff and users of the software have identified several problems. For example, the released version of the software requires fixed-length 255-character records for input. This means that files created by certain spreadsheet and word processing software with record lengths less than 255 characters cannot be used with the print software without conversion. The programs to generate the paper copy of the FERC Form Nos. 8 and 11 will be revised so that record lengths up to a maximum of 255 characters can be used with the print software.

Additionally, the software provided for FERC Form No. 8 will not print additional pages if more than 8 storage reservoirs or 15 co-owners are reported in Records 03 and 04, respectively, in Schedule U1. Staff is revising the software to correct this problem. Staff is also making the above revisions to the print software for the other forms.

The software for FERC Form Nos. 8 and 11 will be available as soon as the Commission's software contractor can make the necessary revisions, including the change in the footnoting procedure, and test the software. The Commission staff expects the revised software to be available no later than October 21, 1988.

Revised software for FERC Form Nos. 8 and 11 will be available through the Commission's copying contractor. However, the contractor charges a $5 per diskette copying fee. Since staff is responsible for the deficiencies, the revised software for FERC Form Nos. 8 and 11 can also be obtained free of charge by sending a written request for the software and a blank diskette to: Brooks Carter, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 7010, Washington, DC 20426.

B. Data Dictionary

Staff is compiling a list of edit criteria for all forms and will make this list available as soon as possible. The remainder of the data dictionary will be made publicly available as soon as it is developed.

III. Codes

A. Mnemonic vs. Numeric Codes

Some participants at the implementation conference expresses a preference for mnemonic codes instead of numeric codes, particularly for FERC Form No. 2 and rate filings. Staff has reviewed the codes required for FERC Form No. 2 and rate filings and does not believe that mnemonic codes are more beneficial. Staff will continue to require numeric codes for FERC Form No. 2 as well as the other FERC forms. However, staff will consider any proposals on the merits of numeric vs. mnemonic coding systems in rate filings.

B. Description of "Other" Codes in Record

In the record formats previously issued, the instructions generally required a footnote to be used to specify the meaning of an "other" code. Staff agrees with participants at the conference that these definitions are easier to handle if they are included in the applicable record instead of a footnote. Staff has reviewed the formats and, to the extent possible, such definitions of "other" codes will be included in the record.

C. Flexibility To Add and Define Additional Codes

For rate filings, staff requests comments on any additional codes which may be required to adequately display a natural gas company's rate filing. In addition, where several "other" codes may be required, staff also requests comments on how these codes should be defined (*e.g.*, in a special record format or a footnoote if there is not enough space in the applicable record format).

IV. FERC Forms

A. FERC Form No. 2 Revisions and Clarifications

Participants at the conference submitted written comments on needed revisions and clarifications to the record formats for FERC Form No. 2. Staff is reviewing these comments and will make the needed revisions.

At its September 28, 1988 meeting, the Commission approved an order which replaces the Statement of Changes in Financial Position in FERC Form Nos. 1, 1–F, 2, 2–A and 6 with a Statement of Cash Flows (Docket No. RM88–18–000). Since these changes have an impact on certain record formats for FERC Form Nos. 2 and 2–A, staff will reissue revised formats for those forms after the Commission issues its order in Docket No. RM88–18–000. At that time, staff will identify all other revisions to the formats for FERC Form Nos. 2 and 2–A.

B. FERC Form No. 2: Reporting of Receipt/Delivery Points

On the Revenue From Transportation of Gas For Others—Natural Gas (Account 489), staff clarifies that there is no new requirement to report receipt/delivery point combinations or "paths." The record format for Schedule F6, Record 08 allows for reporting the state and county in which a receipt or delivery point is located. Staff clarifies that the state or state/county entries

may refer to groups of receipt or delivery points and that the distance transported is a character field to allow "various" to be entered if individual distances are not reported. It is not necessary to footnote or individually list receipt or delivery points. Reporting on an electronic medium should be on the same basis as previous reports on hard copy.

C. FERC Form No. 16: Nonjurisdictional Customers

Staff has added a new code to the record formats for FERC Form No. 16, Schedules IV and VIII to report gas supply and requirements for nonjurisdictional customers. This is not a new reporting requirement and natural gas companies are not required to report this data. The revision is simply to accommodate natural gas companies that have requested a means of reporting data for nonjurisdictional customers.

V. Tariffs

A. Format

With this response, staff is releasing a proposed format for submitting tariff text in an ASCII file format with header and trailer records. The format is similar to the proposal presented by El Paso Natural Gas Company at the implementation conference, but has been structured to eliminate duplicate information in the header and trailer records for each tariff sheet. Staff's proposal consists of: (1) A company header record containing only company-specific information; (2) a tariff volume header record containing only volume-specific information; (3) an individual tariff sheet header record containing only tariff sheet-specific information; (4) text line records without line prefixes or ID's; and (5) simplified individual sheet and tariff volume trailer records.

Staff emphasizes that this procedure for filing tariffs on an electronic medium has been issued for review and comment only. After review of comments, staff will issue final record formats by November 30, 1988.

B. Software to Print Tariff Sheets

Staff will also make software available to print tariff sheets submitted on an electronic medium. This software will be released at least 60 days prior to the implementation date for tariff filings on an electronic medium. Tariff sheets that are printed vertically (portrait form) on an 8 and ½ x 11 inch page will be printed in the form specified by existing Commission regulations. For tariff sheets printed horizontally (landscape form), however, the information in the margin will also be printed horizontally (presently, this information is printed vertically) in order to simplify the print software. In order to print horizontal sheets in this manner, the margin requirements for such sheets will be revised as follows: a 1 and ¾ inch margin above the tariff text; a 1 and ¼ inch margin below the tariff text; and ½ inch margins on each side of the text. Staff requests comment on this proposed change in tariff sheet format.

Staff clarifies that borders are not required on the electronic submittal but must appear on each hard copy tariff sheet. After allowing for margins as proposed above, the dimensions for text within the border on an 8 and ½ x 11 inch sheet are:

Vertical print : 6 and ¾ x 8 and ½ inches

Horizontal print: 10 inches x 5 and ½ inches

Tariff sheets will be printed at a density of six lines per inch and either 10 cpi, 12 cpi, or 17 cpi pitch. The pitch used for printing is indicated in the Volume Header Record. If the submitted tariff indicates some other pitch, but not more than 17 cpi, the next more compressed pitch will be selected by the Commission-provided software. The pitch limitations are imposed by available printer hardware and, in the case of the 17 cpi maximum pitch, legibility requirements.

The maximum number of characters per line and lines per inch for the two print formats are:

	Maximum line length (char.)			Max. lines
	10 cpi	12 cpi	17 cpi	
Vertical (portrait)	67	81	114	51
Horizontal (landscape)	100	120	170	33

C. Word Processing Software-Dependent Output Formats, ASCII Files, Navy Document Interchange Format (DIF)

At the implementation conference, there was some discussion about the type of word processing output file that could be submitted for tariff filings. Staff commented that it would consider accepting word processing software-specific output files if the files could be converted for input to the Commission's WordPerfect software. The advantage of this approach is that special features such as underlined text, boldface text, and italics could be preserved upon conversion. Staff requested and received an informal survey of the word processing software used by those pipelines represented at the implementation conference. After reviewing the results of that survey, staff concludes that, while some software output files can be converted to WordPerfect, others cannot be converted without special programming.

One alternative of receiving ASCII files, stripped of all special feature codes, means that staff cannot duplicate the appearance of pipeline tariff sheets as they are presently filed. Staff believes that ASCII files will result in less burden to the industry and to staff. However, staff is concerned about the practical effects of deleting special highlighting features from the tariff filing on an electronic medium. Staff notes that these special features are not required by the Commission's regulations but requests comments on the effect of submitting tariff sheets in an ASCII file.

Another alternative is to require that text files be recorded in Navy Document Interchange Format (DIF). Navy DIF was developed to enable documents to be transferred among various word processing systems. It defines the representation of format effectors, presentation control functions, and other character-oriented control functions that affect the presentation in and between text processing systems. Thus, Navy DIF may preserve the document presentation control codes, which are lost in an ASCII formatted file, while at the same time providing a standard interchange format supported by many hardware and software vendors. For this reason, as well as the fact that a federal standard exists for Navy DIF (MIL–STD–2002, October 31, 1987), staff prefers this approach. Further, staff intends to request that piplelines provide test tariff documents from their word processing systems recorded in Navy DIF format to help in assessing the impact of adopting this standard for reporting text information.

Since most pipelines have their tariff sheets in word processing systems, staff believes that it will be less burdensome on industry and staff if pipelines submit tariffs on diskettes only.

VI. Certificate Applications

A. Format

Staff will consider a simplified format for submitting certificate applications in an ASCII file exported from a word processing system. The format will be similar in concept to the proposed method for submitting tariff sheet text on an electronic medium. Staff proposes that header and trailer records will be a function of the exhibits (*e.g.*, a header and trailer record for Exhibit A, Exhibit

B, etc.) in a certificate application but requests comments and recommendations on this issue.

B. Prior Notice Filings

Staff clarifies that under Part 284, Subpart G, of the Commission's regulations, the prior notice filings that follow the 120-day self-implementation filings are required to be filed on an electronic medium on or after March 31, 1988.

Section 157.205(a) of the Commission's regulations specifies the notice procedure for various certificated activities including transportation by interstate pipelines on behalf of shippers other than interstate pipelines (*See* 18 CFR 284.223(b)). Section 157.205(b) was amended by Order No. 493 to require requests for authorization under the notice procedures to be filed on an electronic medium. (Order No. 493–A stayed the implementation of this requirement until March 31, 1989.) Therefore, § 157.205(b) on its terms applies to § 284.223(b).

Order No. 493, however, exempted executed service agreements from the electronic filing requirement since the form of the service agreement is already on file in a pipeline's tariff. For similar reasons, the transportation agreement portion of the prior notice filing is not required to be filed electronically but will continued to be submitted on hard copy.

Staff clarifies, as was pointed out at the conference, that in § 157.6(a)(4) of the regulations, amendments to or withdrawals of applications must conform to the requirements of §§ 385.215 and 385.216, respectively.

VII. Rate Filings

A. Official Filing

Several participants questioned what constitutes the official filing. Staff understands that some natural gas companies may want to file a hard copy of a rate filing and have that copy considered the official filing. Staff recognizes that it may be difficult at this time to report certain materials on an electronic medium that appear in the hard copy submitted by the natural gas company. Staff will allow the following materials to be excluded from the electronic data submission and only submitted in hard copy: A prospectus, a copy of a magazine article, graphs, and maps. All other data filed on the hard copy must be included on the electronic medium and must be reproducible from that electronic medium. Staff notes its will use the data filed on the electronic medium in its analysis of the rate filing. Staff concludes that both the filing on the electronic medium and the hard copy printout submitted by the natural gas company, taken together, will constitute "the official filing."

Participants also questioned what constitutes adequate notice under the requirements of § 154.22. Staff clarifies that natural gas companies may use a filing on an electronic medium for the notice requirements of § 154.22 if hard copies of those items not contained on the tape or diskette are included. But, staff notes that the natural gas company must also be prepared to serve any parties to the rate proceeding with a complete hard copy of the filing upon request by the party.

Participants also questioned what is the basis for rejecting a filing. The Commission staff will apply the standards established in §§ 154.23 and 154.24 of its regulations to accept or reject rate filings. However, certain operational tests, such as a tape scan or edit tests, may also be applied to the electronic filing. The inability to read the electronic submittal or failure of significant edit criteria (after allowing for roundoff errors) will result in rejection of the entire filing.

B. Flexibility in Record Formats

Staff believes that the record formats for rate filings must be structured and that free-form text data must be limited to the extent possible. To achieve this objective, staff is revising the record formats to accommodate the various tabular displays used by natural gas companies making rate filings. Staff will consider both general and specific recommendations on the content of the record formats.

C. Procedure for Filing Data Not Included in Record Formats

Natural gas companies are expected to file data in the formats specified by the Commission. However, there will undoubtedly be situations where the record formats are not flexible enough to allow for certain additional data. The Commission staff may consider allowing a natural gas company to supplement specific statements or schedules with a free-form text format of the particular statement or schedule so long as the corresponding fixed-position record format is also completed.

D. Testimony (Statement P)

Materials that are included as exhibits in Statement P and which have significance in hard copy form, such as a prospectus or a map, need not be included in the electronic filing. Similarly, supplemental items originated by other persons, such as a magazine article, will not have to be captured and filed on an electronic medium.

E. Supplemental Data Requests

At this time, staff does not have any standardized format for supplemental data requests. At the implementation conference, some participants indicated that data previously requested in supplemental filings has now been incorporated in the initial rate filing. Staff believes that increased flexibility in the record formats for rate filings will allow natural gas companies to file additional data in some of the existing formats. However, where this is not the case, staff may specify record formats on a case-by-case when requesting supplemental data.

F. Changes Other Than in Rate Level/ Non-Traditional Section 4(e) Rate Filings

Section 154.26 of the Commission's regulations requires natural gas companies submitting a rate filing pursuant to § 154.63 or § 154.301(a) on or after March 31, 1989, to submit the filing on an electronic medium prescribed in FERC Form 542–PGA and § 385.2011, as applicable. Section 385.2011 includes, among other things, "rate filings pursuant to §§ 154.63 and 154.303(e) of this chapter."

Record formats were not issued in Order No. 493 for: (1) Rate filings for changes other than in rate level and (2) rate filings other than general rate filings and restatements under section 4(e) of the Natural Gas Act. These filings can be submitted in a free-form text format. However, these filings often include supporting data in spreadsheet form which exceeds the current 132-character text format specification. Staff intends to issue record formats for rate filings for changes other than in rate level and nontraditional rate filings. However, staff believes that further review is needed before it can issue record formats for these filings on an electronic medium. Staff requests comments on this issue, including the preferred format (or free-form text requirements) of the filings on electronic medium.

Until the above record formats are issued, staff clarifies that § 385.2011 will apply to: A major rate increase filing under § 154.63(b)(3); minor rate increase, rate decrease and changes in cost-of-service tariff filings under § 154.63(b)(4); and filings to establish new base tariff rates under § 154.303(e).

G. Items Submitted by Reference

Section 154.63(c)(1)(ii) of the Commission's regulations requires that, on or after March 31, 1989, copies of

material submitted by reference must be on an electronic medium as prescribed in § 385.2011. Staff clarifies that this requirement only applies to those filings required to be submitted on an electronic medium in accordance with the implementation dates of Order 493–A. Material submitted by reference, but not otherwise required to be filed on an electronic medium, need not be filed on an electronic medium solely as a result of § 154.63(c)(1)(ii).

H. Confidentiality

Section 388.112 of the Commission's regulations provides that natural gas companies submitting confidential data must submit a complete filing on the electronic medium marked "Contains Privileged Information—Do Not Release" and identifying the information for which privileged treatment is sought, and one filing on the electronic medium without the information for which privileged treatment is sought.

Information for which privileged treatment is sought may be identified in a transmittal letter. Staff has therefore deleted the data sensitivity indicator in the individual record formats for rate filings. Before finalizing the record formats, however, staff requests comments on the need for a confidential indicator, and whether the indicator should be entered in each individual record, where applicable, or entered in an initial record to indicate that the filing contains privileged data.

I. Software/Hard Copy Print

Staff clarifies that the hard copy print of a rate filing need not be produced using Commission-provided software. Hard copies produced by Commission-provided software will not be considered official copies of the filing unless the hard copies are submitted by the natural gas company as part of its official filing. Staff notes, however, that the information provided on hard copy must be reproducible from the data filed on the electronic medium.

J. Corrections and Revisions to the Record Formats for FERC Form Nos. 8, 11, 14 and 16

Appendix A identifies the corrections and revisions to the electronic filing formats for FERC Form Nos. 8, 11, 14 and 16.

Lois D. Cashell,

Secretary.

Appendix A—Correction Notice: Order No. 493 Record Formats

This appendix identifies the corrections and revisions to the electronic filing formats for FERC Form Nos. 8, 11, 14 and 16. Complete copies of the revised formats are available through the Commission Issuance Posting System (CIPS).

General Corrections to Forms Nos. 8, 11, 14 and 16

1. General Instructions

The instructions regarding the item location number (instruction no. 4) and reference number (instruction no. 5) have been deleted.

The footnote instructions have been revised. The prior footnote instruction no. 6 is now no. 5, and prior instruction no. 7 is now no. 4. A footnote ID has been added to each record.

Instruction no. 7 (instruction no. 8 in Form No. 16) is new and calls for padding records on tape to the right with blanks to a length of 255 bytes.

2. Exhibit B (Diskette Filing Procedures)

Part of procedure no. 1 (referencing volume and file labels) has been deleted.

Procedure no. 5 has been expanded to permit two additional methods for delimiting character data: Double and single quotes.

Procedure no. 7 has been expanded to allow recording a "NA" by using double quotes, single quotes, or vertical bars.

Form No. 8

1. General Instruction No. 9 is now number 8. Reference to a Field Code has been deleted.

2. The word Footnote under Item on Record No. 5 is changed to Footnote Text.

3. Changes to Character Positions:

Record ID	Item	New character positions
1	Footnote ID	235–238
1	Filler	239–255
2	Footnote ID	112–115
2	Filler	116–255
3	Footnote ID	155–158
3	Filler	159–255
4	Footnote ID	159–162
4	Filler	163–255
5	Reference Number	(1)
5	Footnote ID	11–14
5	Footnote Text	15–146
5	Filler	147–255

[1] Delete.

Form No. 11

1. The word Footnote under Item in Record No. 10 is changed to Footnote Text.

2. Changes to Character Positions:

Record ID	Item	New character positions
1	Footnote ID	173–176
1	Filler	177–255
2	Footnote ID	129–132
2	Filler	133–255
3	Footnote ID	120–123
3	Filler	124–255
4	Footnote ID	111–114
4	Filler	115–255
5	Footnote ID	84–87
5	Filler	88–255
6	Footnote ID	228–231
6	Filler	232–255
7	Footnote ID	102–105
7	Filler	106–255
8	Footnote ID	210–213
8	Filler	214–255
9	Footnote ID	84–87
9	Filler	88–255
10	Reference Number	(1)
10	Footnote ID	11–14
10	Footnote Text	15–146
10	Filler	147–255

[1] Delete.

Form No. 14

1. The word Footnote under Item on Record No. 10 is changed to Footnote Text.

2. Changes to Character Positions:

Record ID	Item	New character positions
1	Footnote ID	246–249
1	Filler	250–255
2	Footnote ID	225–228
2	Filler	229–255
3	Footnote ID	216–219
3	Filler	220–255
4	Footnote ID	216–219
4	Filler	220–255
5	Footnote ID	68–71
5	Filler	72–255
6	Footnote ID	224–227
6	Filler	228–255
7	Transaction Type	11
7	Docket Number(s)	12–21
7	Item Nos. 94–113	[1]
7	Footnote ID	237–240
7	Filler	241–255
8	Transaction Type	11
8	Docket Number(s)	12–21
8	Item Nos. 114–133	[1]
8	Footnote ID	237–240
8	Filler	241–255
9	Transaction Type	11
9	Docket Number(s)	12–21
9	Item Nos. 134–139	[1]
9	Footnote ID	87–90
9	Filler	91–255
10	Reference Number	[2]
10	Footnote ID	11–14
10	Footnote Text	15–146
10	Filler	147–255

[1] Increase each position by 1.
[2] Delete.

Form No. 16

1. The word Footnote under Item on Record No. 12 is changed to Footnote Text.

2. *Record No. 8, Item—Customer Type.* Change the Comments by adding: Non-jurisdictional customer, code=3; total for all customers for all states, code=4.

3. Changes to Character Positions:

Record ID	Item	New character positions
1	Footnote ID	232–235
1	Filler	236–255
2	Footnote ID	195–198
2	Filler	199–255
3	Footnote ID	131–134
3	Filler	135–255
4	Footnote ID	164–167
4	Filler	168–255
5	Footnote ID	145–148
5	Filler	149–255
6	Footnote ID	157–160
6	Filler	161–255
7	Footnote ID	176–179
7	Filler	180–255
8	Footnote ID	148–151
8	Filler	152–255
9	Footnote ID	164–167
9	Filler	168–255
10	Footnote ID	157–160
10	Filler	161–255
11	Footnote ID	187–190
11	Filler	191–255
12	Reference Number	[1]
12	Footnote ID	11–14
12	Footnote Text	15–146
12	Filler	147–255

[1] Delete.

[FR Doc. 88–23804 Filed 10–13–88; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 960

[Docket No. R–88–1417; FR–2505]

Preference for Elderly Families and Discretionary Preference for Near Elderly Families in Public Housing Projects for Elderly Families

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would (1) codify the existing practice of preferring elderly families in public housing projects for elderly families and (2) permit a public housing agency (PHA) to give a preference to "near elderly" families over other non-elderly families in public housing projects for elderly families when the PHA determines, in accordance with HUD regulations, that there are not enough eligible elderly families to fill all the units that are currently vacant or expected to become vacant in the next 12 months. This rule would implement section 111 of the Housing and Community Development Act of 1987.

DATE: Comments due December 13, 1988.

ADDRESS: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Edward Whipple, Chief, Rental and Occupancy Branch, Office of Public and Indian Housing, Room 4206, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 426–0744. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Preference for Elderly Families

Section 111 of the Housing and Community Development Act of 1987 (Pub. L. 100–242, approved February 5, 1988) (1987 Act) amended section 3(b)(3) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a) (1937 Act) to establish a preference for elderly families for admission to public housing projects for elderly families. It has been a longstanding policy of HUD to give a preference in tenant selection to elderly families in projects for elderly families; section 111 constitutes statutory recognition and affirmation of that policy. This proposed rule, insofar as it applies to the preference for elderly families, codifies existing policy.

As used in this rule, an "elderly family" would be defined as a family whose head or spouse (or sole member) is at least 62 years of age, or is a disabled or a handicapped person, as those terms are defined in 24 CFR 912.2. It may include two or more elderly, disabled, or handicapped persons living together, or one or more of these persons living with one or more live-in aides. A "project for elderly families" would be defined as any public housing project or portion of a project assisted under the United States Housing Act of 1937 (other than under section 8 or 17 of the Act) that was designated for occupancy by elderly families at its inception or, although not so designated, for which the public housing agency (PHA) gives a preference to elderly families in tenant selection (with HUD approval) for all units in the project or portion of the project. (For purposes of this proposed rule, the term PHA includes an Indian Housing Authority.)

II. Discretionary Preference for Near Elderly Families

Section 111 also created a discretionary preference for near elderly families in projects for elderly families. This preference may be provided at the discretion of a PHA. This proposed rule would define a "near elderly family" as a family whose head of household (or spouse) is at least 50 years old but under the age of 62 years. The rule would permit a PHA to admit otherwise qualified near elderly families to a project for elderly families ahead of non-elderly families in which the head of household and spouse are below the age of 50 years, when the PHA determines that there are not enough eligible elderly families to fill all the units that are currently vacant or expected to become vacant in the next 12 months.

The rule would provide that, before exercising the discretionary preference for near elderly families, a PHA would be required to use reasonable efforts to attract eligible elderly families who are not currently being assisted. PHAs would also be required, where appropriate, to conduct outreach to eligible elderly families currently residing in general occupancy projects. Such outreach may be appropriate when there are eligible non-elderly families on the general occupancy waiting list who could move into a dwelling unit vacated by an elderly family who will agree to transfer, and in situations where an elderly family is overhoused in a general occupancy project. This requirement would assist the PHA in its determination whether to give a preference to near elderly families.

In the past, PHAs have hesitated to give a preference to near elderly families in projects for elderly families because of their concern that such a policy would violate the Age Discrimination Act of 1975. Section 111 protects PHAs that choose to give such a preference, since the Age Discrimination Act provides an exception for a program or activity where a statute establishes criteria for participation in age-related terms (42 U.S.C. 6103(6)).

III. Relationship Between the Preference for Elderly Families and the Preference for Near Elderly Families

The proposed rule would establish a mandatory preference for elderly families and a discretionary preference for near elderly families. Since the

definition of elderly families includes disabled and handicapped persons as well as those 62 years of age and older, a PHA that chooses to establish the discretionary preference for near elderly families would give a preference for admission to any elderly family (as defined), regardless of age, over a near elderly family. For example, a family whose head of household (or spouse) is handicapped, but under the age of 50 years, would be given preference over a family whose head of household (or spouse) is neither handicapped nor disabled, but is 60 years old (near elderly).

When choosing from among elderly families, PHAs would not be permitted to choose on the basis of age alone. For example, an elderly family whose head of household (or spouse) is over 62 years of age would not necessarily be given preference over another elderly family whose head of household (or spouse) is disabled and 40 years of age. When a choice must be made among elderly families, the rule would require that the choice be based on other considerations, such as the PHA's policies and procedures for applying the "Federal preference," set out in 24 CFR 905.313 and 960.211, for families who are occupying substandard housing, involuntarily displaced, or paying more than 50 percent of family income for rent.

IV. Relationship to the Federal Preferences

The rule implementing section 206 of the Housing and Community Development Amendments of 1979 and section 203 of the Housing and Urban-Rural Recovery Act of 1983, which established the Federal preferences referred to above, requires that the three Federal preferences be implemented by PHAs in a manner that is consistent with other applicable requirements (24 CFR 905.313(b)(1) and 960.211(b)(1). Section 3(b)(3) of the 1937 Act, as amended by section 111 of the 1987 Act, is such a requirement. Since it establishes a mandatory preference for elderly families in projects for elderly families, an elderly family who does *not* qualify for a Federal preference nevertheless would be preferred over a non-elderly family who *does* qualify for a Federal preference in such a project. If a PHA exercises the discretionary preference for near elderly families in a project for elderly families, a near elderly family who does not quality for a Federal preference could be given preference over a younger non-elderly family who qualifies for a Federal preference. However, among "equals," *i.e.*, elderly applicants competing with other elderly applicants, or near elderly applicants with other near elderly applicants, a PHA would follow its normal policies and procedures for selecting tenants, including those established to implement the Federal preferences.

Admitting elderly families without a Federal preference ahead of non-elderly families with a Federal preference would not be counted toward the 10 percent limit on the admission of families without a Federal preference ahead of families with a Federal preference within any one-year period. (See 24 CFR 905.313(b)(2)(ii) and 960.211(b)(2)(ii). Similarily, admitting near elderly families without a Federal preference ahead of other non-elderly families with a Federal preference would not count toward the 10 percent limit.

V. Relationship to the Single Person Occupancy Limitation

Section 3(b)(3) of the 1937 Act provides that, under appropriate circumstances and with HUD approval, as set out in Part 912 of this chapter, a PHA may rent a limited percentage of its units to single persons, defined in § 912.2 as persons living alone or intending to live alone who do not qualify as an elderly family (which includes disabled or handicapped), as a displaced person (as defined in § 912.2) or as the remaining member of a tenant family. (There are no percentage limitations on renting to eligible persons living alone who are elderly, displaced, or the remaining member of a tenant family at any time.) Section 3(b)(3) provides that persons living alone who are elderly or displaced must be given a preference for admission over single persons (see also 24 CFR 912.3(e)). (A remaining member of a tenant family is not given a "preference" for admission because such a person is, by definition, already admitted to occupancy. However, a remaining member living alone is not subject to the occupancy limitation for single persons.)

For purposes of the single person occupancy limitation, near elderly persons who live alone would be categorized as single persons. Although Section 111 allows a PHA to establish a preference for near elderly persons in projects for elderly families, it cannot be interpreted as exempting single persons who are near elderly from the single person occupancy limitation. However, in situations where a PHA has HUD approval to admit single persons to a project for elderly families, near elderly single persons could be given a preference for admission over other single persons.

VI. Applicability

This proposed rule would apply to all dwelling units in public housing projects or portions of projects for elderly families assisted under the United States Housing Act of 1937 where the projects are owned by or leased to PHAs and leased or subleased by PHAs to tenants. The rule would not apply to Section 23 and Section 10(c) leased housing projects or the Section 23 Housing Assistance Payments Programs where the owners enter into leases directly with the tenants, or to the Section 8 Housing Assistance Payments Program, Turnkey III, or Mututal Help Homeownership Programs.

VII. Other Matters

The Department has determined that this proposed rule contains no collection of information requirements under the Paperwork Reduction Act (44 USC Chapter 35). However, under §§ 905.315(d)(3) and 960.407(c) (outreach efforts), it is conceivable that the Department may administratively issue guidelines that would involve collection of information requirements. The public is invited to submit comments on this potential paperwork burden to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

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

This rule would not constitute a "major rule" as that term is defined in section 1(d) the Executive order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the

ability of United States-based enterprises to compete with foreign-based enterprisese in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a singificant economic impact on a substantial number of small entities because administering the preference for elderly families and the discretionary preference for near elderly families in projects for elderly families should not entail significantly greater expense to the PHA than the PHA would normally incur in carring out its tenant selection process.

This rule was listed as item 1022 in the Department's Semiannual Agenda of Regulations published at 53 FR 13890 on April 25, 1988, under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number is 14.850.

List of Subjects

24 CFR Part 905

Grant programs–Indians, Low and moderate income housing, Homeownership, Public housing.

24 CFR Part 960

Public housing.

Accordingly, 24 CFR Parts 905 and 960 would be amended as follows:

PART 905—INDIAN HOUSING

1. The authority citation for Part 905 would continue to read as follows:

Authority: Secs. 3, 4, 5, 6, 9, 11, 12, and 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437b, 1437c, 1437d, 1437g, 1437i, 1437j, and 1437n); sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Part 905, Subpart C, would be amended by adding a new § 905.315 to read as follows:

§ 905.315 Preference for elderly families and discretionary preference for near elderly families in projects for the elderly.

(a) *Purpose.* The purpose of this section is:

(1) To establish a preference for Elderly Families for admission to project for Elderly Families; and

(2) To permit an Indian Housing Authority (IHA) to give a preference to Near Elderly Families for admission to projects for Elderly Families when the IHA determines, in accordance with paragraph (d)(2) and (3) of this section, that there are not enough eligible Elderly Families to fill all the units that are currently vacant or expected to be vacant in the next 12 months.

(b) *Applicability.* This section applies to all dwelling units in rental projects or portions of rental projects for the elderly assisted under the U.S. Housing Act of 1937 where the projects are owned by or leased to IHAs and leased or subleased by IHAs to tenants. It does not apply to Section 23 and Section 10(c) leased housing projects or the Section 23 Housing Assitance Payments Program where the owners enter into leases directly with the tenants, or to the Section 8 Housing Assistance Payments Program, the Low-Rent Housing Homeownership Opportunities Program (Turnkey III), or the Mutual Help Homeownership Opportunities Program.

(c) *Definitions.*—(1) *Elderly Family.* A Family whose head or spouse (or sole member) is at least sixty-two years of age, or a Disabled Person or a Handicapped Person (as those terms are defined in 24 CFR 912.2). An Elderly Family may include two or more elderly, Disabled or Handicapped Persons living together, or one or more of these persons living with one or more Live-in Aides.

(2) *Near Elderly Family.* A Family whose head of household (or spouse) is at least 50 years of age but below the age of 62 years.

(3) *Project for Elderly Families.* As used in this rule, a project for Elderly Families is a project or portion of a project to which this section is applicable under paragraph (b) of this section that was designated for occupancy by the elderly at its inception or, although not so designated, for which the IHA gives perference in tenant selection (with HUD approval) for all units in the project (or for a portion of the units in project) to Elderly Families.

(d) *Selection preferences.* (1) An IHA must give a preference to Elderly Families in determining priority for admission to projects for Elderly Families.

(2) An IHA may give a preference to Near Elderly Families in determining priority for admission to projects for Elderly Families when the IHA determines that there are not enough eligible Elderly Families to fill all the units that are currently vacant or expected to become vacant in the next 12 months. In no event may an IHA admit a Near Elderly Family if there are eligible Elderly Families on the IHA's waiting list that are suitable for the vacant unit.

(3) Before electing this discretionary preference in paragraph (d)(2) of this section, and IHA must conduct outreach to attract eligible Ederly Families, including, where appropriate, Elderly Families residing in general occupancy projects.

(e) *Other preferences; single person occupancy.* (1) An IHA must follow its policies and procedures for applying the Federal preferences contained in § 905.313 when selecting applicants for admission from among Elderly Families.

(2) It an IHA elects the discretionary preference in paragraph (d)(2) of this section, the IHA must follow its policies and procedures for applying the Federal preferences contained in § 905.313 when selecting applicants for admission from among Near Elderly Families.

(3) Elderly Families that do not qualify for a Federal preference contained in § 905.313 and that are given preference for admission under this section over non-elderly families that qualify for such a Federal preference are not subject to the 10 percent limitation on admission of families without a Federal preference over families with such a Federal preference that may initially receive assistance in any one-year period, as set out in § 905.313(b)(2)(ii). Near Elderly Families that do not qualify for a Federal preference contained in § 905.313 and that are given preference for admission under this section over other non-elderly families that qualify for such a Federal preference are not subject to the 10 percent limitation on admission of families without a Federal preference over families with such a Federal preference that may initially receive assistance in any one-year period, as set out in § 905.313(b)(2)(ii).

(4) If a Near Elderly applicant is a Single Person, as that term is defined in § 912.2 of this chapter, the Near Elderly Single Person may be given a preference for admission over other Single Persons to projects for the elderly. Notwithstanding any preference over other Single Persons, a Near Elderly Single Person's selection for admission is subject to the single person occupancy limitation rule contained in § 912.3, including provisions for HUD approval.

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

1. The authority citation for Part 960 would continue to read as follows:

Authority: Secs. 3, 5, 6, and 16, U.S. Housing Act of 1937 (42 U.S.C. § 1437a, 1437c, 1437d, and 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Part 960 would be amended by adding a new Subpart D, to read as follows:

Subpart D—Preference for Elderly Families and Discretionary Preference for Near Elderly Families in Public Housing Projects for the Elderly

Sec.
960.401 Purpose.
960.403 Applicability.
960.405 Definitions.
960.407 Selection preference.
960.409 Other preferences; single person occupancy.

Subpart D—Preference for Elderly Families and Discretionary Reference for Near Elderly Families in Public Housing Projects for the Elderly

§ 960.401 Purpose.

The purpose of this subpart is to establish a preference for Elderly Families for admission to public housing projects for Elderly Families, and to permit a public housing agency (PHA) to give preference to Near Elderly Families for admission to public housing projects for Elderly Families when the PHA determines, in accordance with § 960.407 (b) and (c), that there are not enough eligible Elderly Families to fill all the units that are currently vacant or expected to be vacant in the next 12 months.

§ 960.403 Applicability.

This subpart applies to all dwelling units in public housing projects or portions of projects for the elderly assisted under the U.S. Housing Act of 1937 where the projects are owned by or leased to PHAs and leased or subleased by PHAs to tenants. It does not apply to Section 23 and Section 10(c) leased housing projects or the Section 23 Housing Assistance Payments Program where the owners enter into leases directly with the tenants, or to the Section 8 Housing Assistance Payments Program, the Low Rent Housing Homeownership Opportunities Program (Turnkey III), the Mutual Help Homeownership Opportunities Program, or to Indian Housing Authorities. (For applicability to Indian Housing Authorities, see Part 905, Subpart C, of this chapter.)

§ 960.405 Definitions.

Elderly Family. A Family whose head or spouse (or sole member) is at least sixty-two years of age, or a Disabled Person or a Handicapped Person (as those terms are defined in 24 CFR 912.2). An Elderly Family may include two or more elderly, Disabled or Handicapped Persons living together, or one or more of these persons living with one or more Live-in Aides.

Near Elderly Family. A Family whose head of household (or spouse) is at least 50 years of age but below the age of 62 years.

Project for Elderly Families. As used in this rule, a project for Elderly Families is a project or portion of a project to which this subpart is applicable under § 960.403 that was designated for occupancy by the elderly at its inception or, although not so designated, for which the PHA gives preference in tenant selection (with HUD approval) for all units in the project (or for a portion of the units in a project) to Elderly Families.

§ 960.407 Selection preference.

(a) A PHA must give preference to Elderly Families in determining priority for admission to projects for Elderly Families.

(b) A PHA may give preference to Near Elderly Families in determining priority for admission to projects for Elderly Families when the PHA determines that there are not enough eligible Elderly Families to fill all the units that are currently vacant or expected to become vacant in the next 12 months. In no event may a PHA admit a Near Elderly Family if there are eligible Elderly Families on the PHA's waiting list that are suitable for the vacant unit.

(c) Before electing the discretionary preference in paragraph (b) of this section, a PHA must conduct outreach to attract eligible Elderly Families, including:

(1) Those groups that historically have been least likely to apply; and

(2) where appropriate, Elderly Families residing in general occupancy projects.

§ 960.409 Other preferences; single person occupancy.

(a) A PHA must follow its policies and procedures for applying the Federal preferences contained in Subpart B of this Part when selecting applicants for admission from among Elderly Families.

(b) If a PHA elects the discretionary preference in § 960.407(b), the PHA must follow its policies and procedures for applying the Federal preferences contained in Subpart B of this Part when selecting applicants for admission from among Near Elderly Families.

(c) Elderly Families that do not qualify for a Federal preference contained in Subpart B of this Part and that are given preference for admission under this section over non-elderly families that qualify for such a Federal preference are not subject to the 10 percent limitation on admission of families without a Federal preference over families with such a Federal preference that may initially receive assistance in any one-year period, as set out in § 960.211(b)(2)(ii). Near Elderly Families that do not qualify for a Federal preference contained in Subpart B of this Part and that are given preference for admission under this section over other non-elderly families that qualify for such a Federal preference are not subject to the 10 percent limitation on admission of families without a Federal preference over families with such a Federal preference that may initially receive assistance in any one-year period, as set out in § 960.211(b)(2)(ii).

(d) If a Near Elderly applicant is a Single Person, as that term is defined in § 912.2 of this chapter, the Near Elderly Single Person may be given a preference for admission over other Single Persons to projects for the elderly. Notwithstanding any preference over the Single Persons, a Near Elderly Single Person's selection for admission is subject to the single person occupancy limitation rule contained in § 912.3, including provisions for HUD approval.

Dated: September 9, 1988.

James E. Baugh,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 88-23654 Filed 10-13-88; 8:45 am]

BILLING CODE 4210-33-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 256

[FRL-3462-6]

New Jersey; Proposed Approval of New Jersey Solid Waste Management Plan

AGENCY: Environmental Protection Agency (EPA), Region II.

ACTION: Notice of proposed rulemaking on the State of New Jersey's Solid Waste Management Plan and public comment period.

SUMMARY: EPA is announcing today the availability of the State of New Jersey Solid Waste Mangement Plan (NJSWMP) and soliciting public comment on the Plan. EPA has reviewed the NJSWMP and has made a decision, subject to public review and comment, that the Plan, subject to conditions identified in this notice, meets EPA's guidelines for the approval of State Solid Waste Mangement Plans under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended. Under section 4007(a) of the Act, EPA is to approve or disapprove State Plans. Thus, EPA proposes to approve the

NJSWMP, subject to public review and comment.

DATES: Comments on the State of NJSWMP must be received by November 14, 1988.

ADDRESS: Copies of the State of NJSWMP are available at the following addresses for inspection and copying by the public: New Jersey Department of Environmental Protection, Division of Solid Waste Management, 401 East State Street, Trenton, New Jersey 08625; EPA Region II, 26 Federal Plaza, Room 906, New York, New York 10278, (212) 264–0547; Environmental Protection Agency Headquarters Library, Room M–2904, 401 M Street SW., Washington DC 20460. Written comments on the Plan should be sent to Conrad Simon, U.S. Environmental Protection Agency, Region II, Air and Waste Management Division, 26 Federal Plaza, Room 1009, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Suzanne Becker, U.S. Environmental Protection Agency, Region II, Hazardous Waste Programs Branch, 26 Federal Plaza, Room 907 New York, New York 10278, (212) 264–6458.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, EPA published (44 FR 45066) guidelines for the development and implementation of State Solid Waste Management Plans under the authority of section 4002(6) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (RCRA), of 1976, as amended. The guidelines establish the requirements for State Plans and recommend methods and procedures to meet those requirements. Under Subtitle D of RCRA, as amended, EPA is authorized to approve State Solid Waste Management Plans. Under § 4007 of RCRA, the Administrator shall approve Plans which meet the requirements of paragraph (1), (2), (3), and (5) of section 4003 of RCRA and which contain provision for revision. The criteria for approving those plans are set forth in EPA's Guidelines for Development and Implementation of State Solid Waste Management Plans (Guidelines), codified at 40 CFR Part 256. Among other things, the Guidelines require that Plans identify a general strategy for achieving the following objectives:

- Protecting human health and the environment from adverse effects associated with solid waste disposal;
- Prohibiting the establishment of new open dumps;
- Upgrading or closing existing open dumps;
- Encouraging resource recovery and resource conservation;
- Providing adequate disposal capacity in the State;
- Establishing priorities for State Solid Waste Management, and
- Dealing with other issues relevant to solid waste management.

The State Plan must also set forth the institutional arrangements that a State will use to implement this strategy.

The proposed approval is conditioned upon New Jersey's submission of additional information regarding its open dumps. New Jersey is required to certify that it has completed its evaluation of all solid waste disposal facilities (40 FR 53440 & 53441, September 13, 1979) or inform EPA of its ongoing process for completing its evaluation and classification, as open dumps, of units which do not meet the criteria set forth at 40 CFR Part 257. This certification of completion or description of the ongoing process is to be incorporated in the 1990 update of the Plan. In addition, the State is required to submit annually to region II EPA an updated list of open dumps and a report on the State's plans for evaluation and classification of remaining facilities in the following year. Appropriate public participation procedures shall be followed throughout these processes as set forth at 40 CFR Part 256, Subpart G.

Under RCRA, and as provided in the Guidelines, EPA's approval of a State Plan has two major implications. First, it permits the State to issue compliance schedules. Second, it may affect the State's eligibility for Federal funding under sections 4007 and 4008 of RCRA. EPA is to withhold certain Subtitle D technical and financial assistance to the State, if the Administrator at any time, determines that the Plan is no longer in compliance with the Guidelines and withdraws approval. *See* section 4007(b)(3).

On September 23, 1981 (46 FR 47048), EPA amended the Guidelines to authorize partial approval of State Plans. These amendments authorize EPA to approve that portion of the State Plan under which entities may, pursuant to 40 CFR § 256.26, receive compliance schedules from the State leading to compliance with the open dumping prohibition of Section 4005. In such a partial plan approval, the Administrator must determine that:

(1) The portion submitted satisfies § 256.26;

(2) The State has authority to issue and enforce compliance schedules; and

(3) The State will complete the remainder of the Plan within a reasonable period of time.

On July 28, 1986, the State of New Jersey submitted its adopted Solid Waste Management Plan to EPA for approval. EPA has reviewed the Plan and has made a decision, subject to public review and comment, that the Plan, subject to conditions identified in this notice, meets the requirements set forth in RCRA, which provide for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

Compliance With Executive Order 12291

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

List of Subjects in 40 CFR Part 256

Grant programs, Waste treatment and disposal.

Authority: Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817, (422 U.S.C. 6947)

Dated: August 29, 1988.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 88–23732 Filed 10–13–88; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 799

[OPTS–42044A; FRL–3462–5]

Hexafluoropropylene Oxide; Termination of Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; termination.

SUMMARY: EPA is terminating rulemaking under the Toxic Substances Control Act (TSCA) for mutagenicity, oncogenicity, and reproductive effects testing of hexafluoropropylene oxide (HFPO; CAS No. 428–59–1). EPA's decision is based on the analysis of manufacturing and processing information submitted by the sole manufacturer (and processor) of HFPO which demonstrated that exposure to HFPO in the workplace is being controlled to levels which are not expected to present an unreasonable risk of health effects.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. EB–44, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: EPA is terminating rulemaking under section 4(a) of TSCA for health effects testing of HFPO.

I. Background

The Interagency Testing Committee (ITC) designated the category of halogenated alkyl epoxides for priority testing consideration in its Second Report, published in the **Federal Register** of April 19, 1978 (43 FR 16684). HFPO was one of seven chemical substances (chemicals) in the category of halogenated alky epoxides. The ITC recommended that halogenated alkyl epoxides be considered for testing for oncogenicity, mutagenicity, teratogenicity, and other chronic effects. The ITC also recommended that epidemiology studies be considered. The other six chemicals in this category were: Epichlorohydrin (ECH), 1,1,1-trichloro-2,3-epoxy-propane (TCPO), 1,4-dichloro-2,3-expoxybutane (DCBO), tetrafluoroethylene oxide (TFEO), 1,1,1-trichloro-3,4 expoxybutane (TCBO), and 1-bromo-2,3-expoxybutane (EBH). The ITC's recommendations were based on high production levels for one member of this category (500 million pounds per year for ECH), a National Institute for Occupational Safety and Health (NIOSH) estimate of 50,000 to 140,000 workers exposed to ECH each year, an expected increase in the use of other halogenated alkyl epoxides, and limited studies on the oncogenic, mutagenic, teratogenic, and other chronic effects of members of this category of substances.

After considering all the available information on the category of halogenated alkyl epoxides, EPA responded to ITC's recommendation by issuing a proposed rule, published in the **Federal Register** of December 30, 1983 (48 FR 57686), which would require oncogenicity, mutagenicity, and reproductive effects testing for HFPO under the authority of section 4(a)(1)(A) of TSCA. EPA took this action because chemicals that are structurally similar to HFPO (i.e., ECH) have demonstrated oncogenic, mutagenic, and reproductive activity in animals and EPA believed there was the potential for HFPO to elicit similar effects, and because monitoring data indicated there was workplace exposure to HFPO (Ref. 1). In addition, reduced spermatogenesis was observed in a subchronic study on HFPO, suggesting that HFPO may produce reproductive effects (Ref. 2).

In the **Federal Register** of December 30, 1983 (48 FR 57695), EPA also published a "decision not to test" the other six chemicals in the category of halogenated alkyl epoxides. EPA decided that testing of ECH was not necessary because there are already sufficient data available on this chemical. EPA decided that the testing of TCPO, DCBO, and TFEO was not appropriate because none of these three Chemicals are listed on the TSCA inventory and thus are subject to review under TSCA section 5(a) before they are manufactured for uses under TSCA Jurisdiction. In the case of TCBO and EBH, EPA found that TCBO is not being manufactured, imported, or processed and EBH is being produced in quantities of 25 pounds or less solely for research and development.

The proposed rule contained a chemical profile of HFPO. Specific data on the quantity of HFPO produced annually and the number of workers employed during its production and processing were claimed to be confidential business information (CBI). EPA found the annual production of HFPO to be relatively low and the number of workers employed to be relatively few.

During the comment period following the publication of the HFPO proposed rule, EPA received manufacturing and processing design, industrial hygiene, and engineering control information from E.I. Du Pont De Nemours & Company (Du Pont), the sole manufacturer and processor of HFPO in the United States (Ref. 3). Du Pont summarized its HFPO operation as follows: The entire HFPO manufacturing process is carried out in a totally closed and automated system; all process vents are scrubbed with caustic before being discharged to the atmosphere; before any piping breaks are made, process materials are evacuated through a caustic scrubber; protective equipment (acid suit with air supplied helmet) is required when making all piping breaks (e.g., sampling); the presence of HFPO in the exhaust air is monitored using a Miran IR Analyzer; and all HFPO produced is used in the production of fluorinated substances and is not present in free form after processing.

Based on analysis of the information submitted by Du Pont, EPA believes that exposure to HFPO in the workplace is being controlled to levels which are not expected to present an unreasonable risk of adverse health effects even if the adverse effects for which it is suspected based on analogy to ECH are verified. The monitoring data from HFPO manufacturing and processing sites showed that concentrations of HFPO in the workplace are generally below 0.1 parts per million (ppm), which was the limit of detection, and in no case above 2 ppm.

Furthermore, EPA has also issued a combined TSCA significant new use rule (SNUR) under section 5(a)(2) and section 8(a) reporting rule for HFPO, published in the **Federal Register** of October 27, 1987 (52 FR 41296). The SNUR for HFPO will ensure that EPA is notified if HFPO is manufactured, imported, or processed for any use other than as an intermediate in the manufacture of fluorinated substances in an enclosed process. Because the SNUR will not provide notification of future manufacturing, importing, and processing activities associated with HFPO's current use, EPA has required reporting under section 8(a) if HFPO activities not covered by the SNUR are initiated.

These rules will allow EPA to track the use of HFPO and to investigate the health and environmental impacts of such activities.

EPA is issuing this notice to terminate the proposed test rule for HFPO because: EPA believes that Du Pont is presently controlling the exposure to HFPO in the workplace to levels which are not expected to present an unreasonable risk of health effects; and EPA has issued the combined SNUR/section 8(a) rule for HFPO to be used as a mechanism to monitor any increases in exposures to HFPO in the future. EPA may reconsider the need for testing of HFPO at that time.

II. Rulemaking Record

A section 4 record, containing the basic information considered by EPA in developing its decision on HFPO, is available for Public inspection in the TSCA Public Docket Office, NE–G004, 401 M St., SW., Washington, DC from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays (docket number OPTS–42044A). CBI, while part of the rulemaking record is not available for public review.

The rulemaking record includes the following information:

A. Supporting Documentation

(1) The **Federal Register** notice containing the ITC designation of halogenated alkyl expoxides to the Priority List (43 FR 16684; April 19, 1978).

(2) The **Federal Register** notice containing EPA's proposed test rule on HFPO (48 FR 57686; December 30, 1983).

(3) The **Federal Register** notice containing final significant new use and section 8(a) rules for HFPO (52 FR 41296; October 27, 1987).

(4) Communications consisting of letters, contact reports of telephone conversations, and meeting summaries.

B. References

(1) US Environmental Protection Agency. Assessment of Testing Needs: Hexafluoropropylene Oxide Support Document, Washington, DC, Office of Toxic Substances (1983).

(2) E.I. Du Pont De Nemours & Company. 90-Day exposure study with hexafluoropropylene oxide (February 28, 1968).

(3) E.I. Du Pont De Nemours & Company. Comments on EPA's Proposed Test Rule for hexafluoropropylene oxide submitted to Public Information Office, USEPA (March 28, 1984).

Therefore, 40 CFR 799.2150 *Hexafluoropropylene oxide,* proposed in the **Federal Register** of December 30, 1983 (48 FR 57686), is hereby terminated.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recording and reporting requirements.

Dated: October 4, 1988.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 88-23731 Filed 10-13-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 80732-8132]

Regulations Governing the Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The National Marine Fisheries Service (NOAA Fisheries) has extended until October 14, 1988, the comment period on the proposed rule to establish the basic living accommodations acceptable for observers employed by the Federal Government on U.S. tuna vessels and to establish the minimum adjustments in living arrangements that would be required to accommodate a female observer on a vessel with an all-male crew.

DATE: Comments should be received by October 14, 1988.

ADDRESS: Comments should be addressed to E.C. Fullerton, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: E. C. Fullerton, Regional Director, Southwest Region (213-514-6196).

SUPPLEMENTARY INFORMATION: On August 19, 1988 (53 FR 31725), NOAA Fisheries published a proposed rule to establish the basic living accommodations acceptable for observers employed by the Federal Government on U.S. tuna vessels and to establish the minimum adjustments in living arrangements that would be required to accommodate a female observer on a vessel with an all-male crew. The comment period was scheduled to expire on October 3, 1988. A request for an extension of the comment period has been received by NOAA Fisheries from the American Tunaboat Association, which represents a significant portion of the vessels which would be affected by the rule.

Date: October 7, 1988.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 88-23851 Filed 10-13-88; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 53, No. 199
Friday, October 14, 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 of Office of Management and Budget

October 7, 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 P.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, D.C. 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, D.C. 20503, Attn: Desk Officer for USDA.

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

REVISION

Rural Electrification Administration

Operating Report
REA Forms 12a–i
Annually
Small businesses or organizations; 87 responses; 6,319 hours; not applicable under 3504(h)
Archie W. Cain, (202) 382–1900.

Annual Financial and Statistical Report—Electric
REA Form 7, REA Form 7a
Annually
Small businesses or organizations; 976 responses; 16,592 hours; not applicable under 3504(h)
Archie W. Cain, (202) 382–1900

EXTENSION

Agricultural Marketing Service

Peaches Grown in Mesa County, Colorado—Marketing Order 919
No agency forms
On Occasion
Farms; Businesses or other for profit; 31 responses; 7 hours; not applicable under 3504(h)
Virginia Olson, (202) 447–5057

Irish Potatoes Grown in Southeastern States, Marketing Order No. 953
No agency forms
Recordkeeping; Monthly; Annually
Farms; Businesses or other for profit; 1,791 responses; 397 hours; not applicable under 3504(h)
Virginia M. Olson, (202) 447–5057

California Nectarines—Marketing Order No. 916
Recordkeeping; On occasion; Monthly; Semi-annually;
Farms, businesses or other for profit; 524 responses; 413 hours; not applicable under 3504(h)
Virginia M. Olson, (202) 447–5057

Food and Nutrition Service

7 CFR Part 245—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools—Reporting/Recordkeeping
Recordkeeping, Annually, Biennially, Other: Triennially
State or local governments; Businesses or other for-profit; Non-profit institutions; 5,218,285 responses; 948,932 hours; not applicable under 3504(h)
Marian Stroud, (703) 756–3600

Agricultrual Stabilization and Conservation Service

7 CFR Part 760, Indemnity Payment Programs
Dairy Indemnity Payment Program
ASCS–373
Monthly
Farms; Businesses or other for-profit; 80 responses; 240 hours; not applicable under 3504(h)
Susan Schneider (202) 447–5171.

Donald Hulcher,
Acting Departmental Clearance Officer.

[FR Doc. 88–23724 Filed 10–3–88; 8:45 am]
BILLING CODE 3410–01–M

Farmers Home Administration

Redelegaton of Authority To Approve Debt Settlements and Releases of Liability In Connection With Voluntary Liquidations

AGENCY: Farmers Home Administration USDA.

ACTION: Notice of redelegation of authority.

SUMMARY: On September 25, 1987, the Farmers Home Administration (FmHA) Administrator redelegated certain authorities to all State Directors dealing with the settlement of and/or release of liability on FmHA debts, owed by borrowers, who made application to settle their FmHA debts or request release of liability. Notice of this redelegation was published in 53 FR 2067 (January 26, 1987). The redelegation authority granted on September 25, 1987, expired on September 30, 1988, and the Administrator now gives notice to extend that redelegation through September 30, 1989. This action is taken to expedite the processing of debt settlement applications/requests, of borrowers who are unable to repay all of their FmHA debts. The effect of the extension of the redelegation of the Administrator's authority is the continued expediting of the administrative review process for debt settlements and releases of liability permitting more timely debt relief to FmHA borrowers, and to correspondingly reduce the Agency's portfolio of inactive uncollectable accounts.

EFFECTIVE DATES: October 1, 1988, through September 30, 1989.

FOR FURTHER INFORMATION CONTACT: Thomas B. Baden, Senior Loan Officer, Farmer Program Loan Servicing Division, Farmers Home Administration, USDA, Room 5437, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone 202–475–4008.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance programs affected by this notice are:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Very Low and Low Income Housing Loans
10.411 Rural Housing Site Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.428 Economic Emergency Loans

Notice

The notice of the delegation of authority for approving debt settlement/release of liability cases reads as follows:

This extends the authority given under the unnumbered memorandum dated September 25, 1987, entitled "Delegation of Authority for Approving Debt Settlement/Release of Liability Cases."

Pursuant to authority delegated to me as Administrator, Farmers Home Administration (FmHA), I hereby redelegate to State Directors authority to approve the following:

1. Debt settlement cases in accordance with § 1956.58(a)(3) of FmHA Instruction 1956–B "Debt Settlement—Farmer Programs and Single Family Housing" (revised 7–29–87, PN 59).

2. Releases of liability in accordance with § 1955.10(f)(2), and § 1955.20(b)(2) of FmHA Instruction 1955–A, "Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property."

3. Releases of liability in accordance with § 1962.34(h) of FmHA Instruction 1962–A, "Servicing and Liquidation of Chattel Security," and §§ 1965.26(f)(5)(ii) and 1965.27(f) of FmHA Instruction 1965–A, "Servicing of Real Estate Security for Farmer Programs Loans and Certain Note-Only Cases."

This authority DOES NOT extend to debt settlement of Non-Program (NP) loans, Economic Opportunity (EO) loans and claims against third party converters. These should be prepared and submitted in accordance with FmHA AN No. 1766 (1956) dated June 28, 1988.

This extension of the redelegation shall be effective through September 30, 1989, unless revoked or otherwise modified, in writing. The authority delegated to the State Director cannot be further delegated.

Date: October 6, 1988.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 88–23787 Filed 10–13–88; 8:45 am]
BILLING CODE 3410–07–M

Forest Service

Intent To Prepare an Environmental Impact Statement for Proposed Management Activities Within the White Stallion Area, Darby Ranger District, Bitterroot National Forest, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to analyze and disclose the environmental impacts of implementing forest management activities, including harvesting timber and constructing roads in the White Stallion area of the Darby Ranger District, Bitterroot National Forest, Ravalli County, Montana. The decision to prepare this environmental impact statement results from an Addendum to the Environmental Assessment dated May 18, 1988, and a Decision Notice dated August 25, 1988. Management activities may include timber harvest, road construction and reconstruction, insect and disease management, and road management. The agency invites comments and suggestions on proposed management activities in the assessment area. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur in the analysis so that interested and affected parties are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be submitted on or before November 14, 1988.

ADDRESSES: Submit comments and suggestions on potential management opportunities to Forest E. Hayes, District Ranger, Darby Ranger District, P.O. Box 266, Darby, MT 59829.

FOR FURTHER INFORMATION CONTACT: The White Stallion Interdisciplinary Team Leader, Darby Ranger District, Bitterroot National Forest, P.O. Box 266, Darby, MT 59829.

SUPPLEMENTARY INFORMATION: The USDA, Forest Service proposes to implement a range of timber management activities in the White Stallion area. These management activities may include timber harvest, road construction and reconstruction, insect and disease management, and road management.

Management activities under consideration would occur in an area encompassing approximately 8,300 acres of multi-ownership lands in the Sleeping Child drainage. Of this total, approximately 7,400 acres are National Forest System lands. Proposed activities are confined to an area south and east of Sleeping Child Hot Springs and west of the Sleeping Child Burn in all or parts of Sections 12–14, 23, and 24, T.4N., R.20W.; Sections 7, 8, 17–21, 28–30, 32–35, T.4N., R.19W.; and Sections 1–5, 10–12, T.3N., R.19W.

Included in the assessment area is the entire Sleeping Child Creek drainage above Sleeping Child Hot Springs. Starting at the resort, the area boundary runs east to Bald Top Mountain, Two Bear Meadows and Coyote Meadows; southeast to Mosquito Meadows; southwest to Crystal Point; northwest to White Stallion Camp and Blacktail Point; and northeast to Sleeping Child Hot Springs. The legal description for the area is Sections 12, 13, 24, T.4N., R.20W.; Sections 7, 8, 9, 13–30, 32–36, T.4N., R.19W.; Sections 1–5, 12, T.3N., R.19W.; Sections 18–21, 27–35, T.4N., R.18W.; and Sections 2–11, 16, 17, 18, T.3N., R.18W., P.M.M. The land is in National Forest ownership except Sections 1, 3, and 11, T.3N., R.19W., which belongs to Plum Creek Timber Company.

Scoping has already been utilized for the development of an environmental assessment. Public notice was initiated by mailing an announcement to a list of potentially affected individuals and organizations on March 30, 1984. Numerous newspaper articles have been printed concerning the analysis process. An environmental assessment was approved on October 31, 1985. Because additional issues were recognized during the public participation process, an addendum to the environmental assessment was compiled. This document was completed under the guidance of the Forest Plan and approved in May, 1988. Approximately 30 copies of both documents were given to persons or groups indicating interest in the analysis. In June, 1988, a field trip was conducted with concerned publics in order to solicit comments and information. Several written responses to the assessments have been received.

The issues identified to date in the environmental analysis process for the assessment include:

1. Will the cost of timber management and road construction exceed benefits?
2. What effect will stream sedimentation have on fish spawning habitat?
3. Will water quality be degraded? Will low-flow quantities be changed?
4. How will road construction and timber harvest affect big game habitat and security?
5. What impacts will this proposal have on job and income stability in the local forest products industry?
6. Can timber be harvested without irreversible damage to soil, slope, or watershed conditions?
7. What will be the effects from planned timber cutting on private lands in the area?
8. What will be the effects on non-game wildlife species?

The alternatives disclosed in the Addendum to the Environmental Assessment will also be considered in the environmental impact statement. These alternatives included a "no action" alternative and four action alternatives which range from harvesting about 6 million board feet of timber using existing roads to about 15 million board feet harvested with 14 miles of new roads. Additional alternatives will be considered when scoping for the environmental impact statement is completed.

A Decision Notice and Findings documenting the need for an environmental impact statement was signed on August 25, 1988. The rationale was: (1) Scoping indicated that the effects on the quality of the human environment, including elk habitat, water quality and fisheries, caused by road construction and timber harvest, was likely to be highly controversial; (2) the action might be related to other existing and proposed actions that together could have cumulatively significant impacts, particularly on elk security and habitat effectiveness; (3) the potential exists to concentrate roading and harvest activities on moist sites with many riparian areas; and (4) a portion of the assessment area is in the Sleeping Child roadless area number X1–074.

Public participation will be important during the analysis for the environmental impact statement. The first point of public participation is during the scoping process (40 CFR 1501.7). The Forest Service is seeking information and comments from Federal, State, local agencies, and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement. The scoping and analysis process includes:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of alternatives in addition to those identified in the environmental assessment.
5. Identification of potential environmental effects of the alternatives (i.e., direct, indirect, cumulative effects, and connected actions).
6. Determination of potential cooperating agencies and task assignments.

Additional comments or questions are being solicited at this time. Comments received by November 14, 1988 will be considered in the preparation of the draft environmental impact statement.

The draft environmental impact statement (DEIS) is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in January, 1989. At that time, the EPA will publish a notice of availability of the DEIS in the **Federal Register.**

The comment period on the draft environmental impact statement will be 45 days from the date the EPA's notice of availability appears in the **Federal Register.** It is very important those interested in the management of the White Stallion area participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy or the merits of the alternatives discussed (40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of the draft EIS's must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the reviewers' position and contentions (*Vermont Yankee Nulcear Power Corp. v. NRDC,* 435 U.S. 519, 553 (1978)), and environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (*Wisconsin Heritages, Inc. v. Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them, and respond to them in the final EIS.

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by April, 1989. In the FEIS, the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments and responses; environmental consequences discussed in the FEIS; and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. The decision will be subject to review under applicable Forest Service regulations.

Date: October 7, 1988.

David M. Colclough,

Acting Forest Supervisor.

[FR Doc. 88–23736 Filed 10–13–88; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 80871–8171]

Approval of Federal Information Processing Standards Publication 153, Programmer's Hierarchical Interactive, Graphics System (PHIGS)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 153.

SUMMARY: On March 11, 1988, notice was published in the **Federal Register** (53 FR 7957) that a Federal Information Processing Standard for PHIGS was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which

provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard is effective April 28, 1989.

ADDRESS: Interested parties may purchase copies of this standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Benigni, National Computer and Telecommunications Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–3266.

Date: October 11, 1988.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 153

[date]

Announcing the Standard for Programmer's Hierarchical Interactive Graphics System (PHIGS)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property amended by the Computer Security Act of 1987, Pub. L. 100–235.

1. Name of Standard. Programmer's Hierarchical Interactive Graphics System (PHIGS) (FIPS PUB 153).

2. Category of Standard. Software Standard, Graphics.

3. Explanation. This publication announces the adoption of the American National Standard Programmer's Hierarchical Interactive Graphics System, ANSI X3.144–1988, as a Federal Information Processing Standard (FIPS). This standard specifies the control and data interchange between an application program and its graphic support system. It provides a set of functions and programming language bindings (or toolbox package) for the definition, display and modification of two-dimensional (2D) or three-dimensional (3D) graphical data. In addition, this standard supports highly interactive processing and geometric articulation, multi-level or hierarchical graphic data, and rapid modification of both the graphics data and the relationships between the graphical data. The purpose of the standard is to promote portability of graphics application programs between different installations. The standard is for use by implementors as the reference authority in developing graphics software systems; and by other computer professionals who need to know the precise syntactic and semantic rules of the standard.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. Department of Commerce, National Institute of Standards and Technology (National Computer and Telecommunications Laboratory).

6. Cross Index. American National Standard (ANSI, X3.144–1988) Programmer's Hierarchical Interactive Graphics System (PHIGS).

7. Related Documents. a. Federal Information Processing Standards Publication (FIPS PUB) 120, Graphical Kernel System (GKS).

b. Federal Information Processing Standards Publication (FIPS PUB) 128, Computer Graphics Metafile (CGM).

c. Federal Information Resources Management Regulation 201–8.1, Federal ADP and Telecommunications Standards.

d. American National Standard Graphical Kernel System, GKS, ANSI X3.124–1985.

e. American National Computer Graphics Metafile, CGM, ANSI X3.122–1986.

f. ISO 646–1983, Information Processing—7-Bit Coded Character Set for Information Interchange.

g. ISO 2022–1982, Information Processing—ISO 7-Bit and 8-Bit Coded Character Sets—Code Extension Techniques.

h. ISO 2382/13–1984, Data Processing—Vocabulary—Part 13: Computer Graphics.

i. ISO 6093–1985, Information Processing—Representation of numeric values in character strings for information interchange (in course of preparation).

j. ISO 7942–1985, Information Processing Systems—Computer Graphics—Functional Specification of the Graphical Kernel System (GKS).

k. ISO 8632–1986, Information Processing Systems—Computer Graphics Metafile for the Storage and Transfer of Picture Description Information (Part 1: Functional Sepcifications; Part 2: Character Encoding; Part 3: Binary Encoding; Part 4: Clear Text Encoding).

l. ISO 8805, Information processing—Computer Graphics-Graphical Kernel System (GKS) 3D Extensions Functional Description (in course of preparation).

8. Objectives. The primary objectives of this standard are:

—To allow very highly interactive graphics application programs using 2D or 3D hierarchically structured graphics data to be easily transported between installations. This will reduce costs associated with the transfer of programs among different computers and graphics devices, including replacement devices.

—To aid the understanding and use of dynamic hierarchical graphics methods by application programmers.

—To aid manufacturers of graphics equipment by serving as a guideline for identifying useful combinations of graphics capabilities in a device.

—To encourage more effective utilization and management of graphics application programmers by ensuring that skills acquired on one job are transportable to other jobs, thereby reducing the cost of graphics programmer retraining.

—To aid graphics application programmers in understanding and using graphics methods by specifying well-defined functions and names. This will avoid the confusion of incompatibility common with operating systems and programming languages.

9. *Applicability.* a. This standard is intended for use in computer graphics applications that are either developed or acquired for government use. It is specifically designed to meet the performance requirements of such demanding applications as Computer Aided Design/Computer Aided Engineering/Computer Aided Manufacturing, command and control, molecular modelling, simulation and process control. It emphasizes the support of applications needing a highly dynamic, highly interactive operator interface and expecting rapid screen update of complex images to be performed by the display system.

b. The use of this standard is compulsory and binding when one or more of the following situations exist:

—The graphics application is very highly interactive, or contains hierarchically structured graphics data, or requires rapid modification of 2D or 3D graphics data and the relationships among the data.

—It is anticipated that the life of the graphics program will be longer than the life of the presently utilized graphics equipment.

—The graphics application or program is under constant review for updating of the specifications, and changes may result frequently.

—The graphics application is being designed and programmed centrally for a decentralized system that employs computers of different makes and models and different graphics devices.

—The graphics program will or might be run on equipment other than that for which the program is initially written.

—The graphics program is to be understood and maintained by programmers other than the original ones.

—The graphics program is or is likely to be used by organizations outside the Federal government (i.e., State and local governments, and others).

c. Nonstandard features of implementations of PHIGS should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although nonstandard features can be very useful, it should be recognized that the use of these or any other nonstandard elements may make the interchange of graphics programs and future conversion more difficult and costly.

10. Specifications. American National Standard Programmer's Hierarchical Interactive Graphics System, ANSI X3.144–1988, defines the scope of the specifications, the syntax and semantics of the PHIGS elements and requirements for conforming implementations. All of these specifications apply to Federal Government implementations of this standard.

ANSI X3.144–1988 defines a language independent nucleus of a graphics system for integration into a programming language. Thus, it is embedded in a language layer obeying the particular conventions of the language. This means that the standard is separated into two parts. Part 1 represents the functional aspects of PHIGS. Part 2 contains bindings of PHIGS functions to actual programming languages. These bindings are developed in cooperation with the voluntary industry standards committees of the various languages. A binding of the PHIGS functionality to the Programming Language FORTRAN (ANSI X3.9–1978), known as FORTRAN '77, appears in the first version of this standard. Subsequent language bindings for C, Ada, PASCAL, etc., will be added periodically as they become available.

As these bindings are approved by ANSI, each language binding will become part of this standard.

11. Implementation. The implementation of this standard involves two areas of consideration: Acquisition of implementations and itnerpretations of this standard.

11.1 Acquisition of Implementations. This standard becomes effective April 28, 1989. Implementations which meet the requirements of the applicability section and acquired after this date should comply with this standard. Conformance to this standard should be considered whether toolbox packages are developed internally, acquired as part of an ADP system procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce toolbox packages conforming to the standard. The transition period begins on the effective date and continues for twelve (12) months thereafter. The provisions of this publication apply to orders placed after the date of this publication; however, a toolbox package not conforming to this standard may be acquired for interim use during the transition period.

11.2 Interpretation of this FIPS. Resolution of questions regarding this standard will be provided by NIST. Questions concerning the content and specifications should be addressed to:

Director, National Computer and Telecommunications Laboratory, ATTN: PHIGS Interpretation, National Institution of Standards and Technology, Gaithersburg, MD 20899.

12. Waivers. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, United States Code. Requests for waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: Director, National Computer and Telecommunications Laboratory, ATTN: FIPS Waiver Decisions, Technology Building, Room B–154, National Institute of Standards and Technology, Gaithersburg, MD 20899. In addition notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. § 552(b), shall be part of the procurement documentation and retained by the agency.

13. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications documents is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 153 (FIPSPUB153), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 88–23760 Filed 10–13–88; 8:45am]
BILLING CODE 3510-CN-M

COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1988; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additionis to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1988 commodities to be produced and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comment must be received on or before November 14, 1988.

ADDRESS:: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E.R. Alley, Jr., (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1988, December 10, 1987 (52 FR 46926).

Commodities

Cover, Telescope Mounting
1430–00–773–2030
Maintenance Kit, Window
1560–00–450–3622
First Aid Kit, Eye Dressing
6545–00–853–6309
Binder, Looseleaf, Flight Crew
7510–00–766–4269
Stamp, Rubber
7520–00–NSH–0001
7520–00–NSH–0002
7520–00–NSH–0003
7520–00–NSH–0004
7520–00–NSH–0005
7520–00–NSH–0006
7520–00–NSH–0007
7520–00–NSH–0008
7520–00–NSH–0009
7520–00–NSH–0010
7520–00–NSH–0011
7520–00–NSH–0012
7520–00–NSH–0013
7520–00–NSH–0014
7520–00–NSH–0015
7520–00–NSH–0016
7520–00–NSH–0017
(Requirements for McClellan Air Force Base, CA only)
Liner, Flyer's Jacket
8415–00–844–9811
8415–00–844–9812
8415–00–844–9813
8415–00–844–9814

Services

Commissary Warehouse Service
Homestead Air Force Base, Florida
Janitorial/Custodial
Waco Distribution Center, 1801 Exchange Park, Waco, Texas.

E.R. Alley, Jr.,
Deputy Executive Director.
[FR Doc. 88–23755 Filed 10–13–88; 8:45 am]
BILLING CODE 6820–33–M

Procurement List 1988; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1988 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 14, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: E.R. Alley, Jr., (703) 557–1145.

SUPPLEMENTARY INFORMATION: On March 25, August 5, August 12, and August 19, 1988, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (53 FR 9798, 29511, 30459 and 31735) of proposed additions to and deletion from Procurement List 1988, December 10, 1987 (52 FR 46926).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1988:

Commodities

Tarpaulin
1440–01–126–8966
Flagstaff, Wood
8345–00–242–3650
Liner, Flyer's Trousers
8415–00–844–9815
8415–00–844–9816
8415–00–844–9817
8415–00–844–9818

Services

Janitorial/Custodial
U.S. Army Reserve Center #1, 4350 Kingshighway Boulevard, St Louis, Missouri
Janitorial/Custodial
U.S. Courthouse Annex, 1100 East Main Street, Richmond, Virginia
Mailing Service
Department of the Treasury, Bureau of Public Debt, Parkersburg, West Virginia
Mailroom Service
Defense Logistics Agency-DCASR, 495 Summer Street, Boston, Massachusetts

Deletion

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

Accordingly the following service is hereby deleted from Procurement List 1988.

Janitorial/Custodial
Officer's Open Mess, Building 542 and NCO Open Mess, Building 956, Robins Air Force Base, Georgia.

E.R. Alley, Jr.
Deputy Executive Director.
[FR Doc. 88–23756 Filed 10–13–88; 8:45 am]
BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command; Directorate of Personal Property Through Government Bill of Lading Program for Household Goods and Unaccompanied Baggage

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: Invitation to comment on procedural change for cartons used for interior packing be required to contain a manufacturer's box certificate.

SUMMARY: Based on standards and specifications covering fiberboard and corrugated cartons used for packing or interior personal property shipments, a manufacturer's box certificate is required. These standards and specifications are accepted rules and are incorporated in the Uniform Freight Classification and National Motor Freight Classification. A manufacturer's box certificate contains a boxmaker's name, bursting strength and information indicating type of carton (single wall, double wall). These certificates may be round or rectangular and are usually located on the bottom panel or bottom outer flap. This requirement is

incorporated and monitored in the Direct Procurement Method (DPM) system for personal property shipments but is not addressed as a requirement for other types of personal property shipments (domestic and international). In order to make a uniform standard for all personal property shipments, a revision to the regulation is necessary.

DOD 4500.34R, Appendix A, paragraph 43.d., would be changed to read:

Cartons. Cartons of solid or corrugated fiberboard may be used for packing linens, books, bedding, lampshades, draperies, or other similar articles. After packing, cartons must be glued or sealed by taping lengthwise at the joint on top and bottom. The sidewalls and ends of the corrugated or solid fiber cartons will be a minimum average bursting strength of 200 pounds per square inch. The inside dimensions of the carton, length, width, and depth totaled, with not exceed 75 inches, with a weight limitation of 65 pounds. All corrugated and fiberboard cartons shall be stamped with a manufacturer's certificate indicating name of manufacturer, bursting strength, minimum combined weight of facings, size limit, gross weight limit, and information indcating type of carton (single wall, double wall, etc.). Cartons lacking a certificate are not authorized for use on personal property shipments. Egg crates, fruits or vegetable crates, tea creates and similar-type boxes will not be used. Boxes may be used instead of cartons when the ITO determines that their use is necessary to assure protection and safe transportation of the articles.

DATE: Submit written comments by November 18, 1988, to: HQ Military Traffic Management Command, 5611 Columbia Pike, ATTN: MT–PPQ–O, Falls Church, Virginia 22041–5050.

FOR FURTHER INFORMATION CONTACT: HQ Military Traffic Management Command, ATTN: MT–PPQ–O (Judy Stewart), 5611 Columbia Pike, Falls Church, Virginia 22041–5050—telephone (703) 756–1655.

Kenneth L. Denton,

Department of the Army, Alternate Liaison Officer With the Federal Register.

[FR Doc. 88–23745 Filed 10–13–88; 8:45 am]

BILLING CODE 1310–08–M

Military Traffic Management Command; Directorate of Personal Property Through Government Bill of Lading Program for Household Goods and Unaccompanied Baggage

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: Invitation to comment on procedural change for overflow boxes.

SUMMARY: DOD 4500.34R, Appendix A, paragraph 40 (a)(2) states that overflow boxes utilized on household goods shipments will be constructed in accordance with Federal Specification PPP–B–601, Style A or B. These are wood boxes. However, carriers may use corrugated fiberboard containers for containerization of overflow and oversize articles or to containerize small household goods shipments. This method is one most commonly used but presently is not addressed in the regulation. In order to permit carriers authorization to use corrugated fiberboard containers, a revision to the regulation is necessary.

DOD 4500.34R, Appendix A, paragraph 40 (a)(2), would be changed to read as follows:

Overflow Boxes (Containerized Shipments). Overflow boxes will be constructed in accordance with Federal Specification PPP–B–601, "Boxes, Wood, Cleated-Plywood," Style A or B, or Federal Specification PP–B–640, "Boxes Fiberboard, Corrugated, Weather-Resistant, Triple-Wall". Fiberboard containers which exceed a gross of 15 cubic feet and 300 pounds must be secured to a four-way entry wooden pallet. Fiberboard containers unless specifically approved shall not exceed 96 cubic feet.

DATE: Submit written comments by 18 November, 1988, to: HQ Military Traffic Management Command, 5611 Columbia Pike, ATTN: MT–PPQ–O, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: HQ Military Traffic Management Command, ATTN: MT–PPQ–O (Judy Stewart), 5611 Columbia Pike, Falls Church, VA 22041–5050, Telephone (703) 756–1655.

Kenneth L. Denton.

Department of the Army, Alternate Liaison Officer With the Federal Register.

[FR Doc. 88–23746 Filed 10–13–88; 8:45 am]

BILLING CODE 1310–08–M

Military Traffic Management Command; Directorate of Personal Property Through Government Bill of Lading Program for Household Goods and Unaccompanied Baggage

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, DOD.

ACTION: Invitation to comment on proposed change in packing procedure for privately owned firearms (POF).

SUMMARY: the PPTMR, Chapter F, Para Fld states that firearms shall be placed in container number 1. The DOD 5030.49–R, which addresses customs requirements for property entering the CONUS, also requires firearms to be placed in the number 1 container and positioned so that they are readily accessible for examination by customs officials, when required. This requirement has never been added to the tender of service and carriers are packing POFs in other than the number 1 container. This causes excessive unstuffing/restuffing of containers to locate POFs for customs inspection, particularly on shipments destined to the United Kingdom, and results in additional cost.

To eliminate this problem the Military Services concur that paragraph 49h of the tender of service be changed to read "All POFs must be placed in the number 1 external shipping container positioned so that they are readily accessible for examination by customs when required. This shipping container will be closed at the member's residence. Under no circumstances will the carrier be permitted to remove the POF to the warehouse or other facility for placement in shipping containers." Also, the following will be moved from para 40h to para 54 "Each privately owned firearm (POF) will be annotated on the inventory by make, model, caliber or gauge and serial number."

DATE: Submit written comments by 18 November, 1988, to: HQ Military Traffic Management Command, 5611 Columbia Pike, ATTN: MT–PPQ–O, Falls Church, VA 22041–5050.

Kenneth L. Denton,

Department of the Army, Alternate Liaision Officer With the Federal Register.

[FR Doc. 88–23747 Filed 10–13–88; 8:45 am]

BILLING CODE 1310–08–M

Military Traffic Management Command; Directorate of Personal Property Through Government Bill of Lading Program for Household Goods and Unaccompanied Baggage

AGENCY: Military Traffic Mangement Command (MTMC), Army, DoD.

ACTION: Invitation to comment on procedures for servicing items of unusual nature.

SUMMARY: The issue of servicing unusual items such as German schranks is brought up periodically. While the domestic and ITGBL rate solicitations cover payment procedures, the tender of service is silent on this subject.

The Military services have concurred in the following which will be added to paragraph 42 of the tender of service:

b. Items of unusual nature such as, but not limited to, schranks, wall units, water beds, grandfather clocks, hot tubs, pool tables, pipe organs and satellite dishes may require special service by a third party. This third party service (to incude disassembly/

assembly) will be approved by the PPSO. Payment for the services of a third party will be advanced by the carrier and billed as an advance charge. The charge will be supported by the third party invoice and the PPSO's authorization.

Present paragraph b will be changed to c and the following sentence added:

Carrier labor charges or third party service for the disassembly/assembly will be approved by the PPSO.

DATE: Submit written comments by 18 November, 1988, to: HQ Military Traffic Management Command, 5611 Columbia Pike, Attn: MT–PPQ–O, Falls Church, VA 22041–5050.

Kenneth L. Denton,

Department of the Army, Alternate Liaison Officer With the Federal Register.

[FR Doc. 88–23748 Filed 10–13–88; 8:45 am]

BILLING CODE 1310–08–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88–57–NG]

Natgas U.S. Inc.; Application To Extend Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for extension of blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 15, 1988, of an application filed by Natgas U.S. Inc. (Natgas), requesting that the blanket authorization previously granted in DOE/ERA Opinion and Order No. 118 issued on April 14, 1986 (ERA Docket No. 86–10–NG), be amended to extend its term for two years, from July 1, 1989, through June 30, 1991.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than November 14, 1988.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room 3F–094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Natgas requests continued authority to import natural gas from Pan-Alberta and other Canadian suppliers. Natgas' existing authorization to import up to 730 Bcf of Canadian natural gas over a two-year period will expire on June 30, 1989. Under the extension requested, Natgas would be authorized to import up to 730 Bcf of Canadian natural gas over a two-year period beginning on July 1, 1989, and extending through and including June 30, 1991.

Natgas proposes to continue importing Canadian natural gas either as a broker or agent on behalf of U.S. purchasers and/or Canadian suppliers, or on its own behalf for sale to U.S. purchasers. The natural gas is to be sold on a short-time or spot market basis to U.S. purchasers, including, but not limited to, gas distribution companies, pipelines, electric utilities, and industrial or agricultural users. Natgas intends to use existing pipeline facilities. Natgas asserts that it would continue to file quarterly reports with the ERA which provide the details of each transaction made during the quarter. To date Natgas has imported 166.2 Bcf of Canadian natural gas under their existing authorization. Specific terms of each sale, including price, volume, duration, transportation arrangements, and contract adjustments will continue to be negotiated in response to market conditions.

In support of its application, Natgas asserts that the requested extension of its existing blanket authorization under the same terms and conditions as granted in Opinion No. 118 will continue to be in the public interest.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the ERA approves this requested blanket import, it may permit the import of the gas at any existing point of entry and through any existing transmission system.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to this proceeding and to have written comments considered as a basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of interventions, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room 3F–094, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., November 14, 1988.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision of the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is

necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Natgas' application is available for inspection and copying in the Natural Gas Division Docket Room, 3F–094, at the above address. 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, on October 6, 1988.

Anthony J. Como,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–23831 Filed 10–13–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 516–034]

South Carolina Electric & Gas Co.; Availability of Environmental Assessment

Issued October 7, 1988.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR. 47897), the Office of Hydropower Licensing (OHL) has reviewed the application for a change in land rights and non-project use of project lands for the development of the Bundrick Pointe residential community. The OHL has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that authorization to convey the subject land for the purpose, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE, Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc 88–23805 Filed 10–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM88–3–20–002, TM88–5–20–001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 7, 1988.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 3, 1988, tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets:

Proposed To Be Effective May 1, 1988

Substitute Alternate Eighteenth Revised Sheet No. 204

Proposed To Be Effective June 1, 1988

Substitute Nineteenth Revised Sheet No. 204

Proposed To Be Effective July 1, 1988

Substitute Twentieth Revised Sheet No. 204

Proposed To Be Effective August 1, 1988

Substitute Twenty-first Revised Sheet No. 204

Proposed To Be Effective September 1, 1988

Second Substitute Twenty-eighth Revised Sheet No. 203

Proposed To Be Effective October 1, 1988

Second Substitute Twenty-ninth Revised Sheet No. 203

Second Substitute Twenty-second Revised Sheet No. 204

Algonquin states that Substitute Alternate Eighteenth Revised Sheet No. 204 is being filed pursuant to section 7 of its Rate Schedule F–3, to reflect changes in the underlying transportation service filed for by its supplier, Transcontinental Gas Pipeline Corporation ("Transco"). The change made by Transco represents a 1.0 cent per decatherm decrease in its Commodity Producer Settlement Payment Charge. Algonquin further states that it is filing Substitute Nineteenth Revised Sheet No. 204, Substitute Twentieth Revised Sheet No. 204, Substitute Twenty-first Revised Sheet No. 204 and Second Substitute Twenty-second Revised Sheet No. 204 for the sole purpose of bringing forward the change in Transco's rate into previously filed, approved and pending Revised Sheets No. 204.

Algonquin states that Second Substitute Twenty-eighth Revised Sheet No. 203 is being filed pursuant to Section 7 of Rate Schedule F–2, to reflect changes in the underlying service filed for by its pipeline supplier, CNG Transmission Corporation ("CNGT"). CNGT's change represents a $1.199 increase in its demand charge for Rate Schedules RQ & CD over its June 1, 1988 rate. Additionally, Algonguin states that it is filing Second Substitute Twenty-ninth Revised Sheet No. 203 for the sole purpose of bringing forward CNGT's rate change into the previously filed Revised Sheet No. 203.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with §§ 385.211 and 385.214 of the Commissions Rules and Regulations. All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 88–23698 Filed 10–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TM89–1–61–001, TQ89–1–61–000, and RP88–157–002]

Bayou Interstate Pipeline System; Filing

October 11, 1988.

Take notice that on September 30, 1988, Bayou Interstate Pipeline System (Bayou) filed Substitute First Revised Sheet Nos. 72 and 73 and Substitute Second Revise sheet Nos. 75 and 77 to its FERC Gas Tariff, Original Volume No. 1, to be effective June 1, 1988. Bayou states that by direction of Commission letter order dated August 12, 1988 these revised tariff sheets reflect technical corrections in compliance with Commission Order Nos. 483 and 483–A.

Bayou filed Substitute Seventh Revised Sheet No. 4 to its FERC Gas

Tariff, Original Volume No. 1, to be effective October 1, 1988. Bayou states that this sheet supplements its August 31, 1988 filing which contained an error as to the Surcharge Adjustment.

In addition, Bayou filed Eighth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No.1, to be effective November 1, 1988. Bayou states that this tariff sheet contains detailed computations in support of the Current PGA Adjustment.

Bayou states that copies of this filing have been mailed to its jurisdictional sales customer and interested State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc 88-23810 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-21-001]

Columbia Gas Transmission Corp., Proposed Changes in FERC Gas Tariff

October 7, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on September 30, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1988:

Substitute One hundred and thirtieth Revised Sheet No. 16

Columbia states that the purpose of the substitute tariff sheet is to reflect changes in the format thereof based upon conversations with the FERC Staff. Specifically, Substitute One hundred and thirtieth Revised Sheet No. 16 changes the required tariff sheet notation to equate the rates reflected as "estimated average cost of gas in last scheduled PGA" with "current estimated average cost of gas in latest PGA (rate currently being charged)".

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 17, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23699 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2256 Wisconsin]

Consolidated Water Power Co.; Intent To File an Application for a New License

October 11, 1988.

Take notice that on July 27, 1988, Consolidated Water Power Company, the existing licensee for the Wisconsin Rapids Division Hydroelectric Project No. 2256, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2256 was issued effective August 1, 1943, and expires July 31, 1993.

The project is located on the Wisconsin River in Wood County, Wisconsin. The principal works of the Wisconsin Rapids Project include a 3,320-foot-long concrete and masonry dam with three concrete gate sections and 19 Taintor gates; a reservoir of 455 acres; a powerhouse with an installed capacity of 4,689 kW; and appurtenant facilities. The project serves the Consolidated Papers, Inc. paper mill buildings.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 231 First Avenue North, Wisconsin Rapids, Wisconsin 54495-8050.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by Julsy 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23700 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 11, 1988.

Take notice that on September 30, 1988, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective November 1, 1988.

FERC Gas Tariff, First Revised Volume No. 1

33rd Revised Sheet No. 8

FERC Gas Tariff, Original Volume No. 2

55th Revised Sheet No. 128

FGT states that these tariff sheets are being filed in accordance with § 154.308 of the Commission's Regulations and pursuant to section 15 (Purchased Gas Adjustment Clause) of FGT's FERC Gas Tariff, First Revised Volume No. 1 to reflect an increase in FGT's jurisdictional rates due to an increase in its average cost of gas purchased from that reflected in its Quarterly PGA filing, Docket No. TQ88-2-34-000, effective August 1, 1988.

FGT states that the effect of the purchased gas cost reduction being filed represents an increase of .667 cents/therm for Rate Schedules G and I and .19 cents/Mcf for Rate Schedule T-3 as measured against FGT's Quarterly PGA filing in Docket No. TQ88-2-34-000 effective August 1, 1988.

FGT states that copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, First Revised Volume No. 1, Original Volume No. 2 and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or

protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23808 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-1-53-001]

K N Energy, Inc.; Filing

October 7, 1988

Take notice that on October 5, 1988, K N Energy, Inc. (K N) filed Substitute Thirty-fifth Revised Sheet No. 4 to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective October 1, 1988.

K N states that this tariff sheet corrects the IOR-2 commodity charge which was previously filed in Thirty-fifth Revised Sheet No. 4 on September 22, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23701 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2255 Wisconsin]

Nekoosa Papers Inc.; Intent To File an Application for a New License

October 11, 1988.

Take notice that on July 19, 1988, Nekoosa Papers Inc., the existing licensee for the Centralia Hydroelectric Project No. 2255, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2255 was issued effective August 1, 1943, and expires July 31, 1993.

The project is located on the Wisconsin River in Wood County, Wisconsin. The principal works of the Centralia Project include a timber-cribbed, rock-filled dam; a reservoir of 250 acres; a powerhouse with an installed capacity of 3,200 kW; a 14.4-kV transmission line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426. The above information as described in the rule is now available from the licensee at 100 Wisconsin River Drive, Port Edwards, WI 54469, Attn: Jerome J. Luebke, telephone (715) 887-5672, or Franklin E. Robinson, telephone (715) 887-5590.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23702 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2291 Wisconsin]

Nekoosa Papers Inc.; Intent To File an Application for a New License

October 11, 1988.

Take notice that on July 19, 1988 Nekoosa Papers Inc., the existing licensee for the Port Edwards Hydroelectric Project No. 2291, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2291 was issued effective August 1, 1943, and expires July 31, 1993.

The project is located on the Wisconsin River in Wood County, Wisconsin. The principal works of the Port Edwards Project include a timber-cribbed, rock-filled dam; a reservoir of 150 acres; a powerhouse with an installed capacity of 3,592 kW; a 14.4-kV transmission line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426. The above information as described in the rule is now available from the licensee at 100 Wisconsin River Drive, Port Edwards, WI 54469, Attn: Jerome J. Luebke, telephone (715) 887-5672, or Franklin E. Robinson, telephone (715) 887-5590.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23703 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-37-000]

Northwest Pipeline Corp.; Proposed Change in Sales Rates

October 11, 1988

Take notice that on October 4, 1988, Northwest Pipeline Corporation ("Northwest") submitted a proposed change in sales rates applicable to service rendered under rate schedules which are subject to Article 16, Purchased Gas Cost Adjustment Provision, of its FERC Gas Tariff, First Revised Volume No. 1. Northwest tendered for filing and acceptance the following tariff sheets:

First Revised Volume No. 1

Forty-Fourth Revised Sheet No. 10
Fourth Revised Sheet No. 301
Third Revised Sheet No. 303

Original Volume No. 1-A

Second Revised Sheet No. 601
First Revised Sheet No. 602

Northwest states that the purpose of this filing is to reflect the effect of changes in Northwest's billing determinants and gas purchasing patterns necessitated by the conversion by its customers of approximately 78% of their sales contract demand to firm

transportation. The instant filing proposes a decrease of 2.69¢ per MMBtu in the commodity component and decreases of 302.40¢ and 21.35¢ per MMBtu in the Demand–1 and Demand–2 components respectively of Northwest's sales rates. Northwest has requested waivers to permit an October 1, 1988 effective date.

A copy of this filing has been served on Northwest's jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 88–23806 Filed 10–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP88–227–002 and CP87–309–004]

Paiute Pipeline Co.; Compliance Filing and Proposed Tariff Filings

October 11, 1988.

Take notice that on September 30, 1988, Paiute Pipeline Company (Paiute), pursuant to section 4 of the Natural Gas Act and Part 154 of the Commission's Regulations thereunder, tendered for filing certain revised tariff sheets in compliance with the Commission's order issued in Docket Nos. RP88–227–000, RP88–227–001, and CP87–309–000 on August 31, 1988. Paiute also tendered for filing certain original tariff sheets setting forth proposed new tariff provisions as described in its filing. Furthermore, Paiute requests that the Commission grant an extension of the time within which Paiute may accept the blanket certificate issued under § 284.221 of the Commission's Regulations in the Commission's August 31, 1988 order.

In the instant filing, Paiute tendered for filing and acceptance proposed Substitute Original Sheet No. 74 to be a part of its FERC Gas Tariff, Original Volume No. 1. Paiute asserts that this proposed tariff sheet is in compliance with the Commission's August 31, 1988 order. Paiute proposes that this tariff sheet be made effective on the same date that its other proposed Volume No. 1 tariff language changes in Docket No. RP88–227 are permitted to become effective, *i.e.*, February 1, 1989.

Paiute also tendered for filing and acceptance proposed Substitute Original Sheet Nos. 27 and 64 to be a part of its FERC Gas Tariff, Original Volume No. 1–A. Paiute states that these tariff sheets are also submitted in compliance with the Commission's August 31, 1988 order. Paiute requests that these tariff sheets be made effective on September 1, 1988, the date on which the Commission permitted Paiute's other Volume No. 1–A tariff sheets to become effective.

In addition, Paiute tendered for filing and acceptance proposed Original Volume Nos. 75 and 76 to be a part of its FERC Gas Tariff, Original Volume No. 1. These proposed tariff sheets set forth new operating procedures governing the sale for resale of natural gas by Paiute under its Rate Schedule G–1. Paiute requests that these tariff sheets be permitted to become effective on the date of issuance of a Commission order accepting the tariff sheets.

Paiute states that it is unable to accept its blanket certificate, and commence open access transportation services, without the Commission's first giving consideration to the addition to Volume No. 1 of Paiute's tariff of the new tariff provisions set forth on proposed Original Volume Nos. 75 and 76.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–23812 Filed 10–13–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM89–1–80–000]

Tarpon Transmission Co.; Tariff Filing

October 11, 1988.

Take Notice that on September 30, 1988, Tarpon Transmission Company ("Tarpon") tendered for filing pursuant to § 154.38(d)(6) of the Commission's Regulations and the Annual Charge Adjustment Provision of Tarpon's FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 2B, First Revised Sheet No. 2A to its FERC Gas Tariff, Original Volume No. 1.

Tarpon states that the filing reflects a reduction of its Annual Charge Adjustment unit rate from $0.0021 to $0.0018 per Mcf. Tarpon proposes an October 1, 1988 effective date. Tarpon further requests any waivers of Part 154 of the Commission's Regulations as may be required to permit this tariff sheet to be accepted for filing and made effective on October 1, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant a party to this proceeding. Any person desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88–23807 Filed 10–13–88; 8:45 am]

BILLING CODE 6717–10–M

[Docket No. RP88–228–001]

Tennessee Gas Pipeline Co.; Tariff Filing

October 7, 1988.

Take notice that on September 30, 1988 Tennessee Gas Pipeline Company (Tennessee) tendered for filing Sixth Revised Sheet No. 24 and Substitute Third Revised Sheet No. 115 to Second Revised Volume No. 1 of its FERC Gas Tariff. Tennessee states these revised tariff sheets are proposed to be effective February 1, 1989, and are filed in compliance with the Commission's August 31, 1988 order accepting for filing

and suspending Tennessee's rate increase filing in this proceeding. Tennessee states Sixth Revised Sheet No. 24 establishes a minimum reservation rate of zero for firm transportation service and Substitute Third Revised Sheet No. 115 eliminates reference to the rate to be charged a firm transportation shipper in the event of a change in receipt points.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest the Federal Energy Regulatory Commission, 825 North Capital Street, NE. Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 17, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23697 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-80-008, RP88-192-001, RP88-223-003]

Texas Eastern Transmission Corp; Proposed Changes in FERC Gas Tariff

October 7, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on September 30, 1988 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the tariff sheets listed on Appendix A.

Texas Eastern states that the purpose of this filing is to (1) file a revised Sheet No. 483 as required by Paragraph (B) of the Commission order issued September 15, 1988 in Docket Nos. RP88-80-005 and -006 and Paragraph (B) of the Commission order issued September 16, 1988 in Docket No. RP88-80-007, (2) file revised tariff sheets to track modifications to United Gas Pipe Line Company's (United) take-or-pay charges in United's Docket No. RP88-27 and (3) file revised tariff sheets to track modifications to Southern Natural Gas Company's (Southern) take-or-pay charges in Southern's Docket Nos. RP88-96 and RP88-210.

The tariff sheets proposed for filing in Item 1 of Appendix A reflect the modifications required by the Commission's September 15, 1988 and September 16, 1988 orders.

Texas Eastern alleges that the tariff sheets listed in Items 2 and 3 of Appendix A are being filed in compliance with Section 31 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1. Texas Eastern further states that the tariff sheets proposed for filing in Item 2 of Appendix A are being filed solely to track the modifications proposed by United on August 31, 1988 in Docket Nos. RP88-27 and RP85-209.

Texas Eastern states the tariff sheets proposed for filing in Item 3 of Appendix A are being filed solely to track the modifications proposed by Southern on August 29, 1988 in Docket Nos. RP88-96 and RP88-210.

The tariff sheets are proposed to become effective as of the date proposed on Appendix A.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested State commissions. In addition, Texas Eastern is mailing a copy of this filing to all parties of record in Docket No. RP88-80, RP88-192 and RP88-223.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 17, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23704 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-263-000]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 7, 1988.

Take notice that United Gas Pipe Line Company (United) on September 30, 1988, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, six copies each of the following tariff sheets:

Eighth Revised Sheet No. 7
Sixth Revised Sheet No. 11
Nineteenth Revised Sheet No. 23
Original Sheet No. 74-X1

United states the purpose of this filing is to establish, separate and apart from United's Docket No. RP88-92 filing, penalty charges (Section 25.1 of United's General Terms and Conditions) for gas taken in excess of the sum of a monthly customer's Demand-2 (D-2) Billing Determinants in effect for that year (Annual D-2's). A Contract Year is defined as each successive 12-month period beginning November 1, 1988. Under proposed Section 25.1, if volumes taken in any Contract Year by a Buyer under United's sales rate schedules DG, G, and PL are in excess of 102 percent up to and including 104 percent of the Annual D-2's under the applicable rate schedule, the Buyer shall pay $5.00 per Mcf for all gas taken in excess of 100 percent of said rate schedule up to 104 percent. If quantities taken in any Contract Year are in excess of 104 percent of the Annual D-2's, the Buyer shall pay $10.00 per Mcf for all gas taken in excess of 104 percent. For all gas taken in excess of 100 percent of the Annual D-2, there shall be a charge consisting of the D-2 Rate per Mcf in addition to all other charges payable hereunder.

United states that under the tariff proposed herein, waiver of these penalty provisions to reflect any differences between a buyer's Annual Current Entitlement Quantities (CEQs) and the buyer's Annual D-2's is granted up to 125 percent of Annual D-2's.

United proposes these penalty provisions as an incentive for its customers to make realistic D-2 nominations in light of current and future market requirements. Today's gas market realities make such realistic D-2 nomination requirements and penalties necessary if United is to maintain reasonable control over its system, is to protect the integrity of its system, and is to properly allocate cost responsibilities on its system.

United states that as a result of the filing of these tariff sheets, the necessity is eliminated for the Authorized Overrun Service (AOS) which United proposed in United Docket No. CP88-478-000 and which is pending Commission review. United expects to soon file to withdraw that filing.

United requests the Commission to waive all necessary rules and regulations to permit the above tariff sheets to become effective on October 1, 1988, the effective date of the Annual D-2's reflected in United's compliance filing in Docket No. RP88-92, which was made on September 30, 1988.

Copies of the filing were served on United's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commissions Rules of Practice and Procedure. All such motions or protests should be filed on or before October 17, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23708 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-92-004, TQ89-1-11-001, TM89-1-11-000, and RP88-124-003]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

October 11, 1988.

Take notice that on September 30, 1988, United Gas Pipe Line Company (United) tendered for filing certain amended substitute tariff sheets.

United requests such waivers as necessary to make these tariff sheets effective October 1, 1988, unless otherwise noted, in accordance with prior Commission Orders issued April 29, 1988 and August 19, 1988, respectively.

Docket No. RP88-92-004 Compliance Filing

Ordering Paragraph (B) of the August 19, 1988 Order directs United to permit its customers to renominate the monthly D2 units they desire by September 19, 1988. Accordingly, United states that it accepts these renominations and that the revised tariff sheets reflect said nominations. United states that any customer who did not nominate D2 units was assigned D2 units based on the customer's most recent annual takes, based on 12 months ending August 31, 1988.

United also states that the filing reflects compliance with Ordering Paragrpah (C) which directs United to establish a rate applicable to Pan Alberta for transportation through United's capacity in Northern Border Pipeline Company that complies with the Commission approved settlement in Docket No. RP87-34-000.

Annual Charge Adjustment Clause, Docket No. TM89-1-11-000

On June 30, 1988 the Commission issued a revision to the unit rate of the Annual Charge Adjustment Clause (ACA) to be applied to rates for the recovery at the 1988 Annual Charges pursuant to Order No. 472. United states that its filing reflects a reduction in its ACA to permit United to collect .18 cents per Mcf of natural gas transported.

United requests a wavier of the required 30-day notice period for changing ACA Unit Rates to allow the new ACA unit rate to go into effect on October 1, 1988.

Purchase Gas Adjustment

[Docket No. TQ89-1-11-001]

On September 1, 1988, United filed its quarterly PGA pursuant to §§ 154.304 and 154.308 of the Commission's Regulations. United's Current Adjustment in this filing reflect those costs United anticipates to pay its suppliers under United's current purchasing practice for the three-month period beginning October 1, 1988. United requests that it be permitted to amend its September 1, 1988 filing to reflect the change in Sea Robin's D1 and D2 charges as a result of Sea Robin's September 30, 1988, RP88-181 compliance filing.

United also states that in the September 1, 1988 PGA filing, United inadvertently included the Sea Robin D1 and D2 costs in the commodity gas costs rate. This resulted in a double counting of these costs since they are also included in the D1 and D2 gas cost rates. To rectify the effort, United states that it has deleted the D1 and D2 charges from the Total Gas Cost to get the Total Commodity Gas Cost.

[Docket No. RP88-124-003]

United states that the subject filing includes an amendment to its August 19, 1988 filing to make minor technical adjustments. United states that it also has included those changes which were required to be filed in United's Unit of Sales PGA clauses (to be effective June 1, 1988) in United's Unit of Purchase PGA clauses (to become effective October 1, 1988), in order to comply in all respects with the requirements of Order No. 483 as required by the Commission's July 8, 1988 letter order in Docket No. RP88-124 as well as those required by the informal discussions with Commission Staff.

Insofar as this filing incorporates tariff sheets reflecting a two-part demand charge, United makes such filing under protest. United also expressly reserves its right to continue to challenge the property of Commission order relating to these dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23811 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-52-000]

Western Gas Interstate Co.; Proposed Changes in FERC Gas Tariff

October 11, 1988.

Take notice that Western Gas Interstate Company ("Western"), on October 3, 1988, tendered for filing proposed changes to its FERC Gas Tariff, First Revised Volume No. 1. The proposed effective date for the tariff sheets is October 1, 1988.

Western states that, among other things, its filing proposes changes to it rates in accordance with the terms of the Purchased Gas Adjustment Clause of its FERC Gas Tariff, which permits recovery of changes in the cost of gas and of unrecovered purchased gas costs, and under its Annual Charge Adjustment Clause, which permits Western to recover annual charges assessed by the Commission.

Western further states that the proposed changes provide for: (1) An increase of 7.93 cents per Mcf; and (2) a decrease in cost under Western's Rate Schedule G-S of 44.63 cents per Mcf.

Finally, Western states that copies of the filing were served upon Westerns' transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC

20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23809 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2212 Wisconsin]

Weyerhaeuser Paper Co.; Intent To File an Application for a New License

October 11, 1988.

Take notice that on July 25, 1988, Weyerhaeuser Paper Company, the existing licensee for the Rothschild Hydroelectric Project No. 2212, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2394 was issued effective August 1, 1943, and expires July 31, 1993.

The project is located on the Wisconsin River in Marathon County, Wisconsin. The principal works of the Rothschild Project include a dam with spillways containing 10 Taintor gate bays and 17 stoplog bays; a reservoir of 1,775 acres; a powerhouse with an installed capacity of 3,640 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 200 Grand Avenue, Rothschild, Wisconsin 54474, Attn: Mr. Richard Palicki or Mr. William Dohr.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23705 Filed 10-13-88; 8:45 am

BILLING CODE 6717-01-M

[Docket Nos. RP88-197-003-TA88-1-49-002]

Williston Basin Interstate Pipeline Co.; Compliance Filing for Self-Implementing Transportation Under NGPA Section 311

October 7, 1988.

Take notice that on September 30, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, ND 58501, tendered for filing revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff. These revised tariff sheets, along with supporting workpapers, are filed in compliance with the Commission's Order of September 23, 1988 in Docket Nos. RP88-197-000 and RP88-236-000 and the Office of Pipeline and Producer Regulation Letter Order of September 21, 1988 in Docket No. RP88-197-000 and incorporate the Letter Order of September 20, 1988 in Docket Nos. TA88-1-49-001 and TA88-3-49-002, *et al.*

Williston Basin states these tariff sheets serve to incorporate Rate Schedules S-2/T-3 volumes into Williston Basin's NGPA Section 311 rate design plus certain tariff revisions to be effective September 24, 1988. Should the Commission choose a July 25, 1988 effective date, alternate tariff sheets reflecting that date are also included in the instant filing.

Copies of the instant filing were served upon Williston Basin's affected jurisdictional customers, interested state regulatory agencies and intervenors herein.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 17, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23708 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2394 Wisconsin & Michigan]

Wisconsin Electric Power Co.; Intent To File an Application for a New License

October 11, 1988.

Take notice that on June 15, 1988, Wisconsin Electric Power Company, the existing licensee for the Chalk Hill Hydroelectric Project No. 2394, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99-495. The original license for Project No. 2394 was issued effective July 1, 1943, and expires June 30, 1993.

The project is located on the Menominee River in Marinette County, Wisconsin and Menominee County, Michigan. The principal works of the Chalk Hill Project include a 1,373-foot-long earth dike; a concrete spillway with 11 Taintor gates; a reservoir of 882 acres; a powerhouse with an installed capacity of 7,800 kW; a substation; a 2.32-mile-long, 138-kV transmission line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Room 452, Public Service Building, 231 West Michigan Street, Milwaukee, WI 53201, Attn: Thomas J. Cassidy, telephone (414) 221-2124.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for

license for this project must be filed by June 29, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 88-23707 Filed 10-13-88; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of August 26 Through September 2, 1988

During the Week of August 26 through September 2, 1988, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

October 6, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Aug. 26 through Sept. 2, 1988]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 5, 1988	Georgia, Atlanta, GA	KER-0047	Request for Modification/Rescission. If granted: The April 11, 1988 Decision and Order issued to Georgia would be modified, regarding the state's proposed expenditures for the stripper well funds.
Aug. 29, 1988	Chuck Hansen, Palo Alto, CA	KFA-0214	Appeal of an Information Request Denial. If granted: The Freedom of Information Request Denial would be rescinded and Mr. Hansen would receive access to certain nuclear yield figures on tests taken years ago.
Do	Glen Milner, Seattle, WA	KFA-0216	Appeal of an Information Request Denial. If granted: The August 17, 1988 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Mr. Milner would receive access to a complete copy of the Technical Manual TP 45-51A.
Do	Robert G. Stater, Scotia, NY	KFA-0215	Appeal of an Information Request Denial. If granted: The July 22, 1988 Freedom of Information Request Denial issued by the DOE Office of Naval Reactors would be rescinded and Mr. Stater would receive access to information contained in a 1987 annual "Report of Inspector of Radiological Controls" of the Knolls Atomic Power Laboratory.
Do	Schenectady Gazette, Schenectady, NY	KFA-0218	Appeal of an Information Request Denial. If granted: The July 29, 1988 Freedom of Information Request Denial issued by the Office of Naval Reactors would be rescinded and the Schenectady Gazette would receive access to a complete copy of the 1987 annual "Report of Inspection of Radiological Controls, NR:NT:AETRY ON R# 87-6673."
Aug. 30, 1988	Government Accountability Project, Washington, DC	KFA-0217	Appeal of an Information Request Denial. If granted: The Government Accountability Project would receive access to certain DOE information.
Do	Plaquemines/Delta Marina, Inc., Hardin, KY	RR305-1	Request for Modification/Rescission. If granted: The May 6, 1988 Decision and Order issued to Delta Marina, Inc. (Case No. RF305-8) would be modified, regarding the firm's application in the Plaquemines refund proceeding.

Date received	Name of refund proceeding/name of refund applicant	Case No.
8/30/88	Robert H. O'Hair	RD272-61048.
8/30/88	Babler Bros., Inc	RD272-61124.
11/6/88	James Mill Truck Plaza	RF265-2755.
8/29/88	Keen, Inc	RF311-3.
8/29/88	Thalen Oil Company	RF310-153.
8/31/88	Sterling Engineered Products	RD272-60289.
8/31/88	Daingerfield Mfg Company	RD272-60381.
8/31/88	AP Propoane, Inc	RF253-59.
8/26/88 through 9/2/88	Crude Oil Refund Applications Received	RF272-74804 through RF272-74834.
8/26/88 through 9/2/88	Atlantic Richfield Refund Applications Received	RF304-4513 through 4582 RF304-4599 through 4746.
8/26/88 through 9/2/88	Exxon Refund Applications Received	RF307-4758 through RF307-4989
8/29/88	Gulf/Crawford Gulf Service	RF300-10505.
2/5/88	Gulf/E. Max Conner	RF300-10506.
8/30/88	Gulf/Paul W. Castle	RF300-10507.
7/22/88	Gulf/Continental Baking Co	RF300-10508.
9/1/88	Gulf/Suburban Propane Gas	RF300-10509.
9/1/88	Gulf/Pottsville Fuel Co	RF300-10510.

[FR Doc. 88-23828 Filed 10-13-88; 8:45am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of July 18 Through 22, 1988

During the week of July 18 through July 22, 1988, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

William Hyde, 07/22/88, KFA–0197

William Hyde filed an Appeal from a partial denial by the DOE's Idaho Operations Office (the Operations Office) of a Request for Information which Mr. Hyde had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Operations Office had properly withheld copies of a draft of a letter written to Mr. Hyde pursuant to the predecisional privilege of Exemption 5 of the FOIA but had improperly withheld part of a short factual summary under that privilege. The DOE further found, however, that a page of a publicly available phone directory should be released. Finally, the DOE found that the Operations Office had made an insufficient determination regarding names and a log of contacts between Mr. Hyde and a DOE contractor employee. Consequently, the DOE remanded the case to the Operations Office to make a new determination on these issues.

Refund Applications

Aminoil U.S.A., Inc./Yothers Propane Company, et al., 07/18/88, RF139–105 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by five reseller/retailers in the Aminoil U.S.A., Inc. special refund proceeding. The firms submitted cost banks in excess of their refund claims and market price comparison in support of their claims for refunds exceeding $5,000. After examining the firms' applications and supporting documentation, the DOE concluded that they should receive refunds totaling $238,930, representing $156,008 in principal and $82,922 in interest.

Beacon Oil Company/Soquel Drive Beacon, 07/18/88, RF 238–16

The DOE issued a Decision and Order concerning an Application for Refund filed by John A. Gianopoulos on behalf of Soquel Drive Beacon (SDB) in the Beacon Oil Company (Beacon) special refund proceeding. Mr. Gianopoulos purchased SDB in June 1981—more than six years after the August 19, 1973 through March 31, 1975 consent order period. During 1980, SDB received $17,967 of the $33,167 in motor gasoline credit refunds that it was scheduled to receive from Beacon. Although SDB was eligible to apply for the $15,200 that remained unpaid when motor gasoline was deregulated on January 28, 1981, the firm did not attempt to demonstrate that it was injured by Beacon's alleged overcharges. Instead, SDB claimed a refund under the small claims presumption of injury whereby a retailer is presumed to have been injured if it claims a total refund, *including* previous credits received but not passed through to its customers, equal to $5,000 or less. Mr. Gianopoulos did not provide any material demonstrating that SDB passed through to its customers the previously received credit or that he was the appropriate party to apply for any refund. Instead, Mr. Gianopoulas offered to split any refund monies with the OHA analyst assigned to this case in return for favorable consideration of the SDB claim. Accordingly, the Application for Refund was denied and the matter referred to the DOE's Office of Inspector General for additional investigation and possible prosecution.

Central Iowa Power Cooperative, New England Telephone and Telegraph Co., 07/21/88, RF272–61 and RF272–6304

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to Central Iowa Power Cooperative (CIPC) and New England Telephone and Telegraph Company (NETTC). During the crude oil settlement period, August 19, 1973 through January 27, 1981, CIPC operated as an electricity generation and transmission cooperative and NETTC operated as a public telephone utility. The DOE found that both applicants had provided sufficient evidence of the volume of refined petroleum products purchased during the crude oil settlement period, and both firms certified that they would pass through the refunds received to their customers. In reaching its determinations, the DOE rejected the comments submitted by a group of States in opposition to CIPC's and NETTC's claims. Specifically, the DOE found that the States had not demonstrated that CIPC and NETTC were ineligible to receive refunds on behalf of their injured customers. Accordingly, DOE approved refunds of $2,421 to CIPC and $17,754 to NETTC based upon the amount of their respective purchases and the volumetric refund amount currently available, $0.0002 per gallon.

Dale's Mobil Service, et al., 07/21/88, RF272–44164, et al.

The DOE issued a Decision and Order, denying twenty-nine Applications for Refund filed in the crude oil overcharge refund proceeding. Each Applicant was either a reseller or a retailer during the period August 19, 1973 through January 27, 1981. Because non of the Applicants demonstrated that is was injured due to crude oil overcharges, none was eligible for a crude oil refund.

Getty Oil Company/Beck Oil Company, et al., 07/22/88, RF265–2695, et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of propane or motor gasoline purchased from Getty during the consent order period. In five of the Applications, the Applicants were eligible for a refund below the small claims threshold of $5,000. In the remaining two Applications, both Applicants elected to limit their claims to $5,000. The total amount of refunds approved in the Decision and Order is $50,163, representing $24,536 in principal and $25,627 in accrued interest.

Getty Oil Company/Viking Truck Stop, Inc., 07/21/88, RF265–1558

The DOE issued a Decision and Order concerning an Application for Refund filed by Viking Truck Stop, Inc. (Viking), a retailer of motor gasoline covered by a Consent Order that the DOE entered into with Getty Oil Company. The Applicant submitted information indicating the volume of Getty motor gasoline that was indirectly purchased through Richard Oil Company (Richard) during the consent order period. Viking was eligible for a refund, based on Richard's passthrough percentage of 60.0033 percent, which was below the small claims threshold of $5,000. The refund approved below the small claims threshold of $5,000. The refund approved in this Decision is $2,103, representing $1,030 in principal and $1,073 in accured interest.

Getty Oil Company/Whitehill Gas and Oil Co. et al., 07/21/88, RF265–0498, et al.

The DOE issued a Decision and Order concerning 24 Applications for Refund filed by resellers or retailers of products covered by a Consent Order that the Doe entered into with Getty Oil Company. Each of the Applicants submitted information indicating the volume of its Getty purchases. Each Applicant elected to limit its claim on the basis of the level-of-distribution presumption of injury methodology and was eligible for a refund below the maximum threshold of $50,000. The sum of the refunds approved in this Decision is $266,006, representing $130,271 in principal and $135,735 in accrued interest.

L.C. Base, 07/18/88, RF272–12696

The DOE issued a Decision and Order granting a refund from crude oil overcharge funds to L.C. Base with respect to his purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Base used the products for various agricultural activities, including his custom harvesting activities. Base determined his claim by estimating his petroleum product consumption based on the acres he farmed, and the average acres per year he custom harvested for others. The DOE determined that Base was an end-user of the petroleum products claimed and was therefore presumed injured. The refund granted to Base in this Decision is $16. Base will be eligible for additional refunds as additional crude oil overcharges funds become available.

Marathon Petroleum Company/Tenneco Oil Company, 07/20/88, RF250–2374 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed by Tenneco Oil Company in connection with the Marathon Petroleum Company special refund proceeding. Four of Tenneco's applications were based on its purchases of Marathon motor gasoline, middle distillates, naphthas, and butane on the spot market. Tenneco elected not to attempt to rebut the presumption that spot purchasers were not injured by Marathon's alleged overcharges. Therefore, Tenneco was not eligible to receive a refund for its purchases of those Marathon products. However, Tenneco was eligible to receive a refund based on its purchases of Marathon residual fuels (Case No. RF250–2374, RF250–2375, RF250–2376, RF250–2377, RF250–2741). The total refund approved in this Decision is $7,062 in principal and $1,227 in interest.

Mobil Oil Company/Gulf States Oil and Refining Co., 07/22/88, RF225–6146 and RF225–6147

The DOE issued a Decision and Order denying an Application for Refund from the Mobil Oil Corporation escrow account, filed by Gulf States Oil and Refining Co. In its Application, Gulf claimed that it purchased 94,415,549 gallons of Mobil motor gasoline and natural gas liquids during the consent order period. However, the DOE found that the purchases appeared to be spot purchases. The underlying Mobil proceeding had established a rebuttable presumption that spot purchasers were not injured. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE notified Gulf States that this presumption would be applied to its claim, but Gulf States declined the opportunity to submit rebutting evidence. The DOE accordingly denied the Application.

Mobil Oil Corp./Jack L. Grace, Graces Service Center, 07/19/88, RF225–11040 and RF225–54002

The DOE issued a Supplemental Order in the Mobil Oil Corp. special refund proceeding. In a previous Decision, Jack L. Grace had been denied a refund for failure to provide required information. *Mobil Oil Corp./Jack L. Grace*, 17 DOE ¶ 85,558, (1988). In response, Grace demonstrated that it had submitted the required information but that the submission had inadvertently been considered as a separate case in another refund proceeding. The DOE dismissed the inadvertent filing and reinstated Grace's Application in the Mobil refund proceeding. In accordance with the procedures outlined in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), Grace was granted a refund totaling $544 ($436 in principal plus $108 in accrued interest).

Mobil Oil Corporation/Reynolds Industries, Inc., 07/18/88, RF225–5185

The DOE issued a Decision and Order granting in part an Application for Refund from the Mobil Oil Corporation escrow account filed by Reynolds Industries, Inc. (Reynolds), a retailer of Mobil refined petroleum products. In its Application, Reynolds claimed that Mobil had improperly discontinued a discount. As a result of Mobil's action, Reynolds claimed that it had experienced an alleged injury of $0.035 per gallon of motor gasoline purchased from Mobil. Reynolds further alleged that Mobil had improperly denied Reynolds' Everett II retail outlet volumes of motor gasoline. As a remedy for these alleged injuries, Reynolds requested a $0.035 per-gallon refund for those gallons purchased for which Mobil had denied the discount and a $0.10 per gallon refund for those gallons that Mobil had denied to Reynolds. In reviewing Reynolds' above-volumetric refund claim, the DOE determined that since a federal District Court and the Temporary Emergency Court of Appeals had held that Mobil's termination of the discount to Reynolds was lawful, Reynolds had not experienced an alleged overcharge as a result of Mobil's action and was not eligible to receive a refund in excess of the volumetric refund amount. With respect to Reynolds's allocation claim, however, the DOE determined that the firm was eligible to receive a refund of $0.0718 per gallon for 369,775 gallons of Mobil motor gasoline that Mobil had failed to supply to Reynolds. Based on these determinations, the DOE concluded that Reynolds was eligible to receive a refund of $44,802, representing $35,928 in principal plus $8,87k4 in interest.

Plaquemines Oil Sales Corp./Mobil Oil Corporation, 07/22/88, RF305–9

The DOE issued a Decision and Order approving the Application for Refund filed by Mobil Oil Corporation (Mobil), a purchaser of Plaquemines Oil Sales Corp. (POSC) No. 2 diesel fuel. Mobil applied for a refund as an end-user based on the procedures outlined in *Plaquemines Oil Sales Corp.*, 17 DOE ¶85,059 (1988). Mobil was identified as an overcharged purchaser of No. 2 diesel fuel in the *POSC* decision. After examining the application and supporting information, the DOE determined that since Mobil used the diesel fuel in offshore oil drilling, it was an end-user for purposes of this proceeding and granted the firm a refund of $38,763 (27,105 in principal plus $11,658 in interest).

Point Landing, Inc./International Trading and Transportation, Ltd., 07/18/88, RF122–9

The DOE issued a Decision and Order concerning an Application for Refund filed on behalf of International Trading and Transportation, Ltd. (ITT), a spot purchaser of Point Landing, Inc. (Point Landing) No. 2 diesel fuel. ITT applied for a refund based on the procedures governing the disbursement of settlement funds received from Point Landing pursuant to a September 9, 1980 Consent Order. According to those procedures, end-users are presumed to have been injured by Point Landing's alleged overcharges; spot purchasers are presumed not to have been injured. Although it was a spot purchaser, ITT claimed that it had been injured. The firm also alleged that its parent

company, International Tank Terminals, Ltd. (ITTP), had consumed a portion of the diesel fuel that ITT had purchased from Point Landing during the October 1, 1973 through November 30, 1974 consent order period. ITT therefore claimed that it should at least receive a partial refund under the end-user presumption of injury. The DOE determined that ITT had not rebutted the spot purchaser presumption of non-injury or documented that the diesel fuel consumed by ITTP had originated with Point Landing. Accordingly, ITT's Application for Refund was denied.

Suburban Propane Gas Corporation/ Odessa L.P.G. Transport, Inc., 07/ 18/88, RF299-84

The DOE issued a Decision and Order granting an Application for Refund from the Suburban Propane Gas Corporation escrow account filed by Odessa L.P.G. Transport, Inc., a reseller/retailer of Suburban propane and butane during the period November 1, 1973 through October 31, 1978. Odessa elected to apply for a refund based upon the presumptions set forth in *Suburban Propane Gas Corporation*, 16 DOE ¶85,382 (1987). The DOE therefore granted the firm a refund of $23,187 ($20,375 principal plus $2,812 in interest).

Crude Oil End-Users

The Office of Hearings and Appeals granted crude oil overcharge refunds to end-user applicants in the following Decisions and Orders:

Name	Case No.	Date	No. of applicants	Total refund
Dale Shankleton et al	RF272-28600	7/21/88	164	$4,589
Dodge County Sheriff's Dept. et al	RF272-25001	7/18/88	146	3,815
Duane Paul Leonard et al	RF272-22400	7/20/88	133	4,400
Edgar Ohrt et al	RF272-29000	7/20/88	178	3,956
Ferrel Harvey et al	RF272-27202	7/18/88	102	2,894
George Waldschmidt et al	RF272-25400	7/18/88	123	3,758
Griffith Farms et al	RF272-1667	7/18/88	117	6,385
Hart's Trucking et al	RF272-26200	7/18/88	162	3,977
Herbert D. Vlasak et al	RF272-28401	7/21/88	165	3,969
Joe Bartolotti et al	RF272-8013	7/20/88	149	4,794
Koen Farms, Inc. et al	RF272-28201	7/21/88	141	3,186
Leroy Ciscon et al	RF272-22203	7/20/88	101	2,890
Merlin E. Fick et al	RF272-27600	7/18/88	131	3,405
Paul D. Olson et al	RF272-25800	7/20/88	139	3,578
Ralph Moyle, Inc. et al	RF272-28800	7/21/88	176	4,540
Richard W. Chamberlain et al	RF272-25600	7/20/88	156	3,786
Roger J. Bergman et al	RF272-29200	7/21/88	158	3,681
Schilling Dist. Co., Inc. et al	RF272-26802	7/20/88	146	4,530
Socorro County et al	RF272-26600	7/20/88	117	2,794
USD 379 et al	RF272-28000	7/21/88	113	3,294
W.J. Thompson et al	RF272-27000	7/18/88	161	4,008
William Haynie et al	RF272-27402	7/18/88	141	4,297
William R. Lutz, Sr., et al	RF272-26000	7/18/88	144	4,526

Dismissals

The following submissions were dismissed:

Name and Case No.

Air Products and Chemicals, Inc., RF272-43638
Alwood Co. Unit School #225, RF272-50781
Cesare's Visalia Service Center, RF272-10185
Chester H. Soltys and Sons, RF272-39347
City of Freeport Engr. Office, RF272-42168
City of Lamar, RF272-55231
Co-Mo Cooperative, Inc., RF272-42637
Donald Steeve, RF272-56573
Dunn County Highway Dept., RF272-22314 and RF272-29672
Fallsburg Bottling Works, Inc., RF272-48392
Frankfort Dairy Farms, RF272-41827
German Township Trustees, RF272-49385
Howard Dean Gibson, RF272-46425
Intermountain Distributing Co., RF272-40769
John T. Barefoot and Sons, RF272-50426
Keadle Lumber Enterprises, RF272-54380
L.M. Jacksons Farming and Ranching, RF272-54168
Marvin Oerke, RF272-51174
Missoula Cartage Co., Inc., RF272-47979
Ratzlaff Farms, RF272-44206
Robinson Foundry, Inc., RF272-53901
Scott-New Madrid-Miss Electric, RF272-54535
St. Luke's Hospital, RF272-28316
State of Hawaii, RF272-56221
Steele Farms, RF272-10780
USD #229, RF272-56234
Unified School District #225, RF272-42124
United Veteran Mutal Housing, RF272-55159
Upper Menon Area School District, RF272-33385
Waimano Training School and Hospital, RF272-56213
Western Dairyman Coop., RF272-55840
Wichita Falls Independent School District, RF272-60628
Wynn-Fowler Trading Company, RF239-18

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

October 6, 1988

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88-23829 Filed 10-13-88; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 8 through 12, 1988

During the week of August 8 through August 12, 1988, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Dempsey, Bastianelli, Brown and Touhey, 8/11/88, KFA-0204

On July 15, 1988, Dempsey, Bastianelli, Brown and Touhey (Dempsey), a law firm, filed an Appeal from a determination issued to the firm on May 18, 1988 by the Director of Contract Operations, Division "A", Office of Procurement Operations of the Department of Energy. In that determination, the Director denied Dempsey's request for information pursuant to the Freedom of Information

Act (FOIA). Specifically, the Director denied Dempsey's request for information related to DOE Solicitation No. RFP DE-RP01-86DP48042 on the grounds that Dempsey's request failed to reasonably described the records sought. In considering the Appeal, the DOE found that some records must exist regarding the "initial proposals," "price," "technical evaluations," and "selection criteria" of this solicitation. Consequently, the Appeal was granted and the case was remanded to the Director for a thorough search for documents responsive to the Dempsey request.

Exxon Company U.S.A., 8/9/88, KFA-0201

Exxon Company U.S.A. (Exxon) filed an Appeal from a determination by the Economic Regulatory Administration to release certain documents, pursuant to a Freedom of Information Act (FOIA) request, which Exxon had submitted to the DOE in 1978. In considering the Exxon submission, the DOE determined that neither the FOIA nor the DOE regulations provide for an administrative appeal by the submitter of information of a determination to release that information. The DOE concluded that Exxon's appropriate remedy was an appeal to federal district court. Accordingly, the firm's Appeal was dismissed.

William Hyde, 8/12/88, KFA-0206

William Hyde filed an Appeal from a determination issued to him by the Idaho Operations Office concerning a request which he had submitted under the Freedom of Information Act (FOIA). He sought the DOE's recommendations to the FBI concerning portions of a letter that the FBI might wish to withhold pursuant to one of his previous FOIA requests. No responsive documents were identified by the Operations Office. However, on Appeal, the DOE found that a copy of the letter from which the Opeations Office had blocked out the recommended deletions was responsive to Hyde's request. Nonetheless, the DOE found that the recommended deletions were deliberative in nature and fell within the scope of Exemption 5. Accordingly, the Appeal was denied.

Supplemental Order

King Petroleum, Inc., Richard C. King, Dewveall Petroleum, Inc., Willard C. Dewveall, 8/11/88, KRX-0054

The DOE issued a Supplemental Order to King Petroleum, Inc., Richard C. King, Dewveall Petroleum, Inc., and Willard C. Dewveall (King and Dewveall). The DOE corrected certain errors in the July 29, 1988 Decision and Order issued to King and Dewveall in Case No. KRO-0640. The corrections concerned the principal amount of the joint violation and the amount of interest to be assessed on the violations. The DOE also clarified several points concerning the nature of the violations.

World Oil Company, 8/12/88, KFX-0055

The DOE issued a Supplemental Order to correct an error made in *World Oil Company*, 17 DOE ¶ 85,568 (July 7, 1988), which overstated the amount of crude oil interest to be transferred from the World Oil Company escrow account to three crude oil subaccounts—"Crude Tracking-States," "Crude Tracking-Federal," and "Crude Tracking-Claimants 2". The Supplemental Order directed that a total of $200,000 in crude oil principal and $78,825 in crude oil interest should be transferred from the World Oil Company escrow account to the three crude oil subaccounts.

Implementation of Special Refund Procedures

E.D.G., Inc., 8/9/88, KEF-0003

The DOE issued a Decision and Order implementing a plan for the distribution of $860,896 (plus accrued interest) received pursuant to a consent order entered into by E.D.G., Inc. and the DOE on December 17, 1979. The DOE determined that the consent order funds should be distributed to the 28 E.D.G., Inc. customers listed in the appendix to the Decision and Order. These twenty-eight customers purchased gasoline and/or no. 2 distillates from E.D.G. during the period August 19, 1973 through September 24, 1976. The specific information to be included in Applications for Refund is set forth in the Decision.

Refund Applications

A-I Mobil, et al., 8/12/88, RF272-43977, et al.

The DOE issued a Decision and Order denying 29 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because none of the applicants demonstrated that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Aminoil U.S.A., Inc./Dillon Supply Co., 8/12/88, RF139-134

The DOE issued a Decision and Order concerning an Application for Refund filed by Dillon Supply Company in the Aminoil U.S.A., Inc. special refund proceeding. The firm was unable to submit cost banks or any other information which would indicate that it was forced to absorb Aminoil's alleged overcharges. Therefore, the firm elected to limit its claim to $5,000 in principal. After examining the firm's application and supporting documentation, the DOE concluded that it should receive a refund totaling $8,793, representing $5,000 in principal and $3,793 in interest.

Aminoil U.S.A., Inc., Rex Smith Propane, Southern Energy, Inc., Linden Propane, Inc., 8/8/88, RF139-115, RF139-136 and RF139-153

The DOE issued a Decision and Order concerning Applications for Refund filed by three reseller-retailers in the Aminoil U.S.A., Inc. special refund proceeding. The firms submitted cost banks in excess of their refund claims and market price comparisons in support of their claims for refunds exceeding $5,000. After examining the firms' applications and supporting documentation, the DOE concluded that they should receive refunds totaling $162,050, representing $92,144 in principal and $69,906 in interest.

Bird Oil Company, Inc., 8/8/88, RF272-12822

The DOE issued a Decision and Order denying an application for a crude oil overcharge refund filed by Bird Oil Company, Inc., a reseller of motor gasoline, diesel fuel, and lubricants during the crude oil settlement period (August 19, 1973 through January 27, 1981). The DOE determined Bird to be ineligible to receive a refund because it failed to demonstrate that it was injured by the crude oil overcharges.

Borings Sunoco, et al., 8/12/88, RF272-55123, et al.

The DOE issued a Decision and Order denying 42 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Carl W. Fuss Co., et al., 8/11/88, RF272-32554, et al.

The DOE issued a Decision and Order denying 39 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges.

they were ineligible for a crude oil refund.

City of Sidney, Nebraska, 8/8/88, RF272–73079

On July 12, 1988, the DOE issued a Decision and Order granting duplicate refunds of $313 to the City of Sidney, Nebraska (Sidney), Case Nos. RE272–9053 and RF272–9163. *City of Crofton, et al.*, 17 DOE ¶ 85,583 (July 11, 1988). Therefore, the DOE issued a Supplemental Order rescinding the refund granted to Sidney under Case No. RF272–9163.

Dee and Walts Brookside Service, et al., 8/11/88, RF272–57206, et al.

The DOE issued a Decision and Order denying 43 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Becuase the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Dunlap Swain Tire Co., et al., 8/11/88, RF272–59263, et al.

The DOE issued a Decision and Order denying 54 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or a retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Getty Oil Company/Lakeside Oil Co., Inc., 8/12/88, RF265–2258 and RF265–2259

Lakeside Oil Co., Inc. (Lakeside) filed two Applications for Refund in which the applicant sought a portion of the fund obtained by the DOE through a consent order entered into with Getty Oil Company. Lakeside submitted information indicating the volume of Getty gasoline and middle distillate purchased during the consent order period. Utilizing the procedures outlined in *Getty Oil Corp.*, DOE ¶ 85,064 (1968), Lakeside elected to use the presumptive levels of injury, forty percent for gasoline and fifty percent for middle distillate. The total amount of the refunds approved in the Decision and Order is $54,412, representing $26,596 in principal and $27,816 in interest.

Getty Oil Company/Stanley Morris Oil Company, et al., 8/18/88, RF265–64, et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed by resellers or retailers of products covered by a consent order that the DOE entered into with Getty Oil Company. Each applicant submitted information indicating the volume of Getty refined petroleum products purchased during the consent order period. In four cases, the applicants were eligible for a refund below the small claims threshold of $5,000. In the remaining claim, the applicant elected to limit his claim to $5,000. The total amount of the refunds approved in the Decision and Order is $24,726, representing $12,086 in principal and $12,640 in accrued interest.

Loyde D. Parham, et al., 8/12/88, RF272–43274, et al.

The DOE issued a Decision and Order denying 34 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Marathon Petroleum Co./Fleming Brothers Oil Co., Gordon's Marathon, 8/11/88, RF250–2483, RF250–2484, RF250–2485, and RF250–2696

This Decision and Order concerns Applications for Refund filed by Fleming Brothers Oil Company and Gordon's Marathon, seeking funds in the Marathon Petroleum Company refund proceeding. Fleming was a direct purchaser/reseller of Marathon products during the Marathon consent order period. Fleming elected to receive a refund under the presumption of injury established in the Marathon proceeding. The DOE therefore granted the firm a refund of $9,788, equal to 35 percent of the firm's volumetric refund share, plus $1,468 in interest. Gordon's Marathon purchased Marathon branded gasoline from Fleming during the consent order period. Since Fleming was granted a refund under the presumption of injury, the DOE held it equitable to apply the same principle to Gordon's Marathon. Under that rule, Gordon's was granted a refund of $1,005 in principal and $148 in accrued interest.

Marathon Petroleum Co./Prough Marathon, Sutton's Oklahoma, 8/10/88, RF250–2726 and RF250–2744

This Decision and Order concerns Applications for Refund filed by Prough Marathon and Sutton's Oklahoma, seeking funds in the Marathon Petroleum Company refund proceeding. Prough was an indirect purchaser/reseller of Marathon products during the Marathon consent order period, who purchased Marathon branded gasoline from Davis Oil Company. Since the direct purchaser did not file a refund request, Prough's claim was considered as a direct purchase claim. Prough was granted a refund of $951 in principal and $140 in accrued interest. Sutton's Oklahoma purchased gasoline from Cheker Oil Company. Since Cheker is a division of a wholly owned subsidiary of Marathon, the DOE determined that Sutton's was eligible for a refund in the Marathon refund proceeding. Thus, the firm was granted a refund of $1,298 in principal and $192 in accrued interest.

Mobil Oil Corp./Faulkton Farmers Elevator Co., 8/12/88, RF225–10204, RF225–10205, RF225–10206, RF225–33, RF225–34, RF225–35, and RF225–36

The DOE issued a Decision and Order regarding a refund application filed by Faulkton Farmers Elevator Co. in the Mobil Oil Corp. special refund proceeding. Faulkton had previously received a refund in the Mobil proceeding for its purchases of motor gasoline at the retailer presumption of injury level, but submitted new evidence showing that it operated as an agricultural cooperative during the Mobil consent order period and was thus entitled to an additional refund. After examining Faulkton's Articles of Incorporation, the DOE determined that Faulkton was eligible to receive an additional full volumetric refund based on the purchases of motor gasoline that it resold to its members and a refund for its amended purchases of middle distillates. In accordance with the procedures outlined in Mobil Oil Corp., 13 DOE ¶ 85,339 (1985), Faulkton was granted a refund totaling $1,987 ($1,591 in principal plus $396 in accrued interest).

Mobil Oil Corp./Lawrence A. Palmer, Village Mobil, Inc., 8/8/88, RF225–11039, RF225–11041 and RF225–11039

The DOE issued a Decision and Order granting the applications filed by Lawrence A. Palmer and Village Mobil, Inc., requesting refunds from the Mobil Oil Corporation consent order fund. According to the procedures set forth in Mobil Oil Corporation 13 DOE ¶ 85,339 (1985), Lawrence A. Palmer and Village Mobil, Inc., retailers of Mobil products, were found to be eligible for refunds based on the volume of gasoline they purchased from Mobil. Palmer also received a refund for the grease and lubricants he purchased. The total amount of the refunds approved in this

Decision is $4,380, representing $3,509 in principal plus $871 in accrued interest.

Mobil Oil Corporation, O.E. Spruance, Jr., et al., 8/12/88, RF225–7022 et al.

The DOE issued a Decision and Order granting Applications for Refund filed by eight purchasers of Mobil refined petroleum products in the Mobil Oil Corporation special refund proceeding. According to the procedures set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985), each applicant was found to be eligible for a refund based on the volume of products it purchased from Mobil. The total amount of refunds approved in this Decision was $7,264, representing $5,815 in principal plus $1,449 in accrued interest.

Montrose Community Schools et al., 8/8/88, RF272–139 et al.

The DOE issued a Decision and Order granting refunds in the Subpart V crude oil refund proceeding to 11 public school districts based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant was an end-user presumed to have been injured by the alleged crude oil overcharges who submitted either actual purchase records or provided reasonable estimates of its volume claim. The sum of the refunds granted in this Decision is $1,179.

Nebraska Public Power District, 8/8/88, RF272–12181

Nebraska Public Power District (NPPD), a municipal utility, filed an Application for Refund in the Subpart V crude oil refund proceedings. A Statement of Objections was filed by Phillip Kaoldner, Counsel for Utilities, Transporters and Manufacturers, claiming that the utility should not receive a refund since governmental authorities are ineligible for a refund from the 20 percent reserved for directly injured claimants and the utility passed through all overcharges to its customers. The DOE rejected both these arguments, finding that governmental authorities have not waived their right to a direct refund, either explicitly or implicitly and that NPPD was not claiming the refund for itself but rather agreed to pass through to its customers any refund that it would receive. Accordingly, the DOE awarded NPPD a refund totaling $16,821.

Olmos Construction Co., 8/8/88, RF272–74618

The DOE issued a Supplemental Order to Olmos Construction Co. (Olmos). In that Decision and Order, the DOE determined that the crude oil refund granted to Olmos on February 19, 1988 was based upon an incorrect gallonage figure. *See Charles Rhoads et al.*, 17 DOE ¶ 85,128 (1988). The DOE further determined that Olmos' refund application was erroneously granted a second time. *See Olmos Construction Co.*, 17 DOE ¶ 85,640 (1988). Accordingly, the DOE determined that the refund granted to Olmos on February 19 should be increased by $57, and that the refund granted to the firm on July 28 should be rescinded.

Pacitto's Exxon et al., 8/11/88, RF272–52630 et al.

The DOE issued a Decision and Order denying thirty-eight Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Pittsburgh Corning Corp., et al., 8/11/88, RF272–1593, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to eight applicants based on their respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Each applicant derived its claim volume from actual purchase records and/or a reasonable estimation method. Furthermore, each applicant was an end-user of the products it claimed and was therefore presumed injured. The sum of the refunds granted in this Decision is $4,807.

Plainfield Skelly Truck Stop, et al., 8/11/88, RF272,63579, et al.

The DOE issued a Decision and Order denying 29 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Standard Oil Co. (Indiana)/Georgia, 8/10/88, RQ251–471

The DOE issued a Decision and Order approving the supplemental plan filed by the State of Georgia in the Standard Oil Co. (Indiana) (*Amoco II*) special refund proceeding. Georgia requested permission to spend $67,923.89 in interest that had accrued on *Amoco II* funds that the state had previously received on the State's agricultural "no-till" program. The State had previously received approval from the DOE to spend $126,870 in *Amoco II* funds on the program. In view of the previous approval and current success of Georgia's no-till program, the DOE approved the State's supplemental plan.

Standard Oil Company (Indiana), et al./Ohio, 8/10/88, RQ251–457, RQ2–458, RQ3–459, RQ16–460, RQ183–461 and RQ43–462

The DOE issued a Decision and Order granting the refund application filed by the State of Ohio in the Standard Oil Co. (Indiana), Coline Gas Corp., National Helium Corp., Pennzoil Company, Perry Gas Processors, and Windham Gas and Oil second stage refund proceedings. The state requested permission to use its portion of the monies to implement three programs: (i) New and expanded transportation systems; and (ii) no cost/low cost weatherization; and (iii) energy auditor/inspector training. The DOE found that the programs provided restitution to injured consumers of petroleum products. Accordingly, the submission was granted and a refund of $898,280 (representing $614,998 in prinicipal plus $283,282 in interest) was approved.

Tony and Joey Chiarenza, et al., 8/12/88, RF272–47989, et al.

The DOE issued a Decision and Order denying 69 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Wayne Lowry, et al., 8/12/88, RF272–55021, et al.

The DOE issued a Decision and Order denying 37 Applications for Refund filed in connection with the Subpart V crude oil refund proceedings. Each applicant was either a reseller or retailer during the period August 19, 1973 through January 27, 1981. Because the applicants failed to demonstrate that they were injured due to the crude oil overcharges, they were ineligible for a crude oil refund.

Crude Oil End-Users

The Office of Hearings and Appeals granted crude oil overcharge refunds to end-users applicants in the following Decisions and Orders:

Name	Case No.	Date	No. of applicants	Total refund
Alexander Hay Greenhouses et al	RF272-38200	8/12/88	127	$4,466
American Transportation System, Inc. et al	RF272-31800	8/10/88	117	3,510
Anton Rabas, Jr., et al	RF272-34601	8/12/88	180	4,714
Bruce Gerk et al	RF272-29600	8/11/88	109	2,672
Bruening Rock Products, Inc. et al	RF272-13167	8/11/88	32	2,893
Butler County Rural Public Power et al	RF272-6399	8/12/88	16	910
Cassia Memorial Hospital and Medical Center et al	RF272-33200	8/11/88	153	4,531
Crystal Garmon et al	RF272-32600	8/10/88	159	4,296
David & Doris Deward et al	RF272-32000	8/10/88	160	4,409
Dennis Hart et al	RF272-34800	8/12/88	175	3,510
Eugene E. Krajnik et al	RF272-29805	8/12/88	133	3,846
Gary Hansmeier et al	RF272-34000	8/10/88	159	4,560
Graf Bros. et al	RF272-33000	8/11/88	167	4,895
Heart L. Ranch et al	RF272-32400	8/10/88	104	2,976
James W. Young et al	RF272-34400	8/12/88	158	4,289
Jana Miller et al	RF272-32200	8/11/88	116	2,939
Jerry Weatherholt et al	RF272-23000	8/10/88	113	3,582
Maurice Bermeier et al	RF272-30600	8/10/88	178	3,950
Maynard Scherman et al	RF272-38603	8/12/88	170	4,476
Richard Casper et al	RF272-23801	8/11/88	109	3,153
Robert E. Hess et al	RF272-38000	8/12/88	169	4,832
Rodney Baldinger et al	RF272-29400	8/10/88	146	3,630
Torrance Van and Storage Co. et al	RF272-30400	8/10/88	162	4,242
W.O. Baker, Jr., et al	RF272-32803	8/12/88	138	3,988
Wagner Bros. et al	RF272-33400	8/12/88	155	4,358
William Dufek and Jack Welch et al	RF272-34200	8/11/88	140	3,854
William M. Anderson et al	RF272-30800	8/10/88	149	4,321

Dismissals

The following submissions were dismissed:

Name and case no.

Becker Oil Co., RF265-629
Bob's Skelly, RF265-955
Bratz Oil Corporation, RF265-358 and RF265-359
Cascade Metals Corp., RF272-50025
City of Bozeman, RF272-45263
City of Erie, PA, RF272-41370
Consumers Cooperative, RF272-67788
Dewey Oil Company, RF265-534
Faldet Farms, Inc., RF272-19531
Fitts Farms, Inc., RF272-12570
Furtado's Garage, RF265-106
Inland Equipment and Helicopter, RF272-45259
J.D. Street and Company, RF265-479
James Todd, Jr., RF265-1282
Janetta Lynn Deacon, RF265-776 and RF265-777
Magnus Petroleum Company, RF265-2249 and RF265-2250
Michael Reese Hospital and Medical Center, RF272-45623
Milton Fonseca, RF265-395
Occidental Chemical Corp., RF272-63961
Pacific Paperboard Products, Inc., RF265-1847
Richard Fiocchi, RF265-2626
Rowell and Watson Co., Inc., RF265-1034, RF265-1035, RF265-1036, RF265-1037, RF265-1038, RF265-1039, RF265-1040, RF265-1041, RF265-1042, RF265-1043, RF265-1044, RF265-1045, RF265-1046, RF265-1047, RF265-2538, RF265-2539, and RF265-2540
S and A Garage, Inc., RF265-2200
School Board of Pinellas County, RF272-51256
Shady Oaks Mobil Park, RF265-1284
Trucking Ventures Assoc., RF272-15025 and RF272-16781
Urich Skelly, RF265-1102
Waldo Skelly, RF265-1746

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

October 6, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 88-23830 Filed 10-13-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 34627]

Renewals for the National Air Pollution Control Techniques Advisory Committee and the Biotechnology Science Advisory Committee

The U.S. Environmental Protection Agency announces the renewals for the National Air Pollution Control Techniques Advisory Committee and the Biotechnology Science Advisory Committee following consultation with the Committee Management Secretariat, General Services Administration. EPA has determined that renewal of these advisory committees is in the public interest in connection with the performance of duties imposed on the Agency by law. The charters which continue these advisory committees for two more years, unless otherwise sooner terminated, will be filed with the appropriate Congressional committees and the Library of Congress. The committees will operate in accordance with the provisions of the Federal Advisory Committee Act and the rules and regulations issued in implementation of the Act.

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202/382-5037.

Date: October 4, 1988.

Kathryn Petruccelli,

Director, Management and Organization Division.

[FR Doc. 88-23733 Field 10-13-88; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3462-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 26, 1988 through September 30, 1988 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended.

Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5074.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 22, 1988 (53 FR 13318).

Draft EISs

ERP No. D–COE–G81003–TX, Rating LO, Brooke Army Medical Center Replacement Facility Construction, Implementation, Fort Sam Houston, Bexar County, TX.

Summary: EPA has no objections to the proposed action as described.

ERP No. D–FHW–G40123–NM, Rating LO, NM–516/Santa Fe-Los Alamos Corridor Construction, Phase C, Funding, Santa Fe and Los Alamos Counties, NM.

Summary: EPA expresses no objections to the proposed alternative as described.

ERP No. D–FRC–A99183–00, Rating EC2, Regulations Governing Independent Power Producers (RM88–4–000) and Regulations Governing Bidding Programs (RM88–5–000), Implementation.

Summary: EPA has identified two principal concerns with this EIS and Notice of Proposed Rulemaking (NOPRs): (1) The EIS contains no consideration of 'global warming' issues; and (2) the NOPRs does not contain any explicit linkage of demand management programs with the NOPR provisions.

ERP No. DS–FRC–K03018–00, Rating EO2, Mojave, Kern River, El Dorado and Transwestern Natural Gas Pipeline Project, Construction, Operation and Maintenance, Licenses and 404 Permit, Alternative Modifications, AZ, CA, WY, NV, UT, TX, CO and NM.

Summary: EPA objects to the potential adverse impacts to water quality, sensitive wetland/riparian habitats, and endangered species from the construction and operation of the preferred alternative. Adverse impacts to erodible soils, groundwater and wildlife habitat could also occur under the preferred alternative.

Final EISs

ERP No. F–NPS–L61170–AK, Yukon-Charley Rivers National Preserve, Wilderness Recommendations, Designation or Nondesignation, AK.

Summary: EPA continues to have environmental concerns with the proposed action due to the potential impacts of human activity on endangered Peregrine Falcons.

Regulations

ERP No. RR–CGD–A55015–00, 46 CFR Parts 30, 98, 151, and 153; Pollution Rules for Ships Carrying Hazardous Liquids; Interim Rule (53 FR 28970).

Summary: EPA's review of the interim rule has been completed and the projects found to be satisfactory. No formal comments were sent to the agency.

Dated: October 11, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88–23762 Filed 10–13–88; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3462–8]

Availability of Environmental Impact Statements Filed October 3 Through 7, 1988

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382–5076 or (202) 382–5075.

EIS No. 880334, DSuppl, AFS, WA, Okanogan National Forest, Land and Resource Management Plan, Additional Alternative, Implementation, Okanogan, Skagit, Whatcom, and Chelan Counties, WA, Due: January 13, 1989, Contact: William D. McLaughlin, (509) 422–2704.

EIS No. 880335, Draft, COE, IL, MN, WI, MO, IA, Mississippi River Locks and Dams 2–22 Major Rehabilitation Effort, Illinois Waterway from La Grande to Lockport Locks and Dams, Implementation, IL, MO, IA, MN, and WI, Due: November 28, 1988, Contact: Karen Bahus, (309) 788–6361.

EIS No. 880336, Final, AFS, CA, Mt. Shasta Ski Area Development, Special Use Permit, Shasta-Trinity National Forests, Mt. Shasta Ranger District, Siskiyou County, CA, Due: November 14, 1988, Contact: Douglas P. Schleusner, (916) 275–1587.

EIS No. 880337, DSuppl, AFS, OR, Siuslaw National Forest Land and Resource Management Plan, Additional Alternative and Management Requirements Analysis, Implementation, Benton, Lincoln, Lane, Coos, Polk, Yamill, Douglas, and Tillamook Counties, OR, Due: January 13, 1989, Contact: Tony J. Vander Heide, (503) 757–4496.

EIS No. 880338, Draft, FHW, MI, I–94BL/Michigan Avenue Improvement, Dickman Road to Columbia Avenue, Funding, Calhoun County, MI, Due: November 28, 1988, Contact: James A. Kirschensteiner, (517) 377–1851.

EIS No. 880339, Final NPS, AK Katmai National Park and Preserve, Wilderness Recommendations, Designation or Nondesignation, AK, Due: November 14, 1988, Contact: Linda Nebel, (907) 257–2654.

EIS No. 880340, Final, NPS, AK, Denali National Park and Preserve, Wilderness Recommendations, Designation or Nondesignation, AK, Due: November 14, 1988, Contact: Linda Nebel, (907) 257–2654.

EIS No. 880341, Draft, FHW, AK, University Avenue Rehabilitation and Widening, College Road to Parks Highway, Funding, Fairbanks, North Star Borough, AK, Due: November 28, 1988, Contact: Tom Neunaber, (907) 586–7428.

EIS No. 880342, Draft, UAF, CA, March Air Force Base Land Conveyance for Construction of a New 15th Air Force Headquarters Building, a Non-commissioned Officers Professional Education Center and a 15th Air Force Band Center, Implementation, Riverside, Due: November 28, 1988, Contact: Bill Taylor, (402) 294–5854.

EIS No. 880343, Final, SCS, MS, Town Creek Watershed Flood Protection Plan, Funding and Implementation, Lee, Pontotoc, Prentiss, and Union Counties, MS, Due: November 14, 1988, Contact: L. Pete Heard, (601) 965–5205.

EIS No. 880344, Draft, FHW, AK, South Cushman Street Upgrading, Van Horn Road to Gaffney Road, Funding, Fairbanks, North Star Borough, AK, Due November 28, 1988, Contact: Tom Neunaber, (907) 586–7428.

EIS No. 880345, Final, BLM, CO, Uncompahgre Basin Planning Area, Resource Management Plan, Wilderness Recommendations, Adobe Badlands, Camel Back, and Gunnison Gorge Wilderness Study Areas, Delta, Gunnison, Montrose, and Mesa Counties, CO Due: November 14, 1988, Contact: Alan J. Belt, (303) 249–7791.

Dated: October 11, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88–23761 Filed 10–13–88; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3462–4]

State Implementation and Enforcement of the Lead Prohibition and the Lead Public Notice Requirements of the Safe Drinking Water Act, Policy Guidance Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of a policy guidance concerning State implementation and enforcement of the lead prohibition and the lead public notice requirements of the Safe Drinking Water Act.

SUMMARY: This notice announces the availability of the final policy guidance for EPA Regional Administrators to use to oversee State implementation and enforcement of the lead prohibition and lead public notice provisions of the Safe Drinking Water Act Amendments of 1986. The Safe Drinking Water Act Amendments of 1986 (Pub. L. 99–339) added section 1417 which prohibits the use of any pipe, solder or flux which is not "lead free" in the installation or repair of any public water system. The 1986 amendments also require that each public water system provide notice of specified information to persons who may be affected by lead contamination of its drinking water.

The Act also provides that if a State fails to implement and enforce these provisions, EPA may withhold up to five percent of the State's Public Water System Supervision (PWSS) program grant. The policy guidance to implement this provision is titled: "State Implementation and Enforcement of the Lead Prohibition and Lead Public Notice Requirements of the Safe Drinking Water Act—Policy Guidance". The document establishes policies and procedures for EPA Regions to determine if States are implementing and enforcing these requirements and to determine if five percent of the State's PWSS program grant should be withheld. It also establishes procedures for Regions to reallot any funds withheld and describes a recommended education, technical assistance and outreach program to assist States and local governments to implement the lead provisions.

FOR FURTHER INFORMATION CONTACT: Chet Pauls, Office of Drinking Water (WH–550E), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460 (202) 382–5550. Information and copies of the guidance may also be obtained from the EPA Safe Drinking Water Hotline. The toll-free number is (202) 426–4791 and the Washington DC number is (202) 383–5533. The hotline is open from 8:30 a.m. to 4:00 p.m. Eastern time.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 88–23730 Filed 10–13–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL HOME LOAN BANK BOARD

[No. 88–981]

FSLIC Insurance Premium

Date: September 15, 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 June 30, 1988.

EFFECTIVE DATE: October 14, 1988.

FOR FURTHER INFORMATION CONTACT: Mary A. Creedon, Principal Deputy Executive Director FSLIC, (202) 254–2029; or Deborah Seigel, 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 per centum 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, and by Resolution No. 88–537, dated June 29, 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, as of December 31, 1987, for the thirteenth; and as of March 31, 1988 for the fourteenth; 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, Resolution No. 88–256 dated April 7, 1988, and Resolution No. 88–537 dated June 29, 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 second quarter of 1988; and

Resoved 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. 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, No. 87–256, and No. 88–537, 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 third 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 June 30, 1988; and

Resoved further, that the additional insurance premium assessed pursuant to this Resolution shall be payable or or about October 6, 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) or 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 October 6, 1988, by each insured institution, and shall notify each insured institution of such amount at lease 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.

John F. Chizzoni,

Assistant Secretary.

[FR Doc. 88–23709 Filed 10–13–88; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–739; FHLBB No. 0613]

Valley Savings Bank, S.L.A. Closter, NJ; Final Action Approval of Conversion Application

Date: September 28, 1988.

Notice is hereby given that on September 23, 1988, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Valley Savings Bank, S.L.A., Closter, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88–23710 Filed 10–13–88; 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.: 224–010876–003.

Title: Palm Beach Terminal Agreement.

Parties: Port of Palm Beach (PB), Gulfstream Line, Inc. (GL).

Synopsis: The proposed agreement provides for PB to obtain repossession of certain property leased to GL and possible relocation to GL to other terminal facilities at the Port of Palm Beach.

Agreement No.: 224–200160.

Title: Philadelphia Terminal Agreement.

Parties: Philadelphia Port Commission (PPC), Delaware River Stevedores, Inc. (DRS).

Synopsis: The proposed agreement provides for DRS' lease of PPC's Packer Avenue Marine Terminal Buildings B, C and E, and Berths 1 and 2 at the Port of Philadelphia. The agreement further provides that Building D may be leased by PPC to a third party.

By Order of the Federal Maritime Commission.

Dated: October 11, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–23785 Filed 10–13–88; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 7, 1988.

Social Security Administration

(Call Reports Clearance Officer on 202–245–6511 for copies of package)

1. Establishment Reporting Plan/List of Establishments or Reporting—0960–0005—The information is used to register and classify multiestablishment employers. It is used to process earnings, reconcile earnings discrepancies, aid in program planning and revenue estimates and in employment studies. Respondents: Business or other for-profit; Number of Respondents: 10,000; Frequency of

Response: 1; Average burden per response: 30 minutes; Estimated Annual Burden: 5,000 hours.

OMB Desk Officer: Justin Kopca.

Public Health Service

(Call Reports Clearance Officer on 202–245–2100 for copies of package)

1. Reporting and Recordkeeping for Electronic Products under Pub. L. 90–602—Specific Product Requirements—0910–0213—The Radiation Control for Health and Safety Act protects the public from unnecessary exposure to radiation from electronic products. To carry out this responsibility, FDA must collect information from manufacturers, dealers and distributors about their electronic products. Respondents: Businesses or other for-profit, Small businesses or organizations; Number of Respondents/Recordkeepers: 3,046/47; Frequency of Response: 16; Average Burden per Response-Survey/Recordkeeping: 1/1; Estimated Annual Burden: 48,783 hours.

2. Regulations Under the Federal Import Milk Act—0910–0212—The Import Milk Act prohibits the exportation of milk and cream to the United States unless the shipper of such products holds a valid import permit from FDA. The Act requires documentation that all cows are healthy, and that dairy farms/plants are in good sanitary condition. Therefore, the Food and Drug Administration (FDA/PHS) is seeking approval of the following forms: FDA #1993—Application for Permit to Ship/Transport Milk and or Cream into the United States; FDA #1815—Certificate/Transmittal for an Application; FDA #1996—Sanitary Inspection of Dairy Farms; FDA #1997—Sanitary Inspection of Milk Plants; Respondents; State or local governments, Farms, Businesses or other for-profit:

	Form No. 1993	Form No. 1815	Form No. 1996	Form No. 1997
No. of responses	2	2	2	2
Frequency of responses	2	3	126.5	1.5
Average burden per response	.5	.25	1.5	2

Total Annual Burden 387 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Family Support Administration

(Call Reports Clearance Officer on 202–245–0652 for copies of package)

1. Applications and Discontinuances for AFDC—0970–0003—The information collected from the form FSA–3800 is needed to monitor the aid to families with dependent children (AFDC) program. The affected public is comprised of State agencies administering and supervising the administration of the AFDC program. Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 216; Average burden per response: 4; Estimated Annual Burden: 864 hours.

2. Statistical Report on Recipients under Public Assistance Programs—0970–0008—The information collected by use of form FSA–3637 is needed to properly administer and monitor the aid to families with dependent children program by providing information on a quarterly basis on recipients. This data is used by Congress, Federal agencies and others. Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 216; Average burden per response: 30; Estimated Annual Burden: 6,480 hours.

3. Recipient Fraud in Public Assistance—0970–0031—The data collected by using this report enables FSA to review the methods used by States in dealing with a recipient fraud. Data Collected—Recipient Fraud in Public Assistance Programs. Respondents: State or local governments; Number of Respondents: 54; Frequency of Response: 108; Average burden per response: 12; Estimated Annual Burden: 1,296 hours.

OMB Desk Officer: Allison Herron

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

PHS: (202) 245–2100
HCFA: (301) 966–2088
FSA: (202) 245–0652
SSA: (301) 965–4149
OS: (202) 245–6511
OHDS: (202) 472–4415

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503

Date: October 7, 1988.

James V. Oberthaler,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 88–23880 Filed 10–13–88; 8:45 am]

BILLING CODE 4110–60–M

Centers for Disease Control

National Institute for Occupational Safety and Health; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC):

Name: Occupational Fatality Investigation and Surveillance: State and NIOSH Experience.

Date: November 9 & 10, 1988.

Place: National Mine Health and Safety Academy, Airport Road, Beckley, West Virginia 25802–1166.

Time: November 9, 1988—8:00 a.m.–4:30 p.m.; November 10, 1988—8:00 a.m.–2:00 p.m.

Status: Open to the pubic, limited only by space available.

Purpose: The purpose of this workshop is to facilitate an information exchange between NIOSH and States regarding occupational fatality surveillance and investigation and to elicit input concerning future directions of the NIOSH Fatal Accident Circumstances and Epidemiology "FACE" Program.

Additional information may be obtained from: Jan C. Manwaring, Division of Safety Research, NIOSH, Mail Stop 15B, 944 Chestnut Ridge Road, Morgantown, West Virginia 265504–2888, Telephone: Commercial: (304) 291–4811, FTS: 923–4811.

Dated October 7, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88–23717 Filed 10–13–88; 8:45 am]

BILLING CODE 4160–19–M

National Institute for Occupational Safety and Health; Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC):

Name: Review of the NIOSH "Manual of Surface Electromyography (EMG) for use in Ergonomic Studies of Musculoskeletal Injuries."

Date: November 4, 1988.

Place: Division of Safety Research, Room 203, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505–2888.

Time: 9:00 a.m.–3:30 p.m.

Status: Open to the public, limited only by space available.

Purpose: To conduct a review of the draft NIOSH document entitled "manual of Surface EMG for use in Ergonomic Studies of Musculoskeletal Injuries." This manual presents standardized techniques for collecting surface EMG data useful in assessing musculoskeletal injuries in the workplace.

Additional information may be obtained from: Roger M. Nelson, Ph.D., Division of

Safety Research, NIOSH, Mill Stop S109, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505–2888, Telephone: Commercial: (304) 291–4810 FTS: 923–4810.

Dated: October 7, 1988.

Elvin Hilyer,

Associate Director for Policy Coordination, Center for Disease Control.

[FR Doc. 88–23718 Filed 10–13–88; 8:45 am]

BILLING CODE 4160–19–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Coastanoan Band of Carmel Mission Indians

September 26, 1988.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Coastanoan Band of Carmel Mission Indians, c/o Mr. Anthony Miranda, P.O. Box 1657, Monrovia, California 91016; has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on September 16, 1988, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) formerly § 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs' files. Such submissions will be provided to the petitioner upon receipt by the Bureau. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Mail Stop 4627–MIB, 18th and C Streets, NW., Washington, DC 20240, Phone: (202) 343–3592.

W. P. Ragsdale,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 88–23737 Filed 10–13–88; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[OR–943–09–4141–11; GP9–004]

Resumption of the Geothermal Resources Leasing Program in Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On October 17, 1988, the Oregon State Office will resume the geothermal leasing program in accordance with sec. 115 of Pub. L. 99–591 (100 Stat. 3341–264).

FOR FURTHER INFORMATION CONTACT: Jackie Clark, BLM, Oregon State Office, P.O Box 2965 (825 NE Multnomah Street), Portland, OR 97208, 503–231–6917.

SUPPLEMENTARY INFORMATION: On October 17, 1986, a moratorium was imposed on geothermal resources leasing due to sec. 115 of Pub. L. 99–591. This law mandated protection from geothermal leasing of defined significant thermal features within specific National Parks, including Mt. Rainier and Crater Lake National Parks. In accordance with Pub. L. 99–591, a determination has been made that no adverse effect will occur to the significant thermal features of any National Park due to lease issuance for lands listed in a notice which will be posted in our Public Room on October 17, 1988. This notice, and all future Notices of consideration of lease offers in compliance with Pub. L. 99–591, will be posted in the Public Room of the Oregon State Office for a period of 30 days. Comments will be accepted concerning proposed leasing during the 30 day posting period.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

Dated: October 7, 1988.

[FR Doc. 88–23740 Filed 10–13–88; 8:45 am]

BILLING CODE 4310–33–M

[CA–020–09–4050–90]

Susanville District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior, Susanville District Advisory Council, Susanville, California.

ACTION: Notice of rescheduled meeting.

SUMMARY: Notice is hereby given that the Susanville District Advisory Council meeting, originally scheduled for Wednesday and Thursday, October 12 and 13, 1988, has been rescheduled for Tuesday and Wednesday, December 6 and 7, 1988. The meeting will begin on Tuesday, December 6, 1988 at 10:00 a.m. at the Susanville District Office, of the Bureau of Land Management, 705 Hall Street, Susanville, California and end 3:00 p.m. on Wednesday, December 7, 1988. The agenda will include discussion on the East Lassen Deer Herd, Bighorn reintroductions, the Wild Horse and Burro Program, Malacha Hydro-Electric Project, Ft. Sage OHV Project, Wilderness Program and the Silver State Water Project. The meeting is open to the public and interested persons may make oral statements to the Council or file a written statement for the Council's consideration.

Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, by December 1, 1988. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the Council 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: John Bosworth at 916–257–5381.

C. Rex Cleary,

District Manager.

[FR Doc. 88–23742 Filed 10–13–88; 8:45 am]

BILLING CODE 4310–40–M

[Designation Order NV–060–8801; NV–060–4333–10]

Battle Mountain District, NV; Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decision.

Decision: Notice is hereby given

relating to the use of off road vehicles on public lands in accordance with the authority and requirements of Executive Order 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as closed or limited to off road motorized use:

The 2,689,230 acre area affected by the designations includes all public lands in Esmeralda County and all public lands in that portion of Nye County from and including Township 1 South to Township 12 South, Ranges 32 to 45 East. These designations are a result of resource management decisions made in the 1985 Esmeralda-Southern Nye RMP. Comments received from public hearings and written responses influenced the designation decisions. These designations are published as Final today. Under 43 CFR part 4, Subpart E, an appeal may be filed within 30 days with the Interim Board of land Appeals.

A. Open Designation

Areas which are designated open comprise approximately 1,784,609 acres. Open designation was determined to be appropriated for these public lands since off-road vehicle use is an important recreational activity and is essential for the conduct of other authorized resource uses.

B. Limited Designation

1. Competitive Events Limited to Existing Roads, Trails And Washes—903,901 Acres

This designation was determined appropriate for 903,901 (34%) of BLM administered public land in Esmeralda and Southern Nye County. Competitive events are limited to existing roads, trails and washes. Existing roads, trails and washes may be closed if resource damage is occurring. In these cases, closed road signs will be posted. Specific areas under this designation are:

Goldfield Joshua Tree Forest—100,000 acres near Goldfield, Nevada.

Amargosa speckled dace and Amargosa toad habitat—55 acres near Beatty, Nevada.

Fragile watershed areas—803,846 acres scattered throughout the planning area. Included are all or parts of Cedar Mountain, Candelaria Hills, Big Smoky Valley Paymaster Canyon, Montezuma Peak, Weepah Hills, Silver Peak, Red Mountain, Magruder Mountain, Slate Ridge, Oriental Wash, Sarcobatus Flat, Yucca Mountain, Bare Mountain, Amargosa Desert, and other smaller areas.

2. Closed to Competitive Events With Other Vehicles Restricted to Existing Roads, Trails and Washes—710 Acres

This designation was determined appropriate for 710 acres (less than 1%) of BLM administered public land in Esmeralda County. The areas are closed to competitive events and other vehicle use is restircted to roads, trails and washes existing at the time of this designation order. Existing roads, trails and washes may be closed if resource damage is occurring. In these cases, closed road signs will be posted. Specific areas under this designation are:

Pinyon-Joshua Tree Transition Research Natural Area—550 acres, southwest of Silver Peak, Nevada.

The Sump—160 acres, near Dyer, Nevada.

C. Closed Designation—10 Acres

This designation was determined appropriate for 10 acres (less than 1%) of BLM administered public land in Esmeralda County. Vehicle use on these public lands is prohibited. There are no roads, trails or washes in this area which is a portion of the Pinyon-Joshua Tree Transitional Research Natural Area and is fenced.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these designations is available for inspection at the office listed below.

ADDRESSES: For further information about these designations, contact either of the following Bureau of Land Management Officials:

District Manager

Bureau of Land Management, Battle Mountain District Office, 2nd and Scott Streets, P.O. Box 1420, Battle Mountain, Nevada 89820.

Area Manager

Bureau of Land Management, Tonopah Resource Area Office, Bldg. 103 Military Circle, P.O. Box 911, Tonopah, Nevada 89049.

Dated: Octoer 3, 1988.

Terry L. Plummer,

District Manager.

[FR Doc. 88-23741 Filed 10-13-88; 8:45 am]

BILLING CODE 4310-HC-M

[WY-920-08-4111-15; W-79668]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

October 6, 1988.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-79668 for lands in Niobrara County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-79668 effective July 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 88-23689 Filed 10-13-88; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-08-4111-15; W-67953]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-67953 for lands in Niobrara County, Wyoming, was timely filed and was accompanied by all the required rentals accuring from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land

Management is proposing to reinstate lease W–67953 effective July 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

David A. Pomerinke,

Acting Chief, Leasing Section.

[FR Doc. 88–23690 Filed 10–13–88; 8:45 am]

BILLING CODE 4310–22–M

[AZ–020–09–4212–13; AZA–23360]

Realty Action; Public Land Exchange; Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: This notice provides a correction of the notice of realty action published for land exchange AZA–23360 which contained only a partial list of the private lands to be acquired.

FOR FURTHER INFORMATION CONTACT: Mike Berch, Kingman Resource Area, (602) 757–3161.

SUPPLEMENTARY INFORMATION: In **Federal Register** document 88–14224 on page 23695 in the issue of Thursday, June 23, 1988, the lands to be acquired from Walter E. Biewer by the United States should include:

Gila and Salt River Meridian

T. 13 N., R. 15 W.,
Sec. 7, lot 1, N½NE¼, E½NW¼, SE¼ SW¼, E½SE¼;
Sec. 17, NW¼NE¼, S½NE¼, N½NW¼;
Sec. 19, lot 1, SE¼NE¼, SE¼NW¼, NE¼ SW¼, E½SE¼;
Sec. 29, N½.
T. 16 N., R. 14 W.,
Sec. 27, N½, SW¼.

Containing 1,558.21 acres, more or less.

Subject to:

1. A reservation of all minerals to the Santa Fe Pacific Railroad Company with the right to prospect for, mine, and remove same.
2. Easement for a natural gas pipeline.
3. Easement for power transmission line and road.

Henri R. Bisson,

District Manager.

Date: October 6, 1988.

[FR Doc. 88–23688 Filed 10–13–88; 8:45 am]

BILLING CODE 4310–32–M

[AZ–020–09–4212–13; AZA–23217]

Realty Action; Public Land Exchange; Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment notice.

SUMMARY: This notice provides an amendment of the notice of realty action published for land exchange AZA–23217 which contained only a partial list of the private mineral interests to be conveyed to the United States.

SUPPLEMENTARY INFORMATION: In **Federal Register** document 88–6071 on page 9152 in the issue of Monday, March 21, 1988, the mineral interests to be acquired from Santa Fe Pacific Railroad by the United States should include:

Gila and Salt River Meridian, Arizona

T. 13 N., R. 14 W.,
Sec. 21, all.
T. 13 N., R. 15 W.,
Sec. 25, W½.
T. 18 N., R. 16 W.,
Sec. 8, NW¼NW¼;
Sec. 13, W½W½.
T. 19 N., R. 16 W.,
Sec. 15, all.
T. 19 N., R. 17 W.,
Sec. 33, all.
T. 20 N., R. 20 W.,
Sec. 3, S½.
T. 29 N., R. 11 W.,
Sec. 3, lots 1–4, S½N½,S½.
T. 30 N., R. 11 W.,
Sec. 21, all.
T. 32 N., R. 13 W.,
Sec. 31, lots 1–4, E½,E½W½;
Sec. 33, all.

Containing 5,310.44 acres, more or less.

The purpose of this exchange is to eliminate split estate by disposing of unclaimed Federal mineral interests beneath State surface and acquiring private mineral interests beneath Federal surface.

Detailed information concerning this exchange may be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

Henri R. Bisson,

District Manager.

Date: October 7, 1988.

[FR Doc. 88–23725 Filed 10–13–88; 8:45 am]

BILLING CODE 4310–32–M

[OR–090–09–4212–21: GP9–005: OROR 41765]

Realty Action; Noncompetitive Lease of Public Lands for Commercial Occupancy Purposes; Lane County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—noncompetitive occupancy lease of public lands in Lane County, Oregon; cancellation.

SUMMARY: The Notice of Realty Action published October 3, 1988 at 53 FR 39354 modifying a previously-published Notice of Realty Action is hereby cancelled. The original Notice of Realty Action published February 2, 1987 at 52 FR 5503 remains as originally published.

FOR FURTHER INFORMATION CONTACT: Ronald Wold, Eugene District Office, at (503) 683–6403.

Date of Issue: October 6, 1988.

Elaine Zielinski,

Associate District Manager.

[FR Doc. 88–23686 Filed 10–13–88; 8:45 am]

BILLING CODE 4310–33–M

[UT–020–89–4212–14; U–61689]

Realty Action; Sale of Public Lands in Box Elder County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; sale of public lands, U–61689.

SUMMARY: The following described land has been examined and identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised value shown:

Legal description	Acreage	Value
T. 11N., R. 18W., SLM Section 10, E½SE¼NW¼	20.00	$500.00

The above described land will be sold in order to dispose of land which is currently leased to Box Elder County for a sanitary landfill. This action will allow the continued operation of the landfill while eliminating the United States interest in the site.

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action.

The above described land will be sold at the value shown by direct sale to the

County of Box Elder. The patent will contain a reservation for ditches and canals and be subject to all valid existing rights. All minerals will be reserved to the United States including the right of ingress or egress for mineral development.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, BLM, 2370 South 2300 West, Salt Lake City, Utah, 84119. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Deane H. Zeller,

District Manager.

Date: October 3, 1988.

[FR Doc. 88-23687 Filed 10-13-88; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-942-09-4730-12]

Filing of Plats of Survey; Arizona

October 5, 1988.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, on the dates indicated:

A plat representing a dependent resurvey of a portion of the south boundary and portion of the subdivisional lines, and a survey of the subdivision of section 35, Township 15 North, Range 11 East, Gila and Salt River Meridian, Arizona, was accepted August 5, 1988, and was officially filed August 12, 1988.

This plat was prepared at the request of the U.S. Forest Service, Coconino National Forest.

A supplemental plat showing amended lottings in the E½ of section 16, Township 9 North, Range 22 East Gila and Salt River Meridian, Arizona, was accepted July 25, 1988, and was officially filed July 29, 1988.

This plat was prepared at the request of the U.S. Forest Service, Apache-Sitgreaves National Forest.

A plat representing a dependent resurvey of the south boundary of section 31, in Township 18 North, Range 27 East, Gila and Salt River Meridian, Arizona, was accepted July 27, 1988, and was officially filed July 29, 1988.

This plat was prepared at the request of the Navajo Hopi Indian Relocation Commission.

A plat representing a dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines and M.S. 1685B, Francis Creek Springs Millsite, and a metes-and-bounds survey of lot 6, section 1, Township 16 North, Range 10 West, Gila and Salt River Meridian, Arizona, was accepted August 8, 1988, and was officially filed August 12, 1988.

A plat representing a dependent resurvey of portions of the west boundary and of the subdivisional lines and a survey of the subdivision of section 30, Township 20 North, Range 15 West, Gila and Salt River Meridian, Arizona, was accepted August 24, 1988, and was officially filed August 31, 1988.

These plats were prepared at the request of BLM, Phoenix District Office.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open file and are available to the public for information only.

3. All inquires relating to these lands should be sent to the the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief, Branch of Cadastral Survey.

[FR Doc. 88-23738 Filed 10-13-88; 8:45 am]

BILLING CODE 4310-32-M

[ID-942-09-4730-12]

Idaho; Filing of Plats of Survey

The plat of survey of the following described land, was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 10:00 a.m., October 3, 1988.

The plat representing the dependent resurvey of portions of the subdivisional lines, certain Mineral Surveys, and United Cemeteries; the subdivision of seciton 26 and the survey of certain lots in section 26, T. 48 N., R. 4 E., Boise Meridian, Idaho, Group No. 734 was accepted September 26, 1988.

This survey was executed to meet certain administrative needs by this Bureau.

All inquiries about this land should be sent to the Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Duane E. Olsen,

Chief, Cadastral Surveyor for Idaho.

October 3, 1988.

[FR Doc. 88-23685 Filed 10-13-88; 8:45 am]

BILLING CODE 4310-66-M

[MT-940-08-4520-11]

Land Resource Management; Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plat of survey of the lands described below accepted September 26, 1988, were officially filed in the Montana State Office effective 10 a.m. on October 3, 1988.

Fifth Principal Meridian, North Dakota

T. 147 N., R. 63 W.

The plat representing the dependent resurvey of portions of the west and north boundaries, and subdivisional lines, Township 147 North, Range 63 West, Fifth Principal Meridian, North Dakota. The area described is in Foster County.

Fifth Principal Meridian, North Dakota

T. 147 N., R. 64 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, Township 147 North, Range 64 West, Fifth Principal Meridian, North Dakota. The area described is in Foster County.

Fifth Principal Meridian, North Dakota

T. 148 N., R. 63 W.

The plat representing the dependent resurvey of the west boundary and a portion of the subdivisonal lines, Township 148 North, Range 63 West, Fifth Principal Meridian, North Dakota. The area described is in Eddy County.

Fifth Principal Meridian, North Dakota

T. 148 N., R. 64 W.

The plat representing the dependent resurvey of portions of the south boundary and subdivisional lines, Township 148 North, Range 64 West, Fifth Principal Meridian, North Dakota. The area described is in Eddy County.

Fifth Principal Meridian, North Dakota

T. 149 N., R. 63 W.

The plat representing the dependent resurvey of a portion of the Twelfth Standard Parallel North through Range 63 West, and portions of the west boundary and the subdivisional lines, Township 149 North, Range 63 West, Fifth Principal Meridian, North Dakota. The area described is in Eddy County.

Fifth Principal Meridian, North Dakota

T. 149 N., R. 64 W.

The plat representing the dependent resurvey of portions of the Twelfth Standard Parallel North through Range

64 West, and the subdivisional lines, Township 149 North, Range 64 West, Fifth Principal Meridian, North Dakota. The area described is in Eddy County.

These surveys were executed at the request of the Bureau of Reclamation.

EFFECTIVE DATE: October 3, 1988.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Ray Brubaker,

Acting State Director.

Dated: October 4, 1988.

[FR Doc. 88-23739 Filed 10-13-88; 8:45 am]

BILLING CODE 4310-DN-M

National Park Service

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contracting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Department of Interior Desk Officer, Washington, DC 20503, Telephone 202-395-7313.

Title: Park Use Survey—Castillo de San Marcos & Fort Matanzas.

Abstract: The survey will develop information about visitor characteristics and needs and will provide park management data to provide useful and necessary services.

Bureau Form Number: None.

Frequency: On Occasion.

Description of Respondents: Individuals or Households.

Annual Responses: 1,000.

Annual Burden Hours: 200.

Bureau Clearance Officer: Russell K. Olsen, 523-5133.

Russell K. Olsen,

Chief of Adminstrative Services Division.

[FR Doc 88-23766 Filed 10-13-88; 8:45 am]

BILLING CODE 4310-02-M

INTERSTATE COMMERCE COMMISSION

Intention To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the name corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent Corporation: ENSR Corporation, 3000 Richmond, Houston, TX 77098.

2. Wholley-owned Subsidiaries: Transtec Environmental, Inc., 1700 Gateway Blvd., SE., Canton, OH 44707, Incorporated in State of Ohio.

B. 1. Parent corporation and address of principal office: Frederick Trading Company, 7901 Trading Lane, P.O. Box 400, Frederick, Maryland 21701.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Frederick Transport Company, incorporated in Maryland.

C. 1. Parent corporation and address of principal office. Murray Industries, Inc., P.O. Box 9450, Bradenton, FL.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Murray Transportation, Inc., Delaware.
(ii) Murray Chris-Craft Sportboats, Inc., Delaware.
(iii) Murray Chris-Craft Yachts, Inc., Delaware.
(iv) Murray Chris-Craft Boatparts, Inc., Delaware.
(v) Murray Chris-Craft Cruisers, Inc., Delaware.
(vi) Murray Chris-Craft Sportboats West, Inc., Delaware.
(v) Murray Chris-Craft Sportdecks, Inc., Delaware.
(vi) Uniflite, Inc., Delaware.

Noreta R. McGee,

Secretary.

[FR Doc. 88-23711 Filed 10-13-88; 8:45 am]

BILLING CODE 7035-01-M

Release of Waybill Data to the Association of American Railroads

The Commission has received a request from the Association of American Railroads (AAR) for permission to use the Commission's 1975 through 1987 Waybill Samples for conducting various on-going and ad hoc analyses and studies. AAR does not seek access to any of the cost and revenue fields contained in the requested Waybill Samples. The type of studies AAR needs the waybill data for include Tank Car Safety Research and Freight Car Utilization.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use File that has satisfied the majority of all waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after public notice is given and certain protective conditions are met. More specifically, under the Commission's rules for release of waybill [Ex Parte 385 (Sub-No. 2), 49 CFR 1244.8], we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party.

If any parties object to this request, they should file their objections (an original and 3 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. Objections should identify the parties seeking the waybill data, state the purpose for which the date are sought, and include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: Elaine Kaiser or James Nash, (202) 275-7684.

Noreta R. McGee,

Secretary.

[FR Doc. 88-23683 Filed 10-13-88; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31332]

Emons Holdings, Inc.—Continuance in Control Exemption—St. Lawrence and Atlantic Railroad Co.

Emons Holdings, Inc. (Emons), has filed a notice for exemption under 49 CFR 1180.2(d)(2) to continue in control of the St. Lawrence & Atlantic Railroad

Company (SL&A) upon the commencement of rail operations by SL&A. Emons controls the Maryland and Pennsylvania Railroad Company (M&P), a class III rail carrier and Yorkrail, Inc. (Yorkrail), a non-carrier now in the process of acquiring railroad property from CSX Transportation, Inc.[1]

This notice of exemption is related to Finance Docket No. 31331, *St. Lawrence & Atlantic Railroad Company—Acquisition and Operation Exemption* in which SL&A filed a notice of exemption under 49 CFR 1150.31 for the acquisition and operation of various line segments located in Vermont, New Hampshire and Maine and the assumption of certain leases of Canadian National Railway Company for lines located in Maine.

The lines of SL&A will not connect with the line of the M&P and the line to be acquired by Yorkrail, and the acquisition of control is not part of a series of anticipated transactions that could lead to a connection. The transaction involves no Class I carriers. Accordingly, continuance in control of SL&A by Emons comes within the class of transactions exempted from the prior approval requirements of 49 U..S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the continuance in control shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: R. Lawrence McCaffrey, Jr., Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 80, 1350 New York Avenue NW., Washington, DC 20005–4797.

Dated: October 6, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88–23642 Filed 10–13–88; 8:45 am]

BILLING CODE 7035–01–M

[1] Yorkrail's acquisition was exempted from 49 U.S.C. 10901 in Finance Docket No. 31169, *Yorkrail, Inc.-Notice of Exemption* (not printed), served December 10, 1987. Emons' continuance in control was exempted from 49 U.S.C. 11343 in Finance Docket No. 31170, *Emons Holdings, Inc.—Cont. in Control Exemp. Yorkrail, Inc.* (not printed), served December 28, 1987.

[Finance Docket No. 31334]

Pioneer Railroad Co., Inc., West Jersey Railroad Division; Lease and Operation Exemption—West Jersey Shortline, Inc.; Exemption

Pioneer Railroad Company, Inc., West Jersey Railroad Division (Pioneer), a noncarrier, has filed a notice of exemption to lease and operate certain railroad property owned by Salem County, New Jersey (Salem). Pioneer will lease and operate a portion of the Salem Secondary Track, from milepost 19.76, at Swedesboro, Woolrich TWP., Gloucester County, NJ, to milepost 37.20, at Salem, Salem County, NJ, a distance of 17.44 miles. A lease hold interest in trackage was among the assets Pioneer purchased from West Jersey Shortline, Inc. (WJS), a Class III carrier. The line was previously abandoned by Conrail in Docket No. AB–167 (Sub-No. 635N), and was purchased by Salem, which in turn leased the line to WJS. Pioneer's acquisition of the lease was expected to be consummated on September 30, 1988. Any comments must be filed with the Commission and served on Guy L. Brenkman, Pioneer Railroad Company, Inc., West Jersey Railroad Division, 214 Grant St., Salem, NJ 08079, and John D. Heffner and Arnold B. Podgorsky, Gerst, Heffner, Foldes & Podgorsky, Suite 1107, 1700 K Street, NW, Washington, DC 20006.

Pioneer must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption—Acq. & Oper. of R. Lines under 49 U.S.C. 10901*, 4 I.C.C.2d 305 (1988).[1]

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: September 26, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88–23462 Filed 10–13–88; 8:45 am]

BILLING CODE 7035–01–M

[1] Pioneer has advised the Office of New Jersey Heritage of the filing of this notice.

[Finance Docket No. 30400 (Sub–21)]

Santa Fe Southern Pacific Corp.—Control—Southern Pacific Transportation; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Corrected notice.

SUMMARY: By decision served September 27, 1988, the Commission sought comments on matters relating to whether to impose labor protective conditions for the benefit of employees of either the Atchison, Topeka and Santa Fe Railway Company or the Southern Pacific Transportation Company. Due to an administrative error, the date set for replies was improperly computed. The correct filing dates are set out below.

DATES: Comments must be filed by October 28, 1988, and replies must be filed by November 17, 1988.

ADDRESSES: Send an original and 20 copies of pleadings referring to this notice to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Send one copy each to representatives:

Jerome F. Donohoe, Richard E. Weicher, Santa Fe Southern Pacific Corporation, 224 South Michigan Avenue, Chicago, IL 60604.

William G. Mahoney, John O'B. Clark, Jr., Highsaw & Mahoney, P.C., Suite 210, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the September 27, 1988 decision, and in the decision in Finance Docket No. 32000, *Rio Grande Industries, Inc., SPT, Holding, Inc., and The Denver and Rio Grande Western Railroad Company-Control-Southern Pacific Transportation Company*, ——— I.C.C.2d ——— (served September 12, 1988.) To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for hearing impaired is available through TDD services (202) 275–1721].

Decided: October 4, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-23684 Filed 10-12-88; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31331]

St. Lawrence & Atlantic Railroad Co.—Acquisition and Operation Exemption—Certain Rail Lines of Canadian National Railway Co.

St. Lawrence and Atlantic Railroad Company (SL&A) has filed a notice of exemption to acquire and operate approximately 169.4 route miles of rail line in Vermont, New Hampshire and Maine from Canadian National Railway Company (CN). It will also assume CN's obligations with respect to leases for the operation of certain branch lines of the Lewiston and Auburn Railroad Company (LAR) and the Norway Branch Railroad Company (NBR). The lines to be acquired consist of the Berlin Subdivision extending from east of Portland, ME (M.P. 1.–74), to Island Pond, VT (M.P. 149.50), and a portion of the Sherbrooke Subdivision extending from Island Pond (M.P. 0.00), to Norton, VT (M.P. 15.83).[1] The leases to be assumed related to the LAR line from Lewiston, ME, to its point of junction with CN at M.P. 29.70 (a distance of 5.4 miles), and the NBR line from Norway, ME, to its point of junction with the main line of CN at M.P. 47.10 in South Paris, ME (a distance of 0.95 miles). The transfer of these lines and leases is to be consummated on or about January 1, 1989.

This transaction will also involve the issuance of securities by SL&A which will be a class III carrier. The issuance of these securities will be an exempt transaction under 49 CFR 1175.1.

Any comments must be filed with the Commission and served on: R. Lawrence McCaffrey, Jr., Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue NW., Washington, DC 20005–4797; and Charles A. Spitulnik, Hopkins, Sutter, Hamel & Park, 888 16th Street NW., Suite 700, Washington, DC 20006.

SL&A must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved.[2]

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 6, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-23641 Filed 10-13-88; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31336]

Samuel Zell and Rod F. Dammeyer; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Samuel Zell and Rod F. Dammeyer from the requirements of 49 U.S.C. 11322 to serve as directors of The Santa Fe Southern Pacific Corporation while holding positions as directors and officers of Itel Corporation.

DATES: The exemption wil be effective October 24, 1988. Petitions for reconsideration must be filed by November 3, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31336 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Richard M. Smith, Mayer, Brown & Platt, 2000 Pennsylvania Ave. NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: October 5, 1988.

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

Noreta R. McGee,

Secretary.

[FR Doc. 88-23780 Filed 10-13-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-223X)]

Chicago and North Western Transportation Co.—Exemption—Abandonment Between Allendorf and Sibley, IA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 4.7-mile line of railroad between milepost 252.3, near Allendorf, IA, and milepost 257, near Sibley, IA, in Osceola County.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; 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 November 13, 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 October

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[1] CN will retain incidental trackage rights between Island Pond and Norton for the purpose of effecting interchange at Island Pond.

[2] SL&A has certified that it has provided the appropriate state historic preservation officers with the identification of sites and structures listed in the National Register of Historic Places and 50 years old and older that will be transferred as a result of this transaction.

[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. *Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988).

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

24, 1988, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 3, 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: Myles L. Tobin, Chicago and North Western Transportation Company, One North Western Center, Chicago, IL 60606.

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 Environmental (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 19, 1988. 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: October 6, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-23639 Filed 10-13-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 221X)]

Chicago and North Western Transportation Co.—Abandonment Exemption; Boone County, IL

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 6.5-mile line of railroad between milepost 67.5 near Chemung to milepost 74 near Poplar Grove in Boone County, IL.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years, (2) that all overhead traffic previously routed over this line has been rerouted and (3) that 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 November 13, 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 October 24, 1988, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 3, 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: Myles L. Tobin, Chicago and North Western Transportation Company, One North Western Center, Chicago, IL 60606.

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, resulting from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 19, 1988. 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.

[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 Exemption of Out-of-Service Rail Lines*, 4 I.C.C. 2d 400 (1988).

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

Decided: October 4, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-23426 Filed 10-13-88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 272X)]

CSX Transportation, Inc.; Abandonment Exemption in Highlands County, FL

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 1.14-mile line of railroad between milepost AVC-873.94 and AVC-875.08 located in Sebring, Highlands County, FL.

Applicants has certified that (1) no local or overhead traffic has moved over the line for at least 2 years; 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 November 13, 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 October

[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 Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988).

[2] *See Exempt. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

24, 1988 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 3, 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: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

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, resulting from this abandonment. The Section of Energy and Environmental (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by October 19, 1988. 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: October 4, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen M. King,

Acting Secretary.

[FR Doc. 88-23461 Filed 10-13-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act; Maui Electric Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 3, 1988, a proposed Consent Decree in *United States of America* v. *Maui Electric Co.*, Civil Action No. 88-00731 DAE, was lodged with the United States District Court for the District of Hawaii. The complaint filed by the United States alleged violations of the Clean Air Act by defendant in constructing two diesel generating units in Maalaea, Maui, Hawaii, and operating one of them, without a Prevention of Significant Deterioration permit. Under the proposed decree, defendant agrees to pay a civil penalty and operate the units with appropriate pollution controls.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Maui Electric Co.*, D.J. Ref. 90-5-2-1-1252.

The Proposed Consent Decree may be examined at the office of the United States Attorney, Room C-242, 300 Ala Moana Blvd., Honolulu, Hawaii, and at the Region 9 office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.30 payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-23750 Filed 10-13-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Under Solid Waste Disposal Act; Techalloy Co., Inc.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on October 4, 1988, a proposed Consent Decree in *United States v. Techalloy Company, Inc.*, was lodged with the United States District Court for the Central District of California. That action was brought pursuant to the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act ("RCRA"), for operation of surface impoundments to store and treat hazardous waste following the loss of "interim status" authorization to operate such impoundments, for operation of other treatment and storage units without a permit or "interim status", and for corrective action in response to a release of hazardous waste to the environment.

The Consent Decree requires Techalloy to properly close the suface impoundments and to provide for post-closure care for the impoundments; to obtain liability coverage for its wastewater treatment unit, or cease operating such unit, to close the unpermitted waste pile; to perform the necessary studies to determine the extent of contamination at the facility; and to peform corrective action that is necessary to protect human health and the environment in response to the relase of hazardous waste at the facility. Techalloy will also pay a civil penalty of $35,000 for its past violations of RCRA.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States v. Techalloy Company, Inc.*, D.J. Ref. 90-7-1-361.

The proposed Consent Decree may be examined at the office of the United States Attorney, 312 N. Spring Street, Los Angeles, California 90012, and at the Region IX office of the U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. A copy of the proposed Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1527, Tenth Street and Pennsylvania Ave. NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Any request for a copy of the proposed Consent Decree should be accompanied by a check in the amount of $4.40 for copying costs ($0.10 per page) payable to "United States Treasurer."

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-23751 Filed 10-13-88; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; PDES Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), PDES Inc. has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of

antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to PDES Inc. and its general areas of planned activities, are given below.

PDES Inc. consists of the following firms: The Boeing Company; General Dynamics Corporation; General Electric Company; Grumman Corporation; Lockheed Corporation; LTV Corporation; McDonnell Douglas Corporation; and Northrop Corporation.

The objective of PDES Inc. is to undertake the development of a standard, computer-intelligible product data exchange specification.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 88-23757 Filed 10-13-88; 8:45 am]

BILLING CODE 4410-01-M

Immigration And Naturalization Service

[INS Number: 1129-88]

Immigration and Naturalization Service User Fee Advisory Committee; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee Holding Meeting: Immigration and Naturalization Service User Fee Advisory Committee.

Date and Time: December 2, 1988 at 9:30 a.m.

Place: Holiday Inn, John F. Kennedy International Airport, New York, New York (Tel. 718-659-0200)

Status: Open. Second meeting of this Advisory Committee.

Purpose: Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act of 1952, as amended, (18 U.S.C. 1356(k)) and the Federal Advisory Committee Act (5 U.S.C. App. 2).

Agenda

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of relevant written statements submitted in advance by members of the public.
6. Scheduling of next meeting.

Public Participation: The meeting is open to the public, but advance notice of attendance is requested to assure adequate seating. Persons planning to attend should notify the Contact Person at least two (2) days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the Contact Person for consideration by this Advisory Committee. Only written statements received at least five (5) days prior to the meeting by the Contact Person will be considered for discussion at the meeting.

Contact Person: Sharon L. Isenberg, Program Analyst, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 7123, Chester Arthur Bldg., 425 I Street, NW., Washington, DC 20536, Telephone (202) 633-2680.

Dated: October 6, 1988.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 88-23779 Filed 10-13-88; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment Standards Administration

OFCCP Supply and Service/Recordkeeping and Reporting
1215-0072
18,230,395 burden hours; 0 forms; 3.5 hours per contractor
Business or other for profit; Nonprofit institutions; small businesses or organizations

In developing and updating AAPs, corporate/intermediate level office AAPs must include in workforce and utilization analyses and goal setting all positions located in subordinate establishments for which the selection decisions are made at the corporate or intermediate level office.

Revision (Submitted to OMB 9/22/88)

Occupational Safety and Health Administration

Hazard Communication, NPRM
1218-0072, OSHA 245
Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations

3,892,371 respondents; 54,180,000 hours; 4.6 hours per response

The Hazard Communication standard requires all employers to establish hazard communication programs to transmit information on the hazards of chemicals to their employees by means of container labels, material safety data sheets, and training programs. This action will reduce the incidence of chemical-related illnesses and injury to American workplaces.

Signed at Washington, DC, this 10th day of October, 1988.

Theresa O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 88-23816 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-27-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and date made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of tother Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page numbers(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:
CT88-1 (Jan. 8, 1988) ..... pp.62-66.
Pennsylvania:
PA88-8 (Jan. 8, 1988) ..... pp.912-915.
PA88-9 (Jan. 8, 1988) ..... pp.922-924.
PA88-10 (Jan. 8, 1988) ..... p.930.
PA88-12 (Jan. 8, 1988) ..... pp.938-939.
PA88-19 (Jan. 8, 1988) ..... pp.974-977.
PA88-20 (Jan. 8, 1988) ..... pp.980-983.
PA88-21 (Jan. 8, 1988) ..... pp.986-987.

Volume II

Illinois:
IL88-3 (Jan. 8, 1988) ..... p.114.
IL88-4 (Jan. 8, 1988) ..... p.120.
IL88-6 (Jan. 8, 1988) ..... pp.132-133.
IL88-9 (Jan. 8, 1988) ..... pp.148-149.
IL88-11 (Jan. 8, 1988) ..... pp.158-162.
IL88-13 (Jan. 8, 1988) ..... pp.174-182b.
IL88-15 (Jan. 8, 1988) ..... pp.194-198.
Kansas:
KS88-8 (Jan. 8, 1988) ..... p.354.
Wisconsin:
WI88-1 (Jan. 8, 1988) ..... pp.1084-1086.
WI88-10 (Jan. 8, 1988) ..... pp.1136-1138.

Volume III

California:
CA88-4 (Jan. 8, 1988) ..... pp.75-76.
pp.89-102b.
North Dakota:
ND88-1 (Jan. 8, 1988) ..... p. 222.
Oregon:
OR88-1 (Jan. 8, 1988) ..... pp.302-304.
pp.307-308.
p.315.
p.316a-316b.
Washington:
WA88-1 (Jan. 8, 1988) ..... pp.361,368.
p.383.
WA88-5 (Jan. 8, 1988) ..... p.408.
WA88-7 (Jan. 8, 1988) p.414

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current genral wage determinations for the

States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 7th day of October 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88-23607 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-88-183-C]

BethEnergy Mines, Inc.; Petition for Modification of Application of Mandatory Safety Standard

BethEnergy Mines, Inc., P.O. Box 232, Jenkins, Kentucky 41537 has filed a petition to modify the application of 30 CFR 75.1107-1(a-1) (fire-resistant hydraulic fluids and fire suppression devices on underground equipment) to its Mine No. 26-L (I.D. No. 15-11726) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that unattended electrically powered equipment used underground which uses hydraulic fluid use approved fire-resistant hydraulic fluid.

2. As an alternate to the requirement that belt take-up pumps use fire-resistant hydraulic fluid petitioner proposes the following:

(a) Install a fire sensor over the belt take-up pump, which would be monitored 24-hours per day while persons are underground;

(b) Add additional water sprays over the belt take-up pump;

(c) Add additional fire fighting equipment which would be located out by the belt take-up pump; and

(d) The belt take-up pump would be inspected periodically and reported to the dispatcher.

3. In support of this request, petitioner states that—

(a) The mine is located above the water table;

(b) The belt haulage entry is the primary means of entering and exiting the underground areas and are traveled several times daily by a certified mine foreman;

(c) Water lines, fire sensors, and required fire fighting equipment are maintained; and

(d) The ventilating air current is directed along the belt entry to the mine surface.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 14, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: October 4, 1988.

[FR Doc. 88-23720 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Alaska State Standards; Approval

1. Background.

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

By letter dated September 18, 1985, from Jim Robison, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted corrective amendments to AAC 01. General Safety Code, Articles 8, 11, 12, concerning scaffolding, specifications for accident prevention signs and tags, and abrasive wheel machinery; and AAC 04., Occupational Health and Environmental Control Code, Article 1, concerning duckwork. The State codes correspond to 29 CFR 1910.28(i), 1910.145(c)(10), 1910.215(b)(1), and 1910.94(c)(5). These codes originally were approved in the **Federal Register** (38 FR 21628) on August 10, 1973. The State has made minor corrections, changes, and editorial adjustments. There are no significant differences.

The State standards amendments, which were contained in Subchapter 01., and 04., Alaska Occupational Safety and Health Code, were adopted by the State on August 31, 1983 with an effective date of September 30, 1983 under authority vested in Jim Robison, Commissioner, by AS 18.60.020, and after notice and opportunity for public comments under AS 44.62.190, 44.62.200, and 44.62.210.

2. Decision.

The above State standard amendments have been reviewed and compared with the relevant Federal standards. OSHA has determined that the State standards continue to be at least as effective as the comparable Federal standards, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standards are minimal and that the standards are thus substantially identical. OSHA therefore approves these standards amendments; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington, 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99802; and the Office of State Programs, Occupational Safety and Health Administration, room N-3476, 200 Constitution Ave. NW., Washington, DC 20210.

4. Public participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standard amendments were adopted in accordance with the procedural requirements of State law which included opportunity for public comments and further public participation would be reptitious.

This decision is effective October 14, 1988.

(Sec. 18, Pub. L. 91-596, 84 STAT. 6108 [29 U.S.C. 667]).

Signed at Seattle, Washington this 7th day of March, 1988.

James W. Lake,

Regional Administrator.

[FR Doc. 88-23723 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-26-M

Mine Safety and Health Administration

[Docket No. M-88-174-C]

Kerr-McGee Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) at the No. 5 Seam Fluids Borehole and the No. 6 Seam Longwall Pump Station at its Galatia Mine 56-1 (I.D. No. 11-02752) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that low- and medium-voltage resistance grounded systems include a fail-safe ground check circuit to monitor continuously the grounding circuit to assure continuity. The ground check circuit is required to cause the circuit breaker to open when either the ground or pilot check wire is broken.

2. As an alternate method, petitioner proposes to use 480-volt, three-phase, power distribution without the use of the ground check circuit in the No. 5 Seam Fluids Borehole and the No. 6 Seam Longwall Pump Station. In support of this request, petitioner states that—

(a) The No. 5 Seam Fluids Borehole and the No. 6 Seam Longwall Pump Station are constructed with concrete floors with the roof and rib wire meshed and sealed with a non-hazardous pressure applied fibrous sealant;

(b) Galvanized rigid conduit would be used throughout both areas. The conduit would be supported by struts fastened to the roof;

(c) All electrical panels, starters, boxes, etc., would be of type NEMA 12;

(d) All stationary 480-volt, three-phase equipment would be connected by galvanized rigid conduit;

(e) All equipment would be bonded to the grounding system through the conduit system and through a ground wire pulled in the conduit system;

(f) Power to both areas would be fed to a NEMA 12 electrical panel from mine duty power centers by MSHA approved cables and protected at the power centers by an MSHA approved ground monitor, ground fault, undervoltage release, and thermal and magnetic overload protection; and

(g) The design and installation of this electrical system would conform to the 1987 National Electrical Code.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 14, 1988. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Date: October 5, 1988.

[FR Doc. 88-23815 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

New Mexico State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act), by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 10, 1975, notice was published in the **Federal Register** (40 FR 57455) of the approval of the New Mexico State Plan and the adoption of Subpart DD to Part 1952 containing the decision.

The New Mexico State Plan provides for the adoption of Federal standards as State standards after:

1. Notice of public hearing published in a newspaper of general circulation in the State at least sixty (60) days prior to the date of such hearing.

2. Public hearing conducted by the Environmental Improvement Board.

3. Filing of adopted regulations, amendments, or revocations under the State Rules Act.

The New Mexico State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

By letter dated May 4, 1988, from Sam A. Rogers, Bureau Chief, to Gilbert J. Saulter, Regional Administrator, and incorporated as part of the plan, the State submitted, as described below, amendments to its General Industry Standards which are identical to the corresponding amendments to 29 CFR 1910; readoption of 29 CFR 1926, Construction Standards, (with amendments as of August 31, 1986) and a subsequent amendment to 29 CFR 1926, Construction. This action represents New Mexico's response to Federal standards amendments through September 28, 1987. New Mexico's re-adoption of 29 CFR Part 1926 applies to both private and public sectors.

These standards, contained in New Mexico Occupational health and Safety Regulation 200, General Industry Standards, and Regulation 300, Construction Standards, revised as of August 31, 1986, were promulgated on March 10, 1988, in accordance with applicable State law with the following four exceptions:

1. Omit 29 CFR 1926.1;
2. Omit 29 CFR 1926.3;
3. Omit 29 CFR 1926.4;
4. Omit Subpart B—General Interpretation (29 CFR 1926.10 through 29 CFR 1926.16).

Three amendments, one revocation, and one addition were also adopted. These are found at Occupational Health

and Safety Regulations 300C.(2) and (7), 201, and 200B(13) and (14), as follows:

5. Amend 29 CFR 1926.2(a) by adding "(a) for multi-state employers only * * *";

6. Amend 29 CFR Part 1926, Construction Industry Test and Inspection Records, as contained in 52 FR 36382 (September 28, 1987);

7. Amend 29 CFR 1910.268, Telecommunications, as contained in 52 FR 363687 (September 28, 1987);

8. Revoke OHSR 201, Elecrical;

9. Add 29 CFR 1910.1028, Benzene, as contained in 52 FR 34460 (September 11, 1987).

The subject standards became effective May 21, 1988, pursuant to New Mexico State Law, section 50-9-1 through 50-9-25.

2. Decision

The above State standards have been reviewed and compared with the relevant Federal standards. It has been determined that the State standards are substantially identical to the Federal standards, and are accordingly approved.

The four omissions were deleted from the New Mexico regulations because the authority granted under the State Plan does not encompass the statutues cited thereunder. The amendment to 29 CFR 1926.2(a) was necessary because authority to grant variances to intrastate employers had previously been included under New Mexico Regulation 300. OHSR 201 was revoked because adoption of Subpart S of 29 CFR 1910 rendered this regulation obsolete.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor-OSHA, 525 Griffin Street, Room 602, Dallas, Texas 75202; Director, Environmental Improvement Division, 1190 St. Francis Drive, Room 2200-North, Santa Fe, New Mexico 87501; and the Office of State Programs, 200 Constitution Ave., NW., Room N3700, Washington, DC 20210.

4. Public participation.

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the New Mexico State Plan as proposed changes and making the Regional Administrator's approval effective upon publication for the following reason.

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

The decision is effective October, 14, 1988.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Dallas, Texas, this 18th day of July, 1988.

Gilbert J. Saulter,

Regional Administrator.

[FR Doc. 88-23722 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 39 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required.

In response to a Federal standard change, the State submitted by letter dated March 25, 1988 from John A. Pompei, Administrator, Accident Prevention Division, Department of Insurance and Finance, to James W. Lake, Regional Administrator, a standard change comparable to the Federal General Industries Standard 29, CFR 1910.268(c) (1), (2), and (3) Telecommunications; as published in the **Federal Register** on September 28, 1987 (52 36384). This standard was adopted effective by the State on May 25, 1988 after the Notice of Proposed Amendment of Rules was mailed, on April 25, 1988, to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436-01-000 and to those on the Department's distribution mailing list as their interest appeared. No written comments or requests for a public hearing concerning this adoption were received.

2. Decision

Having reviewed the State submission in comparison with the relevant Federal standard amendments, it has been determined that the State standard amendment is at least as effective as the comparable Federal amendment, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standard amendments are minimal and that the standard amendments are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal working hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Insurance and Finance, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Program, Occupational Safety and Health Administration, Room N-3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. Public participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process of for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were

promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further particpaiton would be unnecessary.

This decision is effective October 14, 1988.

(Section 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at Seattle, Washington, this 17th of June, 1988.

John A. Granchi,

Acting Regional Administrator

[FR Doc. 88-23721 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following package is being submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Participating Credit Union (PCU) Sample, OMB No. 3133-0001.

Abstract: Credit Union Monthly Survey provides financial data that serves as a basis for estimating consumer savings and credit, growth in assets, savings, investments and to monitor trends and developments at all U.S. credit unions. The information is also used for supervisory program planning, management and publication of industry statistics.

Frequency: One hundred fifty credit unions will provide the financial data on a monthly basis.

Burden: The average time required to comply with this information collection is 15 minutes per submittal.

Respondents: A sample of federally insured credit unions.

OMB Desk Officer for NCUA

Written comments and recommendations for the listed information and collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Copies of the above information collection clearance package can be obtained by calling the NCUA Administrative Office on (202) 357-1055.

Date: October 7, 1988.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 88-23793 Filed 10-13-88; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 15, 1988. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on June 21, 1988.

The applications received are as follows:

1. Applicant

George F. Mobley and Bryan D. Hodgson, National Geographic Magazine, Washington, DC 20036.

Activity for Which Permit Requested

Take. Enter Specially Protected areas. Enter Sites of Special Scientific Interest. The applicants are employed by National Geographic Magazine. The National Geographic Magazine is preparing a major report on scientific research in Antarctica and requests permission to enter protected areas and to photograph antarctic flora and fauna. The applicants plan to take precautions to avoid disturbance of antarctic species. No physical handling of specimens is intended.

Location

McMurdo Sound and vicinity, Antarctica.

Palmer Station and vicinity, Antarctica.

Dates

November 1988—March 1989.

2. Applicant

Nelson Crawford, 10 East 23rd Street, New York, New York 10010.

Activity for Which Permit Requested

Take. Enter Specially Protected Area; Enter Sites of Special Scientific Interest. The applicant is a photographer who will be taking photographs of antarctic scientific activities for educational purposes. He requests permission to enter selected protected areas and take photographs of protected species. No physical handling of specimens is intended.

Location

McMurdo Station and vicinity; Palmer Station and vicinity.

Dates

January—February 1989.

3. Applicant

Stuart Klipper, 614 West 27th Street, Minneapolis, Minnesota 55408.

Activity for Which Permit Requested

Take. Enter Specially Protected Area; Enter Sites of Special Scientific Interest. The applicant is a photographer who will be taking photographs of antarctic scientific activities for educational purposes. He requests permission to enter selected protected areas and take photographs of protected species. No physical handling of specimens is intended.

Location

McMurdo Station and vicinity; Palmer Station and vicinity.

Dates

January—February 1989.

4. Applicant

Patrick Kirkpatrick, Society Expeditions Cruises, Inc., 3131 Elliott Avenue, Suite 700, Seattle, Washington 98121.

Activity for Which Permit Requested

Taking. The applicant requests permission to salvage dead specimens (i.e., penguin wing or flipper, seal skull or bird beak) on an opportunity basis. Specimens would be used for educational purposes during discussions and lectures to cruise ship passengers.

Location

Antarctic Peninsula and offshore islands.

Dates

November 1988—February 1989.

5. Applicant

David Smith, Sky and Telescope Magazine, 49 Bay State Road, Cambridge, Massachusetts 02238.

Activity for Which Permit Requested

Take. Enter Specially Protected Areas; Enter Sites of Special Scientific Interest. The applicant is a member of the news media who is reporting on the U.S. Antarctic Program. He requests permission to enter protected areas and observe at close range scientists working with protected species of birds and mammals.

Location

McMurdo Station vicinity, Antarctica

Dates

November—December 1988.

6. Applicant

Billy Goodman, Science World, 730 Broadway, New York, New York 10003.

Activity for Which Permit Requested

Take. Enter Specially Protected Areas; Enter Sites of Special Scientific Interest. The applicant is a member of the news media who is reporting on the U.S. Antarctic Program. He requests permission to enter protected areas and observe at close range scientists working with protected species of birds and mammals.

Location

McMurdo Station vicinity, Antarctica.

Dates

November—December 1988.

7. Applicant

Keay Davidson, San Francisco Examiner, 110 5th Street, San Francisco, California 94103.

Activity for Which Permit Requested

Take. Enter Specially Protected Areas; Enter Sites of Special Scientific Interest. The applicant is a member of the news media who is reporting on the U.S. Antarctic Program. He requests permission to enter protected areas and observe at close range scientists working with protected species of birds and mammals.

Location

McMurdo Station vicinity, Antarctica.

Dates

November—December 1988.

8. Applicant

William Baker, WNET–TV, 356 West 58th Street, New York, New York 10019.

Activity for Which Permit Requested

Take. Enter Specially Protected Areas; Enter Sites of Special Scientific Interest. The applicant is a member of the news media who is reporting on the U.S. Antarctic Program. He requests permission to enter protected areas and observe at close range scientists working with protected species of birds and mammals.

Location

McMurdo Station vicinity, Antarctica.

Dates

November—December 1988.

9., Applicant

G. Richard Harbison, Harbon Branch Oceanographic Institution, Inc., Ft. Pierce, Florida, 34946.

Activity for Which Permit requested

Enter Site of Special Scientific Interest. The applicant is conducting a study of gelatinous zooplankton found in antarctic waters. Access to diving sites will be at several areas in McMurdo Sound, including an area off Cape Royds. Diving will be done in deep water off the Cape. No interference with marine mammals or birds in planned.

Location

Cape Royds, Ross Island, Antarctica.

Dates

November 1988—January 1989.

Charles E. Myers,

Permit Office.

[FR Doc. 88–23749 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

Advanced Technologies Panel Meeting

The National Science Foundation announces the following meeting:

Name: Applications for Advanced Technologies Panel Meeting.

Date and Time: November 3–5, 1988, from 8:00 a.m., to 6:00 p.m.

Place: Learning Research and Development Center, University of Pittsburgh, 3939 O'Hara Street, Pittsburgh, PA 15260.

Type of Meeting: Open Project Directors' Meeting. Closed Panel Meeting.

Contact Person: Dr. Andrew R. Molnar, Applications for Advanced Technologies, Room 635A, Phone: (202) 357–7064.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To attend Project Director's meeting and provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposal as part of the selection process for awards. (11/5/88)

Reason for Closing: The proposals being reviewed include information of a property confidential including nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 b (c), Government in the Sunshine Act.

Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88–23795 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for the Biophysics Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for the Biophysics Program.

Date and Time: November 3, and 4, 1988 from 8:00 a.m. to 6:00 p.m. each day.

Place: National Science Foundation, 1800 G Street NW., Room 1242, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Arthur Kowalsky, Program Director, Biophysics Program, Room 325, Phone: (202) 357–7777.

Summary Minutes: May be obtained from the Contact Person at the above address.

To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a propriety confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 b (c), Government in the Sunshine Act.

Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88–23796 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Cellular Neuroscience; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cellular Neuroscience.

Date and Time: October 31, November 1 and 2, 1988, 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, 1800 G. St. NW., Room 1243, Washington, DC.

Type of Meeting: Part Open-Closed 10/31 9:00 a.m.—5:00 p.m., Closed 11/01 9:00 a.m.—5:00 p.m., Open 11/02 9:00 a.m.—12:00 p.m., Closed 11/02 1:00 p.m.—5:00 p.m.

Contact Person: Dr. Richard D. Broadwell, Program Director for Cellular Neuroscience, Room 320, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in cellular neuroscience.

Agenda:

Open—General discussion of the current status and future plans of the Celluar Neuroscience Program.

Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Office.

October 11, 1988.

[FR Doc. 88–23801 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and Time: October 27–28, 1988; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G. Street NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. K.N. Houk, Director, Division of Chemistry, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7947.

Summary Minutes: May be obtained from Dr. K.N. Houk.

Purpose of Meeting: To provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: Open-Discussion of the current status and future plans of the Chemistry Division's activities.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88–23823 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Cultural Anthropology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cultural Anthropology.

Date: November 3–4, 1988, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 1800 G Street NW., Room 1243, Washington, DC.

Type of Meeting: Part Open—Closed 11/3—8:30 a.m. to 5:00 p.m. Closed 11/4—9:00 a.m. to 1:00 p.m. Open 11/4—1:00 p.m. to 2:00 p.m. Closed 2:00 p.m. to 5:00 p.m.

Contact Person: Dr. Stuart Plattner, Program Director, Cultural Anthropology Program, Room 320 National Science Foundation, Washington, DC 20550, Telephone (202) 357–7804.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in cultural anthropology.

Agenda:

Closed—To review and evaluate research proposals as part of the selection process for awards.

Open—To discuss trends and opportunities in research, and to help provide advice and recommendations concerning support for research in Cultural Anthropology.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88–23798 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Developmental Neuroscience; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Developmental Neuroscience.

Date and Time: November 2, 3, & 4 1988; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, 1800 G. Street, NW., Washington, DC, Room 643.

Type of Meeting: Closed.

Contact Person: Rodney K. Murphey, Program Director, Developmental Neuroscience, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7042.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in developmental neuroscience.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the

proposals. These matters are within exemptions 4 and 6 of the Government Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88-23799 Filed 10-13-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Economics; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics.

Date/Time: Friday, November 4, 1988—9:00 a.m. to 5:00 p.m., Saturday November 5, 1988—9:00 a.m. to 3:00 p.m.

Place: Hotel Lombardy, 2019 Eye Street NW., Washington, DC 20066.

Type of Meeting: Closed.

Contact Person: Dr. Lynn A. Pollnow, Program Director, James H. Blackman, Program Director, or James R. Slaugh, Assistant Program Director, Division of Social Economic Science, Room 336, National Science Foundation, Washington, DC 20550, telephone (202) 357-9674.

Summary Minutes: May be obtained from the Contact Persons at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in economics.

Agenda: Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88-23793 Filed 10-13-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ethics and Values Studies; Meeting

The National Science Foundation announces the following:

Name: Advisory Panel for Ethics and Values Studies.

Date: October 27 and 28, 1988.

Place: National Science Foundation, 1800 G Street NW., Room 540-B.

Type of Meeting: Open—October 27, from 8:30 a.m. to 10:30 a.m. and 12:30 p.m. to 1:30 p.m.; Closed—from 1:30 p.m. to 5:00 p.m.

Closed—October 28, from 8:30 a.m. to 4:00 p.m.

Contact: Rachelle Hollander, Program Director, Ethics and Values Studies, National Science Foundation, Washington, DC 20550, Telephone (202) 357-9894, Room 312.

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning research in the Ethics and Values Studies Program.

Agenda: Closed—Review and evaluate research proposals and projects as part of the selection process for awards.

Open—Discussion of Draft Report of EVS Oversight Committee and of new Guidelines for EVS, and Brown Bag Seminar—Topic: *Ownership of Data.*

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc 88-23802 Filed 10-13-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Genetics; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Genetics.

Date and Time: Monday, Tuesday, and Wednesday, October 31, November 1, and 2, 1988, 8:30 a.m. to 5:00 p.m.

Place: The National Science Foundation, 1800 G Street, NW., Room 536, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Phillip Harriman, Program Director, Prokaryotic Genetics, Room 325, Telephone (202) 357-9687.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of proposals U.S.C. 552b(c), Government in the Sunshine Act.

Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc 88-23794 Filed 10-13-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Human Cognition & Perception; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Human Cognition & Perception.

Date and Time: October 27-28, 1988, 9:00 a.m.—5:00 p.m.

Place: National Science Foundation, 1800 G Street NW., Room 643, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Joseph L. Young, Program Director, Human Cognition and Perception, Room 320, National Science Foundation, Washington, DC, 20550, Telephone (202) 357-9898.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in human cognition and perception.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88-23824 Filed 10-13-88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Linguistics; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Linguistics.

Date and Time: October 19–20, 1988 9:00 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street NW., Rm 523, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Paul G. Chapin, Program Director for Linguistics Room 320, National Science Foundation, Washington, DC 20550; (202) 357–7696.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in linguistics.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Manager Officer.

October 11, 1988.

[FR Doc. 88–23825 Filed 10–13–88; 8:45 am]

BILLING CODE 7555–01–M

Materials Research Advisory Committee; Meeting

The National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee.

Date: Thursday and Friday, November 3 and 4, 1988.

Time: 8:00 a.m.—5:00 p.m., both days.

Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Part Open (Thursday a.m., Friday p.m.) Part Closed (Thursday p.m., Friday a.m.)

Contact Person: Dr. A.I. Schindler, Division Director, Division of Materials Research, Room 408, National Science Foundation, Washington, DC, 20550.

Summary Minutes: May be obtained from the Contact Person, Dr. A.I. Schindler, at the above stated address.

Purpose of Committee: To carry out oversight review of the Solid State Physics, Solid State Chemistry, Low Temperature Physics, and Condensed Matter Theory Programs.

Agenda:

Thursday Morning, November 3, 1988 (OPEN)

8:00 a.m.—Welcome and Introductions; Adoption of Minutes.

8:15 a.m.—Division Overview and Issues.

9:00 a.m.—Staff Briefing on Programs:

- Solid State Physics Program.
- Solid State Chemistry Program.
- Low Temperature Physics Program.
- Condensed Matter Theory Program.

12:00 Noon—Lunch.

Thursday Afternoon, November 3, 1988 (CLOSED)

1:30 p.m.—Oversight Review of the Solid State Physics, Solid State Chemistry, Low Temperature Physics, and Condensed Matter Theory Programs, including examination of proposals, reviewer comments, and other privileged material.

5:00 p.m.—Adjournment.

Friday Morning, November 4, 1988 (CLOSED)

8:00 a.m.—Continuation of Oversight Reviews.

12:00 Noon—Lunch.

Friday Afternoon, November 4, 1988 (OPEN)

1:30 p.m.—Meeting with NSF Director Erich Bloch.

2:30 p.m.—Discussion of Long Range Plan and Other Issues.

3:15 p.m.—Discussion of Education and Human Resources Issues.

4:00 p.m.—Briefing on Science and Technology Centers.

4:45 p.m.—Closing Remarks.

5:00 p.m.—Adjournment.

Reasons for Closing: The meeting will consist of a review of grant and declination jackets that contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. The meeting will also include a review of the merit review documentation pertaining to the applications. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebacca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88–23797 Filed 10–13–88; 8:45 am]

BILLING CODE 7555–01–M

President's Committee on the National Medal of Science; Meeting

The National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science.

Date: Monday, October 31, 1988.

Time: 9:00 a.m.–5:00 p.m.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. James F. Hays, Executive Secretary, President's Committee on the National Medal of Science, National Science Foundation, Washington, DC 20550. Telephone 202/357–9443.

Purpose of Committee: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Reason For Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The Determination made on October 6, 1988 by the Director of the National Science Foundation pursuant to the provision of Section 10(d) of Pub. L. 92–463.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88–23803 Filed 10–13–88; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Regulatory Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Regulatory Biology.

Date and Time: October 31, November 1 and 2, 1988, 8:30 a.m. to 5:30 p.m.

Place: Room 642, National Science Foundation 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Ernest J. Peck, Program Director, Regulatory Biology, Room 321, National Science Foundation, Washington, DC 20550. Telephone 202/357–7975.

Purpose of Adivsory Panel: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning

individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

October 11, 1988.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 88–23826 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Social Psychology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Social Psychology.

Date and Time: November 3–4, 1988: 9:00 a.m.–5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 642. Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Jean B. Intermaggio, Program Director, Social Psychology, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9485.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in social psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

October 11, 1988.

[FR Doc. 88–23800 Filed 10–13–88; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Irving, TX; Aviation Accident

In connection with its investigation of the crash of Delta Flight 1141, on August 31, 1988 at Dallas-Fort Worth International Airport, the National Transportation Safety Board will convene a public hearing at 9:00 a.m. on November 29, 1988, at the Dallas-Fort Worth Airport Marriott Hotel, 8440 Freeport Parkway, Irving, Texas 75063. 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.

October 11, 1988.

[FR Doc. 88–23759 Filed 10–13–88; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Policy Statement on Release of PDR User Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: This statement presents the policy of the Nuclear Regulatory Commission (NRC) with respect to the release of information about Public Document Room (PDR) users. The policy statement also prescribes procedures to be followed by NRC employees who receive requests for names of PDR users or for information regarding data or documents sought or obtained by PDR users.

EFFECTIVE DATE: October 14, 1988.

FOR FURTHER INFORMATION CONTACT: Susan Fonner, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, telephone (301) 492–1632.

SUPPLEMENTARY INFORMATION:

Policy Statement

The Nuclear Regulatory Commission maintains a Public Document Room where members of the public may obtain data and documents relevant to Commission activities.

In order to fulfill its responsibility to disseminate such information while at the same time protecting the privacy rights of PDR users and avoiding unwarranted administrative burdens, the Commission has adopted the following policy regarding the release of PDR user information:

NRC will not release the names of PDR users or information regarding data or documents sought or obtained by PDR users, except where an NRC employee requires the information for the performance of official duties,[1] where a statute, regulation, or court order requires the release of such information, or where the General Counsel has determined that the information is requested by a law enforcement agency for purposes of a criminal investigation reasonably related to the individual about whom the information is requested or to a document in the PDR collection.[2] NRC employees will use the following procedures in handling requests for PDR users' names or information regarding data or documents sought or obtained by PDR users:

1. An NRC employee who receives a request for the name or other identification of any PDR user or for information regarding data or documents sought or obtained by any PDR user identified by name or description shall refer the person making the request to the Chief of the Public Document Branch, Office of the Secretary of the Commission.

2. Upon receiving such a referral, the Chief of the Public Document Branch shall inform the requester of the NRC policy on the subject and shall notify the Office of the General Counsel of the request. If a statute or regulation clearly requires release of the information requested, the Chief of the Public Document Room may release the information prior to notification of the Office of the General Counsel.

3. If the request is accompanied by a law enforcement agency's written statement providing a clear basis for a determination that the information is requested by the law enforcement agency for purposes of a criminal investigation reasonably related to the

[1] This exception is intended to apply primarily to PDR employees. A curious NRC project manager could not obtain a list of individuals who had requested access to PDR files on the facility for which the manager is responsible. However, as a matter of policy, the NRC will inform an NRC employee who has filed an Executive Financial Disclosure Report of the names of any members of the public who have reviewed the report.

[2] A request that has no clearly defined objective will not support the application of this exception. For example, the exception will not support a general request for the names of all PDR users whose surnames reflect a particular ethnicity. It could support the release of the names of PDR users of a particular document where there had been an illegal use of the information contained in the document and such use was the subject of a criminal investigation.

individual about whom the information is requested or to a document in the PDR collection, the Chief of the Public Document Branch shall refer the request to the General Counsel, who shall consult with appropriate staff offices before determining whether to grant the request.

4. An NRC employee who is served with a court order requiring disclosure of the name or other identification of any PDR user or data or documents sought or obtained by any PDR user shall seek guidance from the Chief of the Public Document Branch and the General Counsel regarding the appropriate response to the order.[3]

Dated at Rockville, Maryland, this 7th day of October, 1988.

For the Nuclear Regulatory Commission.[4]

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-23767 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co., Pilgrim Nuclear Power Station; Issuance of Interim Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a "Second Interim Director's Decision" concerning a request filed pursuant to 10 CFR 2.206 by Massachusetts Governor Michael S. Dukakis and Attorney General James M. Shannon which requested that the Director of the Office of Nuclear Reactor Regulation (NRR) institute a proceeding to modify, suspend, or revoke the operating license held by Boston Edison Company (BECo, the licensee) for its Pilgrim Nuclear Power Station (Pilgrim).

On May 27, 1988, the Director of the Office of Nuclear Reactor Regulation issued an "Interim Director's Decision under 10 CFR 2.206" concluding that a portion of the request concerning the need for a probabilistic risk assessment was denied. The portion of the petition covering management and emergency preparedness would be addressed in a subsequent response.

The second response culminated in a "Second Interim Decision under 10 CFR 2.206" concerning numerous deficiencies in licensee management and for reasons explained in the Decision, that portion of the petition has been denied. A decision regarding emergency preparedness will be addressed in a final decision. A copy of the "Second Interim Decision under 10 CFR 2.206," DD-88-17 is available for public inspection in the Commission's Public Document Room, located in the Gelman Building, Lower-Level, 2120 L. Street, NW., Washington, DC and at the Local Public Document Room at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

A copy of the Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, the Decision will constitute the final action of the Commission, 25 days after issuance, unless the Commission, on its own motion institutes review of the Decision within that time period.

Dated at Rockville, Maryland, this 6th day of October 1988.

For the Nuclear Regulatory Commission.

Richard H. Wessman,

Director, Project Directorate I-3, Division of Reactor Projects I/II.

[FR Doc. 88-23464 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 and 50-414]

Duke Power Co. et al., Catawba Nuclear Station, Units 1 and 2; Exemption

I

Duke Power Company, et al. (the licensee) are the holders of Facility Operating License Nos. NPF-35 and NPF-52, which authorize operation of the Catawba Nuclear Station, Units 1 and 2. The licenses provide, among other things, that they are subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized water reactors at the licensee's site located in York County, South Carolina.

II

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III

Pursuant to 10 CFR 50.12:

> The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of (10 CFR Part 50), which 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.

Further, § 50.12(a)(2) provides *inter alia:*

> The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever . . . (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial

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[3] For procedures relating to the production of NRC records pursuant to court demand in a proceeding to which the NRC is not a party, see 10 CFR 9.200-2.204.

[4] Commissioner Roberts was not present for the affirmation of this order, which he would have approved had be been present.

cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited–II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Duke Power Company et al. is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 39545).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of October, 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Project—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–23772 Filed 10–13–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co., McGuire Nuclear Station, Units 1 and 2; Exemption

I

Duke Power Company (the licensee) is the holder of Facility Operating License Nos. NPF–9 and NPF–17, which authorize operation of the McGuire Nuclear Station, Units 1 and 2. The licenses provide, among other things, that they are subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized water reactors at the licensee's site located in Mecklenburg County, North Carolina.

II

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III

Pursuant to 10 CFR 50.12:

The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of (10 CFR Part 50), which 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.

Further, § 50.12(a)(2) provides *inter alia:*

The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever * * * (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Duke Power Company is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the

granting of this exemption will not result in any significant environmental impact (53 FR 39546).

This exemption is effective upon issurance.

Dated at Rockville, Maryland, this 7th day of October, 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-23776 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-269, 50-270 and 50-287]

Duke Power Co., Oconee Nuclear Station, Units 1, 2, and 3; Exemption

I

Duke Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-38, DPR-47, and DPR-55, which authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3. The licenses provide, among other things, that they are subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of three pressurized water reactors at the licensee's site located in Oconee County, South Carolina.

II

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III

Pursuant to 10 CFR 50.12:

> The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of (10 CFR Part 50), which 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.

Further, § 50.12(a)(2) provides *inter alia:*

> The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever * * * (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III. is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

> Duke Power Company is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 39547).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 7th day of October, 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-23773 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-321 and 50-366]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia, City of Dalton, GA, Edwin I. Hatch Nuclear Plant Unit 1; Exemption

I

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, (the licensee) are the holders of Facility Operating License Nos. DPR-57 and NPF-5, which authorize operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2. The licenses provide, among other things, that they are subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two boiling water reactors at the licensee's site located in Appling County, Georgia.

II

On August 5, 1987, the NRC published in the **Federal Register** a final rule

amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III

Pursuant to 10 CFR 50.12:

The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of (10 CFR Part 50), which 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.

Further, § 50.12(a)(2) provides *inter alia:*

The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever * * * (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III. is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia are exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 39548).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 7th day of October 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-23775 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-424]

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia City of Dalton, GA, Vogtle Electric Generating Plant, Unit 1; Exemption

I

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia (the licensee) is the holder of Facility Operating License No. NPF-68, which authorizes operation of the Vogtle Electric Generating Plant, Unit 1. The license provides, among other things, that it is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site located in Burke County, Georgia.

II

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stablization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the

implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III

Pursuant to 10 CFR 50.12:

The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of (10 CFR Part 50), which 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.

Further, § 50.12(a)(2) provides *inter alia:*

The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever * * * (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

Despite a good faith to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75% of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III. is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia are exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation rate specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 39549).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of October 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-23774 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

GPU Nuclear Corp. (Three Mile Island Nuclear Station Unit 2); Exemption

I

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the licensee) are the holders of Facility Operating License No. DPR-73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292). The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

By letter dated December 28, 1987, the licensee requested an exemption from the requirements (1) to administer the operating tests for operators and senior operators in a simulation facility, and (2) a reduction in the hourly requirements (watchstanding) for maintaining an active operator's license.

Exemption from the requirement to administer the operating tests for operators and senior operators in a simulation facility would eliminate the licensee's need for an NRC approved or certified simulation facility. The licensee therefore requested in the December 28, 1987 submittal an exemption from the requirement to submit a plan for the development of a simulation facility or an application for use of a simulation facility.

Requirements for the content of operating tests are contained in 10 CFR 55.54. Also 10 CFR 55.45(b)(1) "Administration" requires that the operating test be administered in a plant walkthrough and in a simulation facility. The term "simulation facility" is defined in 10 CFR 55.4 as:

One or more of the following components, alone or in combination, used for the partial conduct of operating test for operators, senior operators and candidates: 1. The plant, 2. A plant-referenced simulator, 3. Another simulation device.

A schedule for implementing this requirement is contained in 10 CFR 55.45(b)(2) "Schedule for facility licensees." This section requires that within one year after the effective date of this part (May 26, 1987) each facility shall submit a plan for the development of its simulation facility. The license has also requested an exemption from this requirement consistent with their request for an exemption from the requirement to use a simulation facility to license operators.

Application and certification requirements for a simulator facility are given in 10 CFR 55.45(b)(4) and 10 CFR 55.45(b)(5) respectively. Again the licensee has also requested an exemption from these requirements consistent with their request for an

exemption from the requirement to use a simulator facility in licensing operators.

Requalification requirements for operators are given in 10 CFR 55.59 "Requalification." 10 CFR 55.59(a)(2) "Requalification Requirements" requires that each individual possessing an operator license shall pass a comprehensive requalification written examination and an operating test. 10 CFR 55.45(b)(1) requires that a simulation facility be utilized in the conduct of the operating test. Thus, the licensee requests an exemption from the requirement to utilize a simulation facility in satisfying the requirements of 10 CFR 55.59(a)(2).

The licensee also requested in the December 28, 1987 letter an exemption from the hourly or watchstanding requirements for maintaining an active operator's license. The hourly watchstanding requirements for maintenance of an operator's license are contained in 10 CFR 55.53(e) and (f). To maintain active status 10 CFR 55.53(e) requires in part that the licensee actively perform the functions of an operator or senior operator on a minimum of seven 8-hour or five 12-hour shifts per calendar quarter. If this requirement is not met, before resumption of functions authorized by a license, 10 CFR 55.53(f) requires, in part, that the licensee has completed a minimum of 40 hours of shift functions under the direction of an operator or senior operator as appropriate and in the position to which the individual will be assigned. The licensee proposed a substantial reduction in both above stated watchstanding requirements.

The licensee, after discussions with the NRC staff, has revised their request for reduction in watchstanding requirements from their original proposal contained in the December 28, 1987 letter. The licensee now proposes the watchstanding requirement to maintain an active operator's license as described in 10 CFR 55.53(e) be reduced from a minimum of seven 8-hour shifts to four 8-hour shifts per calendar quarter. The licensee also proposed to reduce the watchstanding requirement to resume active status if the watchstanding requirement to maintain active status is not met from 40 hours of shift function, as presently required by 10 CFR 55.53(f), to two 8-hour shifts.

III

TMI-2 is currently in a post-accident, cold shutdown, long-term cleanup mode, with sufficient decay heat removal assured by direct heat loss from the reactor coolant system to the reactor building atmosphere. The licensee is presently engaged in defueling the damaged reactor, decontaminating the facility and readying the plant for long-term storage. As of the end of June 1988 approximately 65% of the fuel contained in the reactor vessel has been removed. Defueling the facility has progressed to the regions below the location of the original core volume. Defueling activities within the reactor building will be completed early in calendar year 1989. At that time, once the possibility of a criticality is precluded the licensee will no longer be required to man the control room with licensed operators. The requirements to maintain safety related plant systems has already been deleted from the operating license and the control room is now principally used as a central location to monitor plant conditions. The present unconventional configuration of the TMI-2 plant and its continuing changing nature as defueling and decontamination progresses does not allow testing of licensed operators on evolutions normal to an operating facility.

The licensee has requested exemption from the requirements to use a simulation facility for licensed operator testing and requalification and has also requested reductions in the watchstanding requirements to maintain an operator's license, which requires an exemption from the regulations.

Due to the unique cold-shutdown, partially defueled condition of TMI-2, there is no plant-referenced simulator or simulation facility that reflects the current condition of TMI-2. The time to design, procure, install, and begin to operate a simulation facility would exceed the period of time in which licensed operators would be required at the facility. Furthermore, due to the changing nature of the cleanup effort any design of a simulator would be quickly outdated. The use of the facility as a simulation facility is not practical since this would require facility manipulations not authorized by the facility license.

The licensee does not plan to license any additional operators between now and the end of defueling next spring when licensed operators will no longer be needed. Maintenance of current operator licenses will be through an approved TMI-2 Licensed Operator Requalification Training Program. Although 10 CFR 55.59(a)(2) requires that the requalification training program consist of both a written examination and an operating test and 10 CFR 55.45(b)(1) requires a simulation facility for conducting the operating test, the licensee proposes not to employ a simulation facility for annual requalification. The NRC approved requalification program consists of pre-planned lectures, a plant drill program, an operational review program and an evaluation of each licensed operator.

The NRC staff has determined that the current and future plant conditions, the length of time that licensed operators will be needed, and the time necessary to construct a simulator warrant exemptions to the requirements of 10 CFR 55.45(b)(1), "Implementation-Administration," 10 CFR 55.45(b)(2), "Schedule for facility licensees," 10 CFR 55.45(b)(4), "Application for and approval of simulator facilities," 10 CFR 55.45(b)(5), "Certification of simulation facilities," and 10 CFR 55.59(a)(2), "Requalification requirements" to the extent that they require a simulation facility or the use of a simulation facility to grant or maintain operators licenses.

The staff recognizes that some reduction in the hourly watchstanding requirement for maintenance of an operator's license is appropriate. The current requirements of 10 CFR 55.53 were based on the assumption that the operators would be controlling an operating facility which is not the case at TMI-2. The TMI-2 operators function largely to prevent a criticality in a reactor in which the potential for a criticality is greatly reduced from operating facilities. Furthermore, the potential for recriticality at TMI-2 decreases on an almost daily basis as defueling progresses. In contrast to operating facilities, TMI-2 is essentially in a static mode with little change from day to day. The principal operator activity is monitoring various plant parameters to assure the continued safe shutdown of the facility and assist the ongoing decontamination and defueling activities.

Based on a review of the operator licensing requirements, the NRC staff finds that reducing the hourly watchstanding for maintenance of an operator's license from seven 8-hour shifts or five 12-hour shifts per calendar quarter to four 8-hour shifts per quarter appropriate. Further, the staff finds that if a licensed operator fails to meet the quarterly requirement, before reinstatement and resumption of functions authorized by a license, the licensee must complete a minimum of two 8-hour shifts instead of 40 hours of shift work.

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 55.11, these exemptions are authorized by law, and will not endanger life or property and are otherwise in the public interest.

Accordingly, the Commission hereby grants exemption from the requirements of 10 CFR 55.45(b)(1), (2), (4), (5) and 10 CFR 55.59(a)(2) to the extent that these sections require a simulation facility to grant or maintain an operator's license. The Commission also grants exemption from 10 CFR 55.53(e) and (f) to the extent that the hourly watchstanding requirements to maintain an operator's license is reduced to four 8-hour shifts per calendar quarter and the requirement to reinstate the license if the quarterly requirement is not met is reduced to a minimum of two 8-hour shifts.

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant impact on the environment (53 FR 37375).

This exemption is effective as of the date of issuance.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland this 6th day of October 1988.

[FR Doc. 88-23771 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320-OLA (Disposal of Accident-Generated Water) ASLBP No. 87-554-04-OLA]

General Public Utilities Nuclear Corp. et al., Three Mile Island Nuclear Station, Unit 2; Schedule of Hearings

October 5, 1988.

Before Administrative Judges: Peter B. Bloch, Chair, Glenn O. Bright, Dr. Oscar H. Paris.

Upon the oral, ex-parte motion of Joint Intervenors and the oral consent of the other parties, we will hold the following limited appearance session during the October 31, 1988 hearings:

Date: November 3.
Place: Lancaster County Courthouse, 50 North Duke Street, Courtroom A, Lancaster, Pennsylvania 17603.
Time: 7 pm to 10:00 pm.

Written statements of intention to appear or written limited appearance statements may be filed with the Board prior to October 28, 1988. Each oral presentation will be limited to roughly five to ten minutes, subject to extension for good cause.

We respectfully advise the public that limited appearance statements are not part of the evidentiary record on which this case must be decided. If public concerns exceed our jurisdiction, we will suggest who may have the power to respond. If serious, relevant new questions are raised, the Board may require answers from the parties on the record.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chair, Administrative Judge.

Bethesda, Maryland.

[FR Doc. 88-23768 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co., Shoreham Nuclear Power Station; Exemption

I

Long Island Lighting Company (the licensee) is the holder of Facility Operating License No. NPF-36, which authorizes operation of the Shoreham Nuclear Power Station. The license provides, among other things, that it is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a boiling water reactor at the licensee's site located in Suffolk County, New York.

II

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since the rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III

Pursuant to 10 CFR 50.12:

The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of [10 CFR Part 50], which 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.

Further, § 50.12(a)(2) provides *inter alia*:

The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever * * * (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee is required to carry at least $337 million insurance. Because Shoreham Nuclear Power Station (SNPS) is operating at less than five percent, the licensee has been exempted from carrying $1.06 billion until such time as an authorization to operate SNPS at power levels greater than five percent is granted (53 FR 21955, June 10, 1988). This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. In addition, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect

public health and safety and the environment.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in Section III. is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in Section III. Therefore, the Commission hereby grants the following exemption:

Long Island Lighting Company is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 38812) (53 FR 39549).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of October 1988.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-23770 Filed 10-13-88; 8:45 am]

BILLING CODE 7590-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meetings

Notice is hereby given of meetings of the Prospective Payment Assessment Commission on Wednesday and Thursday, October 26 and 27, 1988, at the Hyatt Regency Crystal City at Washington National Airport, 2799 Jefferson Davis Highway, Arlington, Virginia.

The Subcommittee on Diagnostic and Therapeutic Practices will be meeting in the Kennedy Room on the Second Floor, at 9:00 a.m. October 26, 1988. The Subcommittee on Hospital Productivity and Cost-Effectiveness will convene its meeting at 9:00 a.m. in the Jefferson/Lincoln Rooms also on the second floor, on October 26, 1988.

The full Commission will meet at 9:00 a.m. in the Kennedy/Jefferson/Lincoln Rooms on October 27, 1988.

All meetings are open to the public.

Donald A. Young, MD,

Executive Director.

[FR Doc. 88-23467 Filed 10-13-88; 8:45 am]

BILLING CODE 6820-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26162; File No. SR-BSE-87-6]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change; Specialist Performance Evaluation Pilot Program

On June 22, 1987 and August 21, 1987, the Boston Stock Exchange, Incorporated ("BSE" or "Exchange") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,[1] copies of a proposed rule change that would (1) revise the Specialist Performance Evaluation Questionnaire, (2) eliminate Quotation evaluations from the Specialist Performance Evaluation Program ("SPEP"), and (3) implement the SPEP on a twelve month pilot basis.[2]

Notice of the proposal together with its terms of substance was provided by the issuance of a Commission release (Securities Exchange Act Rel. No. 25086, November 3, 1987) and by publication in the Federal Register, 52 FR 43416. No comments were received in connection with the proposal.

Currently, the Exchange's specialist performance evaluation program consists of two performance measures: (1) A Specialist Performance Evaluation Questionnaire ("questionnaire"), which accounts for 75% of a specialist's overall performance evaluation grade, and (2) a quotation evaluation score, representing the remaining portion of the grade. Under SPEP procedures, specialist performance reviews are conducted every four months. The results of these performance evaluations are one of the several factors considered by the Exchange in allocating stocks to specialist units.

The questionnaire is completed by floor brokers, specialists acting as floor brokers in their non-specialty stocks, and certain other qualifying clerks. Each respondent is requested to grade a specialist's performance in the area addressed by each question. As noted above, the Exchange proposes to substantially revise the questionnaire. The revised questionnaire contains 13 questions (9 of the 13 questions are weighted) as opposed to the former questionnaire which consisted of nine weighted questions and five background questions. Further, the Exchange proposes to modify the grading scale used to rate specialists performance, replacing the former five point grading scale with a nine point grading scale. In addition to these revisions, the Exchange proposes to raise the standard for minimum acceptable specialist performance from 3.0 to 4.5 to accommodate the new grading scale.[3]

The second performance measure assesses the quality of quotations disseminated through the Consolidated Quotation System. Under this performance measure, specialists are evaluated on the competitiveness of their quotations in their six most active Intermarket Trading System ("ITS") issues. In evaluating specialists in this performance area, the Exchange utilizes a schedule whereby manually input quotations are credited if the bid or offer meets an increasing size requirement at each one-eighth point interval away from the primary market.[4] A specialist is deemed to have performed unsatisfactorily if at least 20% of its quotes failed to meet the schedule's requirements during an evaluation period.

Specialist units whose performance falls below certain threshold levels of acceptable performance are subject to performance improvement actions. These actions are triggered in the event a specialist unit receives (1) an overall average grade below 4.5 on the revised questionnaire, or (2) an average grade below 4.5 for one question for two of three consecutive evaluation periods, or (3) fails to meet the quotation schedule at least 20% of the time. Specialists units coming under any of these categories are requested to meet informally with a Performance Improvement Subcommittee ("Subcommittee"). In this meeting, the Subcommittee discusses the

[1] 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b-4.

[2] The Commission last approved the SPEP on a one-year pilot basis on March 10, 1986. The pilot expired on March 10, 1987. The current filing would renew the pilot for another one-year term. *See* Securities Exchange Act Rel. No. 22993, March 10, 1986, 51 FR 8928.

[3] *See* letter from Joseph P. Carmichael, Vice-President, BSE, to Ervin L. Jones, Jr., Attorney, Division of Market Regulation, dated September 21, 1988.

[4] If, for example, the bid or offer is equal to or better than the primary market quotation, the minimum size required to receive full credit is 100 shares. For one-eighth point variations, the size requirement is 200 shares. Five hundred shares would be required for variation of one-quarter. The current maximum acceptable variation away from the primary market quotation, under the program, is three-eighths of a point; the minimum size required in these cases is 1,000 shares to receive full credit.

unit's poor performance and possible measures to improve the specialist's performance during the subsequent evaluation period. The meeting is voluntary and a specialist unit may elect not to attend.

A mandatory meeting with the Market Performance Committee ("MPC") is required in the event a specialist receives an average overall grade below 4.5 on the questionnaire for two of three successive evaluation periods, or if the unit receives a grade below 4.5 on one question in one out of two evaluation periods subsequent to meeting the conditions for an informal review by the Subcommittee. In addition, specialist units who do not meet the program's quotation requirements at least 20% of the time for two of three consecutive review periods are also required to meet with the MPC.

The MPC may impose the following sanctions upon a unit following the mandatory hearing: (1) Withdraw Exchange approval of a member's registration as a specialist in one or more stocks, (2) reduce the percentage of stocks that may be protected by a specialist when new specialist books are allocated (all specialists are obligated to reserve 10% of their specialty stocks for acquisition by new specialists developing a book), or (3) suspend the specialist's trading account. BSE Rules also permit the MPC to impose any other performance improvement actions it deems appropriate to improve a unit's performance.

As noted above, the Exchange proposes to eliminate quotation evaluations from the SPEP. The Exchange indicates that, although quotation evaluations are designed to provide an objective assessment of specialist performance, it believes that the measure is flawed. In particular, the Exchange notes that the manual intensity normally required to update and maintain competitive quotations on the keyboard of a specialist's computer terminal, particularly during periods of heavy trading, lead many BSE specialists to rely heavily upon automatic quotation systems, or "autoquotes", to track the primary market and update quotations in their assigned issues.[5] Consequently, the quotation portion of the program became less meaningful as an objective performance measure because specialists were utilizing computerized tracking systems to meet BSE quotation requirements.

The Exchange also believes that during periods of heavy system traffic, autoquotes generally are slow in updating BSE quotations to equal or better the primary market quote in a particular stock. As a result in this delay, specialists at other regional exchanges relying on the Consolidated Quotation System to update their quotations generally receive stale BSE quotes. The Exchange indicates that it intends to develop new objective criteria to replace quotation evaluations. The new criteria, according to the Exchange, will be directly related to BEACON, the Exchange's automated order-routing and communication system.

After careful consideration of BSE's proposal to modify its specialist performance evaluation program as well as implement it on a twelve month pilot basis, the Commission has determined to approve the proposal. The Commission believes that the proposed revisions to the questionnaire, including the expanded grading scale, will elicit more comprehensive and precise responses to survey questions. At the same time, the Commission notes that the Exchange intends to reintroduce objective performance measures into the program following the full implementation of BEACON. Although the Commission believes that the development of objective criteria for evaluating market making performance will improve specialist performance reviews, the BSE has expressed concerns about the quotation criteria it had been using. Accordingly, it is reasonable for the BSE to eliminate the quotation standard while it develops other objective criteria. The Commission believes that with the development and incorporation of BEACON-related objective measurements into BSE's program and with the continued use of the revised questionnaire, the program will provide the Exchange with both subjective and objective performance data that will enable the Exchange to better identify poorly performing specialist units and to take appropriate action where warranted through the imposition of the designated sanctions, including the reallocation of stocks, or other measures deemed appropriate.

During the development of these objective performance standards, however, performance improvement actions will be triggered by below average questionnaire grades, which are based upon the subjective opinions of floor brokers, clerks, and certain specialists. The Commission believes that the procedural safeguards contained in the program that provide for written notice and for the opportunity to be heard will ensure that a specialist unit whose performance is determined to be substandard by questionnaire results will have an appropriate forum in which to defend its performance.[6] Accordingly, in the event that a unit believes that its performance is unfairly or inaccurately graded, it may present its case to the full MPC and, if appropriate, explain any mitigating circumstances that may have contributed to its substandard performance.

Finally, the Commission believes that implementing the SPEP on a new twelve month pilot basis will enable the Exchange to monitor the effectiveness of the revised questionnaire in assessing specialist performance, while at the same time allowing the Exchange to continue its efforts to develop new objective criteria. The Commission expects the Exchange to submit the new objective measures to the Commission as soon as possible after gaining experience with BEACON, pursuant to section 19b of the Act and Rule 19b–4 thereunder, at which time the Commission will consider whether to permit the new measures to be immediately incorporated into the pilot or to postpone such incorporation until the pilot is renewed or approved on a permanent basis.

Based upon the above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

October 6, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–23821 Filed 10–13–88; 8:45 am]

BILLING CODE 8010–01–M

[5] *See SR–BSE–84–4*, Amendment 4. Automatic quotation systems utilize computerized tracking programs which monitor the primary market's quotations in a given stock and continuously update, to certain set parameters, the stocks quotes on a secondary exchange. Manual quotes, by contrast, must be continually monitored, assessed and updated by hand.

[6] *See e.g.*, BSE Constitution Article III, Section 2.

[Release No. 34-26140; File No. SR-NASD-88-40]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Relating to Article III, Section 35(c)(1) of the NASD Rules of Fair Practice

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 28, 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 Organizations Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendments to Article III, section 35(c)(1) of the NASD's Rules of Fair Practice generally require that all members, within 10 days of first use, file with the NASD's Advertising Department advertising and sales literature concerning registered investment companies. Members are not required to file advertising and sales literature that have previously been filed and which are used without change.

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 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 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

Under the current version of Article III, section 35(c)(1) only NASD members that are the principal underwriters of investment company securities must file with the NASD Advertising Department advertising and sales literature concerning such securities within 10 days of first use. The current rule makes advance submission of such advertising and sales literature optional.

In recent years both the Commission and the NASD have addressed various problems that have arisen in connection with mutual fund advertising (*see generally* SEC Release Nos. 33-6735 and IC-16245; NASD Notice to Members 86-41). The proposed amendments to section 35(c)(1) attempt to address one such problem. Specifically, it has been the NASD's experience that problems with mutual fund advertising have not been limited to material prepared by investment company underwriters. Rather, the majority of complaints that the NASD has received regarding investment company communications related to materials that were prepared not by underwriters, but by dealers. Often, such dealer-prepared material has been written and published by individual representatives or branch managers and fails to observe applicable SEC or NASD requirements. The NASD is proposing to address this problem by amending Article III, section 35(c)(1) to extend the advertising filing requirement to include not only principal underwriters, but all NASD members that use mutual fund advertising and sales literature, and to recommend that such materials be filed in advance of use. In addition, the proposed rule change clarifies that members need not file advertising and sales literature that has been previously filed with the NASD and which is used without change.

The proposed amendment is consistent with section 15A(b)(6) of the Act, which mandates that the rules of a national securities association be designed to promote just and equitable principles of trade and to remove impediments to, and perfect the mechanisms of a free and open market because it will provide the NASD with a means for detecting inaccurate or misleading dealer-prepared advertising and sales literature regarding mutual funds.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The proposed amendments were published for comment in NASD Notice to Members 88-20 on March 14, 1988. As a result of the Notice, the NASD received 34 comment letters.[2] Of these, 16 comment letters (47%) generally favored the proposed amendments, 16 (47%) were generally opposed, and 2 commented only on proposed rules and procedures.

Favorable Comments: Among the 16 comment letters that expressed general approval of the proposed amendments was one from the Director of the SEC's Division of Investment Management offering the Division's informal support for the proposal. In addition, the Investment Company Institute ("ICI") expressed support for the proposed amendments, noting that they would put dealers and underwriters on an equal footing with respect to filing requirements. The ICI expressed the view that such parallel filing requirements were appropriate given that 80% of the complaints that the NASD had received regarding investment company advertising concerned dealer-prepared materials. Other commentators that favored the proposed amendments noted that they would help assure that the public received more standardized information, particularly with respect to yields, the inclusion of sales charges in performance calculations, and risk disclosure. Such standardization, the commentators noted, would result in more accurate and factual advertising.

Among those commentators that favored the proposed amendments, the most frequently expressed concern was that the amendments could lead to duplicate filings, particularly if dealers could not readily determine whether material supplied by an underwriter had already been filed with the NASD. Several commentators suggested specific language or procedures that they believed would help alleviate duplicative filings.

In response to these comments the NASD notes that under existing Advertising Department procedures, each item of advertising or sales literature is assigned a reference number. In approving the proposed rule change for member vote, the NASD contemplated that, in order to avoid duplicative filings, underwriters would advise any dealer to which they supplied advertising material of the NASD reference number that had been assigned to the material. This procedure has proved satisfactory in avoiding duplicative filings with respect to direct participation programs ("DPPs") which have been subject, since 1987, to a filing

[2] The Notice to Members, a list of the commentators, and the comment letters are attached as Exhibit 2 to the rule filing.

requirement that parallels the one contained in the proposed rule change. Thus, based on its experience with the filing of DPP advertising, the NASD does not believe that the proposed amendments will result in duplicative filings, as some commentators feared.

One commentator suggested that, because many of the problems in the advertising area resulted from a dealer's revisions to an underwriter's ad mat, the last sentence of the proposed language be revised to read: "Members are not required to file advertising and sales literature which has been filed * * * by another member, *and which are used without revision.*" The NASD incorporated this suggestion by the addition of language clarifying that the exception from filing extends only to advertising and sales literature which has been previously filed and is used without charge.

Two commentators stated that they believe the filing fee of $15.00 per submission should be waived for material filed pursuant to the proposed amendments. In addition, two commentators questioned whether implementing the amendments would impose such a burden upon the NASD's Advertising Department staff that delays would occur in responding to advertising submissions. In response to such comments the NASD notes that its experience with the parallel filing requirement that applies to DPPs suggests that the volume of filings resulting from the proposed amendments should not seriously impede the Advertising Department's ability to respond to submissions in a timely manner. Moreover, since it is not anticipated that the proposed rule will result in duplicative filings, the NASD believes that its customary filing fee is reasonable and need not be waived for filings made pursuant to the proposed rule.

Two commentators suggested that filing should be required prior to use. One such commentator suggested that pre-use filing should be required only for material that contained yield quotations. Another commentator, however, proposed that the rule should require prior filing of all material. In framing the proposed amendment, the NASD considered the question of whether pre-use filing should be required for some or all materials, and determined that, in light of the costs and administrative burdens that mandatory pre-use filing would impose, the current version of the amended rule, which recommends but does not require such filing, should prove sufficient. In this connection the NASD notes that, when particular facts of a member's advertising history suggest the need for pre-use filing, the NASD may impose such a requirement as a disciplinary measure.

Negative Comments: Sixteen commentators expressed general opposition to the proposed amendments. The most frequently cited ground for opposing the proposed amendments was that current procedures under section 35 were adequate to ensure that members did not make misleading or exaggerated claims in advertising, and thus the proposed amendments would impose an unnecessary burden on those dealers whose advertising was already in compliance. Several of these commentators maintained that the number of 1987 complaints (240) was relatively small compared to the number of firms using investment company material, and that the existing regulations, which empower the NASD to impose a pre-use filing requirement upon specific firms that used misleading or inaccurate advertising or sales material, were adequate.

The NASD considered the substance of such comments in framing the proposed amendments, but determined that, since the majority of complaints received concerned dealer-prepared advertising and sales literature, the current procedures set forth under section 35 had not proved adequate to prevent abusive practices. Although the NASD recognizes that the number of complaints received may be insignificant in comparison to the total number of firms that use investment company material, the fact that the majority of the complaints concerned dealer-prepared materials strongly indicates the need to impose filing requirements upon members other than principal underwriters.

As was the case among commentators that favored the proposal, several commentators that were opposed to the proposed amendments expressed concern at the increased costs that would be imposed upon member firms. Not only would each piece filed be subject to the $15.00 advertising service charge, such commentators noted, but the administrative costs of filing, recordkeeping and supervision would increase. In addition, some commentators noted that the proposal, if enacted, would be time-consuming for the Advertising Department staff, and could result in delays in preparing responses. As noted above, based on its experience with DPP filings, the NASD does not anticipate that its review of mutual fund filings will significantly impede the ability of the Advertising Department to review submissions in a timely manner. And, because the NASD does not anticipate that the proposed rule change will result in duplicative filings, the NASD does not believe that its implementation will cause member firms to incur unreasonable administrative costs.

Like many of the commentators that favored the proposed amendments, a number of the commentators that were opposed to the amendment expressed concern at the prospect of duplicative filings. Several such commentators expressed the view that a code or other designation should be developed in order to inform dealers as to which material had already been filed with the Advertising Department. As noted above, the NASD believes that, based on its experience with DPP filings, duplication can be avoided if underwriters provide to recipients of advertising materials the reference numbers that the Advertising Department routinely assigns to such materials.

Three commentators suggested that the need for a filing requirement would be eliminated if dealers were not allowed to produce sales material, but were required to use only advertising and sales literature prepared and supplied by underwriters. The NASD considered this comment and determined that a filing requirement was far less intrusive than a total ban on dealer-originated advertising.

Finally, some commentators suggested that the NASD formulate guidelines to assist the membership in preparing advertising and sales literature instead of imposing a filing requirement. The NASD considered this request and determined that NASD rules do, in fact, provide such guidelines to members, and that the purpose of filing requirements was to ensure that members observed the guidelines.

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 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. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–88–40 and should be submitted by November 4, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: October 6, 1988.

[FR Doc. 88–23820 Filed 10–13–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–16591; File No. 812–7050]

Application; Nationwide Life Insurance Co., et al.

October 7, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Nationwide Life Insurance Company ("Nationwide"), Nationwide Variable Account–II ("Variable Account–II"), and Nationwide Financial Services, Inc.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants seek an order to the extent necessary to permit the deduction from the assets of Variable Account–II of a mortality and expense risk charge imposed under certain variable annuity contracts.

Filing Date: The application was filed on June 24, 1988 and amended on September 1, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. And interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on November 1, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send a copy 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; Nationwide, Variable Account–II, and Nationwide Financial Services, Inc., One Nationwide Plaza, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Wendell M. Faria, Staff Attorney, at (202) 272–3450, or Clifford E. Kirsch, Special Counsel, at (202) 272–2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the applications; 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).

Applicants' Representations

1. Nationwide is a stock life insurance company incorporated under the laws of Ohio and admitted to do business in all states and the District of Columbia. Variable Account–II, registered as a unit investment trust under the 1940 Act, was established to fund certain Individual Deferred Variable Annuity Contracts (the "Contracts") issued by Nationwide. Nationwide Financial Services, Inc. is the general distributor for the Contracts.

2. No sales charge is deducted from purchase payments made under the Contracts. A contingent deferred sales charge (CDSC) may be assessed against contract values upon surrender. The time from receipt of each purchase payment to the time of surrender determines the amount of the CDSC. The declining CDSC is in the maximum amount of 7% of a purchase payment, declining to 0% after the 7th year.

3. An annual Contract Maintenance Charge of $30 is deducted from the contract value, as well as an Administration Charge equal on an annual basis to .05% of the daily net asset value of the Variable Account. The .05% Administration Charge is deducted during both the "pay-in" accumulation phase and the "pay-out" annuity phase. Nationwide relies upon Rule 26a–1 to assess the Contract Maintenance Charge and the Administration Charge. In this regard, Nationwide will monitor the proceeds of the Administration Charge to ensure that they do not exceed expenses without profit.

4. Nationwide will assess a mortality and expense risk charge at an annual rate of 1.25% of the value of Variable Account–II. Of this amount, .80% represents mortality risks and .45% represents expense risks.

5. The expense risk Nationwide assumes is the guarantee that the annual Contract Maintenance Charge and the Administration Charge will never be increased regardless of actual expense incurred by Nationwide. The mortality risk Nationwide assumes is twofold: (1) The annuity risk of guaranteeing to make monthly payments for the lifetime of the annuitant regardless of how long the annuitant may live; and (2) the guaranteed minimum death benefit risk it assumes in connection with its promise to return, at a minimum, the contract owner's purchase payments upon death even if the investment experience in Variable Account–II has eroded the contractowner's principal investment. The annuity risk is present in the form of annuity purchase rates that are guaranteed at issue for the life of the contract. The mortality is estimated using average mortality rates determined by the 1971 Individual Annuity Table with ages set back one year. There is also the risk that the average life expectancy of the entire population may grow longer.

6. If the mortality and expense risk charge is insufficient to cover the actual cost of the mortality and expense risk, the loss will be borne by Nationwide; conversely, if the mortality and expense risk charge proves more than sufficient, the excess will be a profit to Nationwide. Should the charge result in a profit to the Company, it will become part of the Company's General Account surplus.

7. Applicants represent that the mortality and expense risk charge is within the range of industry practice for comparable annuity products and is reasonable in relation to the risks assumed under the Contracts. This representation is based upon Nationwide's analysis of publicly available information of other insurance companies of similar size and risk ratings offering similar products. Nationwide will maintain, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and

results of, its comparative survey. Nationwide also maintains a supporting actuarial memorandum demonstrating the reasonableness of the mortality and expense risk charge, given the risks assumed under the Contracts. This memorandum will be made available to the Commission upon request.

8. The application states that the proceeds from the imposition of the CDSC may not be sufficient to cover all explicit sales expenses. Nationwide represents that there is a reasonable likelihood that Variable Account–II's proposed distribution financing arrangement will benefit Variable Account–II and the owners of the Contracts. The basis for this conclusion is set forth in a memorandum which will be made available to the Commission upon its request.

9. The application states that the investment of Variable Account–II will be made in investment companies which, if they should adopt any distribution financing plan under Rule 12b–1 under the 1940 Act, will be made up of Board of Trustees and Directors, the majority of which will be "disinterested" as defined by the Act. Such Board of Directors or Trustees must formulate and approve any such distribution plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–23818 Filed 10–13–88; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16590; (812–7114)]

Application; Shearson Lehman Massachusetts Municipals et al.

October 7, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Shearson Lehman Massachusetts Municipals ("Shearson Massachusetts"); Shearson Lehman Michigan Municipals ("Shearson Michigan"); Shearson Lehman Ohio Municipals ("Shearson Ohio"); Shearson Lehman Daily Dividend Inc. ("SDDI"); Shearson Government and Agencies Inc. ("SGA"); Shearson Daily Tax-Free Dividend Inc. ("SDTF"); Massachusetts Municipal Series ("Hutton Massachusetts"), Michigan Municipal Series ("Hutton Michigan") and Ohio Municipal Series ("Hutton Ohio"), each a series of Hutton Municipal Series Inc. ("HMS"); Lehman Management Cash Reserves Fund ("Lehman Cash"), a portfolio of Lehman Management Money Market Funds, Inc. ("LMM"); Lehman Management Government Reserves Fund ("Lehman Government"), a portfolio of Lehman Management Government Funds, Inc. ("LGF"); Lehman Management Tax-Free Reserves Fund ("Lehman Tax Free"), a portfolio of Lehman Management Tax-Free Funds, Inc. ("LTF"); Shearson Lehman Hutton Inc. ("Shearson"); and E.F. Hutton & Company Inc. ("Hutton").

Relevant 1940 Act Sections: Exemption requested pursuant to section 17(b) from section 17(a).

Summary of Application: Applicants seek an order to permit (1) Shearson Massachusetts to acquire all or substantially all the assets of Hutton Massachusetts in exchange for shares of Shearson Massachusetts; (2) Shearson Michigan to acquire all or substantially all the assets of Hutton Michigan in exchange for shares of Shearson Michigan; (3) Shearson Ohio to acquire all or all the assets of Hutton Ohio in exchange for shares of Shearson Ohio; (4) SDDI to acquire all or substantially all the assets of Lehman Cash in exchange for shares of SDDI; (5) SGA to acquire all or substantially all the assets of Lehman Government in exchange for shares of SGA; (6) SDTF to acquire all or substantially all the assets of Lehman Tax Free in exchange for shares of SDTF.

Filing Dates: The application was filed on September 1, 1988, and amended on October 6, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 1, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicants, c/o Burton M. Leibert, Esq., Willkie Farr & Gallagher, 153 East 53rd Street, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272–3047, or Brion Thompson, Branch Chief (202) 272–3016 (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 at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Each of Shearson Massachusetts, Shearson Michigan and Shearson Ohio is an open-end, non-diversified, management investment company. Each of SDDI, SGA and SDTF is an open-end, diversified, management investment company. Each of Shearson Massachusetts, Shearson Michigan, Shearson Ohio, SDDI, SGA and SDTF is an "Acquiring Fund." Shearson serves as the principal underwriter, Bernstein-Macaulay, Inc. ("Bernstein-Macaulay") serves as the investment adviser and The Boston Company Advisors, Inc. ("Boston Advisors") serves as the sub-investment adviser and administrator for each of the Acquiring Funds.

2. Each of Hutton Massachusetts, Hutton Michigan and Hutton Ohio is one of four series of HMS, a corporation registered under the 1940 Act as an open-end, diversified, management investment company. Each of Lehman Cash, Lehman Government and Lehman Tax-Free is the only investment portfolio of LMM, LGF, and LTF, respectively, each of which in turn is a corporation registered under the 1940 Act as an open-end, diversified, management investment company. Each of Hutton Massachusetts, Hutton Michigan, Hutton Ohio, Lehman Cash, Lehman Government and Lehman Tax-Free is an "Acquired Fund." Hutton serves as principal underwriter, Lehman Management Co., Inc. ("LEMCO") is the investment manager and Boston Advisors is the sub-administrator for each of Lehman Cash, Lehman Government and Lehman Tax-Free.

3. Shearson is a wholly-owned subsidiary of Shearson Lehman Hutton Holdings Inc. ("Shearson Holdings"). Shearson Holdings is a subsidiary of American Express Company ("American Express"). Hutton is an indirect, wholly-owned subsidiary of Shearson. Bernstein-Macaulay and LEMCO are wholly-owned subsidiaries of Shearson. Boston Advisors is a wholly-owned subsidiary of The Boston Company, Inc., which in turn is a wholly-owned subsidiary of Shearson.

4. As a result of these relationships, each of Shearson, Hutton, Bernstein-Macaulay, LEMCO and Boston Advisors may be deemed to be unde the common

control of Shearson Holdings and, ultimately, American Express. In addition, Shearson beneficially owns 5% or more of the outstanding shares of Shearson Michigan and Hutton beneficially owns 5% or more of the outstanding shares of Hutton Massachusetts, Hutton Michigan and Hutton Ohio.

5. Subject to, and contingent upon receipt of the affirmative vote of the holders of at least a majority of the outstanding shares of each Acquired Fund entitled to vote on the matter, voting separately by series, each Acquiring Fund proposes to acquire all or substantially all of the assets of its corresponding Acquired Fund in exchange for shares of such Acquiring Fund. Each of these transactions (individually, a "Reorganization," and collectively, the "Reorganizations") is a part of a larger reorganization of the mutual funds that are advised, administered or distributed by Shearson and its affiliates. However, each is a separate transaction that is unaffected by whether any other Reorganization is consummated.

6. The Acquiring and Acquired Funds parties to the SDDI/Lehman, SGA/Lehman and SDTF/Lehman Reorganizations do not impose a sales charge when shares are issued or a contingent deferred sales charge when shares are redeemed, and these funds do not pay any distribution expenses pursuant to Rule 12b–1 under the 1940 Act. The Acquiring and Acquired Funds parties to the Shearson/Hutton Massachusetts, Shearson/Hutton Michigan and Shearson/Hutton Ohio Reorganizations do not impose a contingent deferred sales charge on redemptions, but each fund issues its shares subject to a front-end sales charge. The sales charge imposed by each of the Acquiring Funds is identical to that imposed by the corresponding Acquired Funds. In addition, although Hutton Massachusetts, Hutton Michigan and Hutton Ohio had adopted distribution plans in compliance with Rule 12b–1 under the 1940 Act, each of those funds has waived receipt of such distribution fee; the distribution plan was terminated effective August 5, 1988. Shearson Massachusetts, Shearson Michigan and Shearson Ohio do not pay any distribution expenses pursuant to Rule 12b–1. Thus, in each case, the shareholders of the Acquired Funds will not be affected by any of these charges as a result of the Reorganizations.

7. In determining whether to recommend approval of the Reorganizations to shareholders of the Acquired Funds and in approving the terms of the proposed Reorganizations, the directors or trustees, as the case may be, of the Acquiring Funds and the Acquired Funds (including the non-interested directors or trustees, with the advice and assistance of independent legal counsel) made an inquiry into a number of matters and considered the following factors, among others: (1) The capabilities and resources of each Acquiring Fund's investment adviser, principal underwriter, sub-investment adviser and administrator and transfer agent in the areas of marketing, investment and shareholder servicing; (2) expense ratios and published information regarding the fees and expenses of the constituent and similar funds; (3) the comparative investment performance of each Acquired Fund and Acquiring Fund, as well as the performance of similar funds; (4) the terms and conditions of the Reorganizations and whether the Reorganizations would result in dilution of shareholder interests; (5) the advantages to the Acquiring and Acquired Funds as well as to Shearson and its affiliates of eliminating the competition and duplication of effort inherent in offering funds having similar investment objectives; (6) the compatibility of the funds' investment objectives, policies and restrictions, as well as service features available to shareholders in the respective funds; (7) the costs incurred by the funds as a result of the Reorganizations; (8) the tax consequences of the Reorganization; and (9) the commitment of Shearson to maintain and enhance its position in the mutual fund business and the prospects that the combination of funds will ensure the continued strength of Shearson's mutual fund efforts for the benefit of shareholders of the Acquiring Funds, including former shareholders of the Acquired Funds.

Applicant's Legal Analysis

1. As noted, certain Acquiring and Acquired Funds have investment advisers that are under "common control" (within the meaning of section 2(a)(9) of the 1940 Act) by virtue of being wholly-owned subsidiaries of Shearson, and thus, such Funds may be deemed "affiliated persons" (within the meaning of section 2(a)(3)(C) of the 1940 Act) of one another. In addition, Shearson has, or controls the company that has, a five percent or more interest in one or both Funds which are parties to a Reorganization. Because of these relationships the proposed Reorganizations may be deemed to violate section 17(a) of the 1940 Act, which generally prohibits the sale of securities or property to a registered investment company by an affiliated person thereof.

2. Applicants assert that the terms of the proposed Reorganizations are fair and reasonable and do not involve overreaching on the part of any person concerned and that the proposed Reorganizations are consistent with the policies of each registered investment company concerned. In support of this assertion Applicants point out that the number of shares to be issued to the Acquired Funds will be determined on the basis of the relative net asset values per share of the funds proposed to be combined. In addition, the directors or trustees, as the case may be, of each Acquiring and Acquired Fund, including the non-interested directors or trustees, have concluded that the Reorganization is in the best interests of the shareholders and will not result in the dilution of the interests of any existing shareholders. Applicants also note that the larger aggregate net assets of the combined funds should enable the Funds to obtain the benefits of economics of scale. Finally, although the nature of the affiliations precludes Applicants from relying on the exemption afforded by Rule 17a–8 under the 1940 Act, Applicants represent that the directors or trustees of each Fund, including the non-interested directors or trustees, have made the findings required by that Rule. Accordingly, Applicants respectfully request that the SEC issue an order exempting the proposed transactions, pursuant to section 17(b) from section 17(a) of the 1940 Act, to the extent necessary, to permit Applicants to effect the proposed Reorganizations.

For the SEC, By Division of Investment Management, under delegated authority.

Jonathan Katz,

Secretary.

[FR Doc. 88–23819 Filed 10–13–88, 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before November 14, 1988. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653–8538.

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7340.

Title: Application for Loan Pool & Application to Become a Loan Pool Assembler.

Form No.: 1454 & 1455.

Frequency: One Occasion.

Description of Respondents: Used by pool assemblers to apply for status as a pool assembler for SBA guaranteed loans, and to supply the information necessary to create loan pools.

Annual Responses: 175.

Annual Burden Hours: 560.

William A. Cline,

Chief, Administrative Information Branch.

[FR Doc. 88–23792 Filed 10–13–88; 8:45 am]

BILLING CODE 8025–01–M

National Small Business Development Center Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Friday, December 9, 1988, from 8:00 a.m. to 12:00 noon in the Administrator's Conference Room on the tenth floor, at the Small Business Administration, 1441 L Street, NW., Washington, DC.

The purpose of the meeting is to discuss such matters as may be presented by Advisory Board Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Hardy Patten, SBA, Room 317, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416, telephone (202) 653–6315.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 88–23694 Filed 10–13–88; 8:45 am]

BILLING CODE 8025–01–M

[Delegation of Authority No. 12-C; Amd. 2]

Disaster Assistance; Delegation of Authority

Delegation of Authority No. 12-C (48 FR 9980) is hereby amended to Correct the Delegated Authority in Paragraph 1.A.7.

Delegation of Authority No. 12-C is amended to read as follows:

* * * * *

A.

7. To determine eligibility and make size determinations of disaster loan applicants.

* * * * *

Effective Date: October 14, 1988.

Dated: October 4, 1988.

Edward J. Myerson,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 88–23791 Filed 10–13–88; 8:45 am]

BILLING CODE 8025–01–M

Senior Executive Service Performance Review Board; List of Members

AGENCY: Small Business Administration.

ACTION: Listing of personnel serving as members of this agency's Senior Executive Service Performance Review Boards.

SUMMARY: Public Law 95–454 dated October 13, 1978, (Civil Service Reform Act of 1978) requires that Federal Agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Boards (PRB). The following is a listing of those individuals currently serving as members of this Agency's PRB:

1. Johnnie L. Albertson, Deputy Associate Administrator for Minority Small Business and Capital Ownership Development
2. James P. Gallogly, Assistant Administrator for Information Resources Management
3. John L. Smith, District Director, Chicago District Office
4. John R. Cox, Associate Administrator for Business Development
5. Martin D. Teckler, Deputy General Counsel
6. Clifford Downen, Assistant Administrator for Congressional and Legislative Affairs
7. Nancy L. Harris, Regional Administrator, Boston Regional Office
8. Robert H. Miller, Regional Administrator, Philadelphia Regional Office
9. Eugene L. Waszily, Assistant Inspector General for Administration, General Services Administration
10. Thomas Sheehan, Assistant Inspector General for Investigation, Department of Interior
11. Richard L. Osbourn, Director of Personnel (Non-voting Technical Advisor)
12. George H. Robinson, Director of Equal Employment Opportunity and Compliance (Non-voting Equal Employment Advisor)

James Abdnor,

Administrator.

[FR Doc. 88–23693 Filed 10–13–88; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[CM–8/1226]

Advisory Committee on International Communications and Information Policy; Meeting

The Department of State announces that the Advisory Committee on International Communications and Information Policy will meet on October 28 in the Lecture Room of the National Academy of Sciences, 22nd and C Streets, NW., Washington, DC, from 10 a.m. until 12:30 p.m.

The Committee serves the Department of State in an advisory capacity concerning major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communications services, providers of such services, technology research and development, foreign industrial and regulatory policy and the activities of international organizations with regard to communications and information, and developing country interests.

In view of the regulatory and structural changes taking place in the telecommunications sector, the October 28 meeting will focus on development of U.S. policy toward two international organizations which are feeling the impact of these changes, the International Telecommunication Union (ITU) and the International Telecommunications Satellite Organization (INTELSAT). The ITU discussion will focus particularly on the upcoming ITU Plenipotentiary Conference which will review the structure, purpose and international regulatory reach of the organization.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating

available. Prior to the meeting, persons who plan to attend should so advise the office of Mrs. Lucy H. Richards, Department of State, Washington, DC, telephone (202) 647–5230.

Dated: October 5, 1988.

Lucy H. Richards,

Director, Office of Industrialized Country Policy, Executive Secretary, Advisory Committee on International Communications and Information Policy.

[FR Doc. 88–23783 Filed 10–13–88; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/1225]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Fire Protection; Meeting

The U.S. Safety of Life at Sea (SOLAS) Working Group on Fire Protection will conduct an open meeting on Monday, November 7th, 1988, at 9:30 in Room 6332 at Department of Transportation Headquarters, 400 7th Street, SW. Washington, DC 20590.

The purpose of this meeting will be to discuss plans for the 34th session of the International Maritime Organization (IMO) Subcommittee on Fire Protection, to be held in London from February 27–March 3, 1989, including: Fire test procedures; smoke and toxicity issues; chemical tanker line clearing; fire fighting systems; materials other than steel for pipe; fire protection systems for passenger ship safety; foam concentrates; cargo spaces containing irradiated fuel; ro-ro ship ventilation requirements; fire control plan symbols; vapor emissions control systems; offshore support vessels; helicopter facilities; and other miscellaneous matters.

Members of the public may attend up to the seating capacity of the room. For information contact: Ms. Marjorie Murtagh, U.S. Coast Guard (G–MTH–4), 2100 Second Street SW., Washington, DC 20593–0001; Telephone: (202) 267–2997.

Date: October 5, 1988.

Peter R. Keller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 88–23782 Filed 10–13–88; 8:45 am]

BILLING CODE 4710–07–M

Soviet and Eastern European Studies Advisory Committee Meeting

The Department of State announces that the Soviet and Eastern European Studies Advisory Committee will meet on November 4, 1988, starting at 9:00 a.m. in Room 1205, Department of State, 2201 C Street, NW, Washington, DC.

The Advisory Committee will recommend grant recipients for the advancement of the objectives of the Soviet and Eastern European Research and Training Act of 1983. The agenda will include: Opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public and receipt of written statements; and within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with certain "national organizations with an interest and expertise in conducting research and training concerning the USSR and Eastern Europe" based on the guidelines contained in the Call for Applications published in the **Federal Register** on June 9, 1988 (53 FR 21755).

Public attendance is permitted but will be limited to the seating available. Entry into the Department of State building is controlled and must be arranged in advance of the meeting. It is required that persons planning to attend notify Susan H. Nelson, Soviet and Eastern European Studies Advisory Committee, INR/RES, Department of State, 1730 K Street, NW, Suite 233, Washington, DC 20006, (202) 632–5924. All attendees must use the 2201 C Street entrance to the State Department building.

E. Raymond Platig,

Executive Director, Soviet and Eastern European.

Date: September 19, 1988.

[FR Doc. 88–23744 Filed 10–13–88; 8:45 am]

BILLING CODE 4710–32–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance; Consolidated Rail Corp.

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with a requirement of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provision involved, and the nature of the relief being requested.

Consolidated Rail Corporation Waiver Petition Docket Number PB–88–5

The Consolidated Rail Corporation (Conrail) requests a waiver of compliance with certain provisions of the Railroad Power Brakes Regulation (49 CFR Part 232). Conrail seeks a waiver compliance with § 232.17(b)(1), which stipulates, "Brake equipment on cars other than passenger cars must be cleaned, repaired, lubricated and tested as often as required to maintain it in a safe and suitable condition for service, but not less frequently than as required by currently effective AAR Code of Rules for cars in interchange." Conrail is requesting a temporary waiver of compliance of six months' duration for approximately 150 70-ton open-top hopper cars that are overdue the required cleaning, oiling, testing and stenciling (COT&S) of their air brake equipment. Conrail states that the cars are presently retired and scheduled to be cut up for scrap. According to the carrier, the air brake system on each car will be 100 percent operative. In addition, it says all other Federal Railroad Administration and Association of American Railroads requirements and/or guidelines will be met.

The need for these cars arises from the fact that Council must move approximately 400,000 tons of stone from Annville, Pennsylvania to Little Ferry, New Jersey, a distance of about 150 miles, in order to remedy a serious landfill problem at a corporate facility involved in automobile loading. The cars would be moved within a six month period in unit trains comprised of about 50 cars each commencing in October of 1988. Conrail states that at this time, "it has no other cars available, and it would not be economically feasible to put a great deal of money into cars that are going to be eventually scrapped." Conrail expressed some urgency because of the start-up date of October 1988, and a completion time of six months.

Based on Conrail's representations, FRA has conditionally approved Conrail's petition and granted an interim conditional waiver permitting the carrier to begin the movements on October 1, while its petition is being announced for public comment, considered by FRA, and finally resolved. FRA has granted this interim waiver for three main reasons. First, FRA's primary concerns have been addressed through the imposition of several safety conditions. Second, the landfill problem requires prompt action to correct a serious situation. Finally, because the cars will be scrapped on completion of this project, the relative cost to the carrier of the COT&S is substantially increased.

The following conditions of approval apply under the interim waiver:

1. Prior to movement, each car shall have its air brake system tested with an approved AAR single car test device and successfully pass the prescribed test;

2. Each car shall be stenciled on both sides, adjacent to the consolidated stencil, with the message: "FRA WAIVER-COT&S EXTENDED TO APRIL 1, 1989";

3. Each car shall be in compliance with all other Federal requirements as they pertain to open-top hopper freight cars;

4. Each car shall be moved in unit trains only, and if any car is found to have a defective air brake when an initial terminal train air brake test is performed, such car shall be removed from service until a COT&S is performed;

5. Each car shall be used exclusively for hauling stone from Annville, Pennsylvania to Little Ferry, New Jersey and return empty to Annville;

6. The cars shall not be interchanged with any other railroad;

7. Conrail shall notify FRA if the landfill project is completed before the six-month period expires, but under no circumstances shall the cars be used while overdue for COT&S after April 1, 1989; and

8. The FRA, Office of Safety, RRS–10, 400 7th Street SW., Washington, DC 20590, shall be notified as soon as practicable if any incident occurs that is attributable to an air brake on a car covered by this waiver.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (here, Waiver Petition Docket Number PB–88–5) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before November 28, 1988 will be considered by FRA before a final decision is made. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on October 6, 1988.

Philip Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 88–23682 Filed 10–13–88; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. 88–20, Notice 1]

NHTSA's Traffic Safety Plan for Older Persons

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the publication of *NHTSA's Traffic Safety Plan for Older Persons.* The plan was developed to provide a comprehensive, coordinated program for improving the safety of older persons. It incorporates the agency's response to the recommendations of the Transportation Research Board's recent study titled, *Improving the Safety and Mobility of Older Persons*, as well as other work on the safety of older persons deemed necessary based on an internal planning effort. The program covers both behavioral and vehicle countermeasures, with projects having the potential for both near term and long term impacts on the issue. It includes projects in the areas of problem indentification, occupant protection, driver licensing, pedestrian safety, consumer information, and vehicle safety.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain a copy of the plan free of charge by writing to Ms. Anitra H. McLanahan, National Highway Traffic Safety Administration, Office of Plans and Policy, 400 Seventh Street SW., Room 5208, Washington, DC 20590 (202–366–2570).

Issued on October 7, 1988.

Adele Derby,

Associated Adminstrator for Plans and Policy.

[FR Doc. 88–23681 Filed 10–13–88; 8:45 am]

BILLING CODE 4910–5r9–M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes October 28, 1988.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

Application No.	Applicant	Renewal of exemption
2709–X	United Technologies Corp., San Jose, CA.	2709
2709–X	Hercules, Inc., Wilmington, DE.	2709

Application No	Applicant	Renewal of exemption
3630-X	Mallinckrodt, Inc., Paris, KY.	3630
4575-X	Racon, Inc., Wichita, KS	4575
5022-X	Atlantic Research Corp., Gainesville, VA.	5022
5022-X	McDonnell Douglas Astronautics Co., Huntington Beach, CA.	5022
5557-X	U.S. Department of Energy, Washington, DC.	5557
5600-X	Airco Special Gases, San Marcos, CA.	5600
6267-X	Berry Plastics, Inc., Evansville, IN.	6267
6418-X	Farmer's Supply Co-operative, Inc., Ontario, OR.	6418
6434-X	Rhone-Poulenc Ag Co., Research Triangle Park, NC.	6434
6434-X	Rhone-Poulenc, Inc., Princeton, NJ.	6434
6626-X	Airco, The BOC Group, Inc., Murray Hill, NJ.	6626
6626-X	Brown Welding Supply, Inc., Salina, KS.	6626
6762-X	The DuBois Co., Sharonville, OH.	6762
6922-X	GE Silicones, Waterford, NY.	6922
6963-X	I.S.C., Limited, Bristol, England.	6963
7052-X	Schlumberger Well Services, Rosharon, TX (see footnote 1).	7052
7227-X	Lox Equipment Co., Delphi, IN.	7227
7476-X	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA (see footnote 2).	7476
7546-X	Grumman Aircraft Systems, Bethpage, NY (see footnote 3).	7546
7574-X	Remmers Aviation, Inc., Burlington, IA.	7574
7808-X	Cline-Buckner, Inc., Artesia, CA.	7808
7808-X	Whitmire Research Laboratories, Inc., Saint Louis, MO.	7808
7811-X	EM Science, Cincinnati, OH (see footnote 4).	7811
7891-X	Spectrum Chemical Manufacturing Corp., Gardena, CA.	7891
8053-X	Eastman Kodak Co., Rochester, NY.	8053
8084-X	IRECO, Inc., Salt Lake City, UT.	8084
8084-X	Austin Powder Co., Cleveland, OH.	8084
8084-X	ETI Explosives Technologies International, Inc., Wilmington, DE.	8084
8094-X	Milport Chemical Co., Milwaukee, WI.	8094
8126-X	Compagnie des Containers Reservoirs, Paris, France.	8126
8451-X	Explosive Technology, Inc., Fairfield, CA.	8451
8453-X	El Dorado Chemical Co., St. Louis, MO.	8453
8472-X	Ohmart, Corp., Cincinnati, OH.	8472
8520-X	Atlas Powder Co., Dallas, TX.	8520
8523-X	Arbel-Fauvet-Rail, Paris, France.	8523
8552-X	Brenner Tank, Inc., Fond du Lac, WI.	8552
8554-X	Quick Supply Co., Des Moines, IA.	8554
8554-X	ETI Explosives Technologies International Inc., Wilmington, DE.	8554
8554-X	Evenson Explosives, Inc., Morris, IL.	8554
8620-X	Polar Tank Trailer, Inc., Holdingford, MN.	8620
8717-X	Goodloe E. Moore, Inc., Danville, IL.	8717
8723-X	Explosives Supply Co., Inc., Shirley, MA.	8723
8723-X	Falconi Construction, Inc., dba Alpha Explosives, Lincoln, CA.	8723
8723-X	Explosives Engineers, Inc., Sparks, MD.	8723
8781-X	Mauser Packaging, Limited, Litchfield, CT (see footnote 5).	8781
8864-X	Miller Transporters, Inc., Jackson, MS.	8864
8877-X	Mallinckrodt, Inc., Paris, KY.	8877
9054-X	Florida Drum Co., Inc., Pine Bluff, AR.	9054
9069-X	Ford Aerospace & Communications Corp., San Jose, CA.	9069
9277-X	FMC Corporation—Agricultural Chemical Group, Philadelphia, PA (see footnote 6).	9277
9280-X	GE Silicones, Waterford, NY.	9280
9295-X	Applied Cos., San Fernando, CA.	9295
9317-X	Sow Chemical U.S.A., Freeport, TX.	9317
9374-X	Poly Processing Co., Inc., Monroe, LA (see footnote 7).	9374
9623-X	Quick Supply Co., Des Moines, IA (see footnote 8).	9623
9637-X	Connelly Containers, Inc., Bala-Cynwyd, PA.	9637
9654-X	Degussa Corp., Ridgefield Park, NY.	9654
9654-X	Interox America, Houston, TX.	9654
9692-X	Halliburton Services, Duncan, OK.	9692
9806-X	Stone Container Corp., Schaumburg, IL (see footnote 9).	9806

[1] To authorize modification of Paragraph 6 to include crew carrying helicopter to offshore rigs.

[2] To authorize an additional design cargo tank similar to DOT spec 307/312 equipped with inlet and discharge valve located in the center of tank for shipment of liquid and semi-solid waste.

[3] To renew and to authorize an additional heat pipe assembly containing amonia.

[4] To authorize shipment of various alcohols (173.125) and to permit staples to be used as a method of closure for fiberboard box used as overpack.

[5] To amend exemption to permit concave top head where DOT-17E now requires convex head.

[6] To authorize cargo vessel as an additional mode of transportation.

[7] To authorize an additional type metal frame design for use with a polyethylene portable tank for shipment of certain corrosive or flammable liquids, or oxidizer and a blasting agent.

[8] To amend exemption to include shipment of Class B poisons.

Application No.	Applicant	Parties to exemption
4453-P	Energy Ventures Corp. d.b.a. Columbus Powder Co., Columbus, IN.	4453
6418-P	Basin Fumigation, Quincy, WA	6418
7052-P	Honeywell, Inc.—Defense Avionics Systems Division, Albuquerque, NM.	7052
7052-P	Trimble Navigation, Lt., Sunnyvale, CA.	7052
8526-P	Birko Corp., Westminster, CO	8526
8582-P	Cedar Valley Railroad Co., Osage, IA.	8582
8582-P	Iowa Northern Railway Co., Greene, IA.	8582
8988-P	Baker Sand Control, Liverpool, TX.	8988
9235-P	Pacific Rim Packageing Corp., Richmond, CA.	9235
9750-P	Atlas Powder Co., Dallas, TX	9750
9785-P	Columbus Line, Jersey City, NJ	9785
9785-P	ECAM Container Agencies, Inc., Metairie, LA.	9785

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 6, 1988.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 88-23753 Filed 10-13-88; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1=Motor vehicle, 2=Rail freight, 3=Cargo vessel, 4=Cargo-only aircraft, 5=Passenger-carrying aircraft.

DATES: Comment period closes November 14, 1988.

Address Comments To: Dockets Branch, Research and Special Programs,

Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10054-N	Norfolk Southern Corp. and subsidiaries, Norfolk, VA.	49 CFR 174.26(c)	To permit the shipping papers for packaging in non-placarded trailers and containers to be kept on the trailers and containers themselves. (Mode 2).
10055-N	Utensco, Port Washington, NY	49 CFR 178.115, 178.116, 178.117, 178.118, 178.80, 178.81, 178.82, Part 173 Subparts D, E, F and H.	To authorize manufacture, marking and sale of drums conforming to the DOT specs 5, 5A, 5B, 17C, 17E, 17F and 17H except that during manufacture the periodic hydrostatic and drop tests would not be required for shipment of those hazardous materials presently authorized in the DOT spec 5 and 17 drums. (Modes 1, 2, 3, 4).
10056-N	Mauser Packaging Limited, Litchfield, CT.	49 CFR 178.116-7(a), Part 173, Subparts D, E, F, H.	To authorize manufacture, marking and sale of drums conforming to the DOT specification 17E except for having concave top head for shipment of those hazardous materials presently authorized in DOT 17E drums. (Modes 1, 2, 3).
10057-N	Mauser Packaging Limited, Litchfield, CT.	49 CFR 178.115-7(a), Part 173, Subparts D, E, F and H.	To authorize manufacture, marking and sale of drums conforming to the DOT specification 17C except for having concave top head for shipment of those hazardous materials presently authorized in DOT 17C drums. (Modes 1, 2, 3).
10058-N	Ciba-Geigy Corp., Ardsley, NY	49 CFR 173.245	To authorize shipment of acetic acid solution (maximum 35%) classed as corrosive material in a non-DOT specification, 10 gallon capacity polyethylene container, similar to DOT Specification 34 container. (Modes 1, 3).
10059-N	Cryogenic Services, Inc., Canton, GA.	49 CFR 173.304(a), 175.3	To authorize manufacture, marking and sale of a DOT specification 4L welded steel cylinder for shipment of liquified carbon dioxide classed as nonflammable gas. (Modes 1, 2, 3, 4).
10060-N	Ashland Petroleum Co., Ashland, KY.	49 CFR 178.337-17, 178.337-8(a)(1), 178.337-9, 178.342-5(a), Part 173, Subpart D.	To authorize transportation of various flammable and combustible liquids, spilled in highway incidents, in a modified DOT specification MC-331 tank mounted on a tandem axle truck. (Mode 1).
10061-N	Degussa Corp., Ridgefield Park, NJ	49 CFR 173.266(e)	To authorize shipment of hydrogen perioxide concentrations, not exceeding 52%, classed as an oxidizer, in non-DOT specification tote bins. (Mode 1).
10062-N	Callery Chemical Co., Pittsburgh, PA.	49 CFR 173.206	To authorize shipment of potassium, classed as a flammable solid, in DOT specification 4BA240 and 4BW240 steel cylinders. (Modes 1, 2, 3).
10063-N	Spex Industries, Edison, NJ	49 CFR 172.101, 173.263, 173.268	To authorize shipment of both solutions of nitric acid and hydrochloric acid in concentrations of 5% or less classed as corrosive materials to be shipped as non-hazardous/non-regulated materials in bottles of 500 ml or less overpacked in specification 12B fiberboard box. (Modes 1, 4, 5).
10064-N	Applied Companies, San Fernando, CA.	49 CFR 173.302(a), 175.3, 178.65	To manufacture, mark and sell non-DOT specification, non-refillable, welded cylinders similar to the DOT specification 39 for shipment of compressed air, nitrogen, argon and helium classed as non-flammable gases. (Modes 1, 2, 4).
10065-N	International Services Corp., Washington, DC.	49 CFR 172.101, 173.54	To authorize shipment of certain Class A, B and C explosives by cargo air which are forbidden for shipment by air or exceed authorized quantity limitation prescribed for air shipment. (Mode 4).
10066-N	Conax Florida Corp., Petersburg, FL	49 CFR 173.304, 178.36	To manufacture, mark and sell non-DOT specification cylinders comparable to DOT Specification 3A for shipment of carbon dioxide and helium, classed as nonflammable gas. (Modes 1, 2, 3, 4, 5).

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 6, 1988.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 88-23754 Filed 10-13-88; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular; Public Debt Series No. 26-88]

Treasury Notes of October 15, 1995; Series H-1995

Washington, October 6, 1988.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,750,000,000 of United States securities, designated Treasury Notes of October 15, 1995, Series H-1995 (CUSIP No. 912827 WT 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts

and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated October 17, 1988, and will accrue interest from that date, payable on a semiannual basis on April 15, 1989, and each subsequent 6 months on October 15 and April 15 through the date that the principal becomes payable. They will mature October 15, 1995, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,00,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the *Treasury Direct* Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, October 12, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 11, 1988, and received no later than Monday, October 17, 1988.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tender from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5 must be made or completed on or before Monday, October 17, 1988. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are

not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, October 13, 1988. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, October 17, 1988. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in *Treasury Direct* are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in *Treasury Direct* must be completed to show all the information required thereon, or the *Treasury Direct* account number previously obtained.

6. General Provisions.

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 88-23834 Filed 10-12-88; 10:30 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 199
Friday, October 14, 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 RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, October 19, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Preemption determinations under Regulation CC (Availability of Funds and Collection of Checks) regarding funds availability laws of New York, Maine, Connecticut, Rhode Island, Massachusetts, California, and New Mexico. (Proposed earlier for public comment; Docket Nos. 0640 and 0644.)

2. Proposed report to Congress, under the Expedited Funds Availability Act, regarding the processing of deposits at automated teller machines.

Discussion Agenda

3. Publication for comment of proposals regarding amendments to Regulation CC (Availability of Funds and Collection of Checks).

4. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Date: October 12, 1988.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 88–23853 Filed 10–12–88; 11:36 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, October 19, 1988, following a recess at the conclusion of the open meeting.

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: October 12, 1988.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 88–23854 Filed 10–12–88; 11:36 am]

BILLING CODE 6210–01–M

UNITED STATES PAROLE COMMISSION

DATE AND TIME: Tuesday, October 25, 1988 9:00 a.m. to 3:00 p.m.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 24 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: David J. Dorworth, Chief Case Analyst, National Appeals Board United States Parole Commission, (301) 492–5987.

Date: October 11, 1988.

Michael A. Stover,

Acting General Counsel, U.S. Parole Commission.

[FR Doc. 88–23852 Filed 10–12–88; 11:35 am]

BILLING CODE 4410–01–M

Corrections

Federal Register
Vol. 53, No. 199
Friday, October 14, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3454-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

Correction

In proposed rule document 88-22037 beginning on page 37601 in the issue of Tuesday, September 27, 1988, make the following corrections:

1. On page 37602, in the first column, in the second complete paragraph, in the 23rd line, "See 400" should read "See 40".

2. On page 37603, in the first column, in the second complete paragraph, in the 15th line, "260.22(d)(2)(4)" should read "260.22(d)(2)-(4)".

3. On the same page, in the second column, in the 15th line, "methylene, chloride" should read "methylene chloride".

4. On page 37606, in Table 6, in the second column, the fourth line should read "0.006" and the sixth line should read "0.005".

5. On the same page, in Table 6, in the third column, the fourth line should read "0.003" and the sixth line should read "0.004".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 19110; Amdt. Nos. 121-199, 135-27]

Airborne Low-Altitude Windshear Equipment and Training Requirements

Correction

In rule document 88-22088 beginning on page 37688 in the issue of Tuesday, September 27, 1988, make the following corrections:

1. On page 37693, in the first column, in the second complete paragraph, in the fifth line, "§ 121.443(c)(1)(iii)" should read "§ 121.433(c)(1)(iii)", and in the eighth line, "§ 121.443(c)(1)" should read "§ 121.433(c)(1)".

BILLING CODE 1505-01-D

federal register

Friday
October 14, 1988

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61, 71, and 91
Terminal Control Area (TCA) Classification and TCA Pilot and Navigational Equipment Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 71, and 91

[Docket No. 25304, Amdt. 61-80, 71-11, 91-205]

RIN: 2120-AC35

Terminal Control Area (TCA) Classification and TCA Pilot and Navigational Equipment Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the classification and pilot and equipment requirements for conducting operations in terminal control areas (TCA). Specifically, the rule: (1) Establishes a single-class TCA; (2) requires the pilot-in-command of a civil aircraft to hold at least a private pilot certificate, except for a student pilot who has received certain documented training; and, (3) eliminates the helicopter exception from the minimum navigational equipment requirement. These actions are expected to enhance the safety of operations in a TCA.

EFFECTIVE DATE: January 12, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Reginald C. Matthews, Airspace-Rules and Aeronautical Information Division, ATO-200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1987, the Federal Aviation Administration (FAA) issued Notice 87-7 (52 FR 22918) proposing to require all aircraft operating within 30 miles of a TCA primary airport to be equipped with a transponder with Mode C. Additionally, Notice 87-7 proposed to: (1) Establish other pilot and equipment requirements associated with operations in a TCA, and (2) establish a single-class TCA which would replace the existing three groups of TCA's.

Notice 87-7 is premised on the conclusions of the National Airspace Review (NAR) Task Group 1-2.1, comprised of representatives from the FAA and aviation industry, which studied the terminal air traffic control (ATC) system in 1983. Additionally, an FAA TCA Review Task Group composed entirely of FAA employees met in the aftermath of the August 1986 midair collision that occurred within the Los Angeles TCA over Cerritos, California. The TCA Review Task Group's specific agenda was to review all aspects of the TCA program including measuring TCA effectiveness and making recommendations for improving TCA traffic flows and, in particular, for enhancing the overall safety of operations in and around TCA airspace.

Analysis of Comments

As a result of recent legislation requiring the FAA to issue rules regarding Mode C transponder equipage in airspace where terminal radar is used for separation of aircraft (Pub. L. 100-202 and Pub. L. 100-223), the transponder and Mode C requirements proposed in Notice 87-7 have been consolidated and addressed in Amendment 91-203. The FAA issued Amendment 91-203, "Transponder with Automatic Altitude Reporting Capability Requirement," on June 17, 1988 (53 FR 23356; June 21, 1988).

Accordingly, this final action is limited to the proposals in Notice 87-7 which dealt with the TCA classification, helicopter navigational equipment requirements, and pilot qualification for flight in a TCA.

The FAA received approximately 7,000 comments concerning the proposals in Notice 87-7. In addition, the FAA received approximately 43,000 pre-printed form letters that did not address the specifics of the proposals in Notice 87-7 but were generally critical of the more restrictive rules associated with flight in large terminal areas. The comments concerning the transponder and transponder with Mode C proposals were addressed in the preamble to Amendment 91-203 and are not addressed in this final rule action. The following is a categorization and discussion of the substantive comments received.

Climb Corridors

An aviation organization, as well as other individual commenters, suggested that the FAA should seriously consider establishing arrival and departure corridors for primary airports that are currently in TCA's instead of continuing to establish and retain TCA's with existing designs. Numerous commenters agreed with this position, stating that the FAA should establish arrival and departure corridors for air carrier aircraft which would be similar to climb corridors that are used by military aircraft.

A simulation of the climb/descent corridor concept was conducted in the Boston, Massachusetts, area. One TCA and three corridor configurations were tested. The simulation revealed that, while the use of corridors did provide a degree of safety, these corridors cannot provide the required airspace to vector, sequence, and meter effectively the variety and number of aircraft that demand service at major terminal airports. Based on this evaluation, it was concluded that the use of corridors would result in a substantial loss in airport and airspace efficiency with a corresponding increase in arrival and departure delays. This concept was more recently reviewed by the TCA Task Group, and the group confirmed the earlier findings of the tests.

TCA Design

Several aviation organizations agreed with the proposal in Notice 87-7 that would eliminate the three classifications of TCA's and create a single-class TCA. Several organizations and many individual commenters offered comments concerning the FAA's announced plans to revise its airspace design procedures associated with TCA's. Some commenters favored this action, some were of the opinion that TCA's should encompass more airspace, and others generally objected for economic reasons. Other commenters suggested that the FAA establish visual flight rules (VFR) routes or corridors through TCA's so that aircraft may traverse a TCA rather than having to circumnavigate.

On September 17, 1987, the FAA issued an internal directive, Notice N7400.21, which effectively revised FAA Handbook 7400.2, *Procedures for Handling Airspace Matters*. This directive made the TCA standardization and simplification plans announced in Notice 87-7 a reality. Under this directive, air traffic field elements must review each existing TCA in light of the announced standardized dimensions. An integral part of each review is an examination of manpower and equipment resources needed to accommodate any resulting increase in workload. However, a TCA will be modified for operational and/or safety benefits only and not for the purpose of standardization. If a modification is determined to be feasible and necessary, then a proposal would be discussed with the public in an informal airspace meeting before a notice of proposed rulemaking is initiated. The public will be given an opportunity to actively participate in the TCA design development during the informal airspace meetings, and to comment on the proposed configuration after a notice of proposed rulemaking is published.

Additionally, the recently revised TCA design guidelines include a requirement to establish VFR TCA

transition routes where possible. These routes are to be procedurally designated in portions of the TCA where transiting aircraft would least interfere with the TCA traffic flow. The routes would also be published on appropriate aeronautical charts. Pilots desiring to fly through the TCA would know where to position their aircraft when requesting clearance through the TCA. While pilots should not infer that these routes will be available in all instances, many aircraft may be accommodated with minimal delay. Operations on these routes must meet all the equipment requirements for operations in a TCA.

Charting

An aviation organization, in general support of the proposed transponder requirements, stated that prominent landmarks in the vicinity of TCA's should be depicted on FAA aeronautical charts so that pilots can avoid the TCA by referencing these landmarks, if that is their intent. Other commenters made TCA charting recommendations.

As a continuing practice, the FAA does depict prominent landmarks on sectional and terminal area charts. In many cases, requests for depicting these landmarks originate from users through the FAA's terminal ATC facilities. Although the agency believes that existing terminal area charts provide sufficient detail for a pilot to be able to circumnavigate the TCA, the FAA is continually working with aviation organizations, the Department of Defense, and the National Ocean Service to improve the associated charting.

Comment Period Too Short

An aviation organization stated that the FAA showed a disregard for the airspace users in regulates by not providing for a longer public comment period for Notice 87–7. Several commenters were critical of the extended comment period provided by the FAA, and requested further extension.

The FAA believes the period for comment including the extension was sufficient to permit full public comment on the proposed rule. The FAA extended the original comment period 30 days in response to a request from an aviation association to facilitate circularization of the notice to that association's members. The FAA is aware that many general aviation pilots receive notification of proposed rulemaking only through user associations and, in this particular case, noted that an extension of the comment period would not jeopardize the ability of the agency to reach final rulemaking action in a timely manner.

Helicopters

A national aviation association stated that there was no information provided in Notice 87–7 that would indicate that a problem exists with helicopters operating in TCA's under the current navigational equipment exclusion as authorized under letters of agreement with ATC facilities at these TCA's. This association stated that there would be a significant cost to users to equip the helicopter fleets of some association members with the required navigational equipment. Further, this organization stated that such navigational equipment could not be used for the type of low-level navigation flown by helicopters. For the smaller helicopters, the organization stated that expensive modification to aircraft would be necessary to house the navigational equipment. In many cases, this organization argued, such equipment is simply not needed; e.g., for local flight training or agricultural operations and, for some helicopters, the added weight poses a penalty in the form of a reduced useful load.

The current minimum navigational equipment requirement for aircraft operating in a TCA ensures that each such equipped aircraft is capable of providing ATC with accurate position data. This requirement also facilitates more precise navigation along routes contained in ATC clearances. Helicopters no longer represent a small percentage of the aircraft operating in TCA's nor are they limited by operational capability with respect to flight within TCA airspace, which was the rationale applied to their original exclusion in § 91.90. Their versatility has brought about a significant rise in operations in and around busy metropolitan areas, particularly those where TCA's exist. It is the FAA's belief that helicopters must be treated in the same manner as any other aircraft while operating in a TCA. The need for safety, especially since a significant number of passengers will be transported from airports within the TCA's (i.e., inter-city transport), argues against the contention that helicopters should be viewed as "special applications" type aircraft.

Effects on the Expanded East Coast Plan (EECP)

An aviation organization questioned whether the FAA considered the effect of expanded and new TCA's on the progress or effectiveness of the EECP. This organization was of the opinion that the proposed TCA expansions and the institution of new TCA's in the airspace covered by the EECP would undermine 5 years of planning by air traffic specialists and would undoubtedly conflict with the intended benefits of the EECP.

Phase I of the EECP was implemented February 12, 1987. The final segment of Phase II was implemented on March 10, 1988. The proposals made in Notice 87–7 will have no effect on the EECP's realignment of Jet Routes or very high frequency omnidirectional range (VOR) Federal Airways and the associated benefits of the plan.

Public Involvement

Several commenters suggested that the FAA should form working groups composed of representatives from government and the aviation community to study the problems that the proposed requirements are supposed to solve. Most of these commenters stated that they believed that this group should be charged with the development of workable solutions. An aviation organization supporting this suggestion stated that these working groups should involve local FAA ATC personnel and users of both high and low performance aircraft that engage in commercial and non-commercial flight activity. Another organization was of the opinion that the FAA should utilize user forums and pay more attention to user comments in developing TCA's which should serve the requirements and safety needs of all airspace users.

As stated in the notice, the recommendations detailed in the proposal were made with the involvement of the industry through the National Airspace Review (NAR) Task Group 1–2.1. The NAR effort was subsequently affirmed by the special FAA TCA Review Task Group. The recommendations were made after both groups had performed an indepth analysis of TCA's.

The FAA believes that the NAR process, described earlier, provided a format similar to that requested by commenters. However, prior to developing final actions, the FAA must initiate rulemaking procedures under the provisions of the Administrative Procedure Act to involve the public as a whole. In addition, the FAA will attempt to solicit input from the public prior to any major change to any existing or proposed TCA configuration.

Training

Some commenters expressed opinions that the proposed student pilot restrictions would result in a decrease in the number of student pilots and,

therefore, adversely affect the number of future airline and military pilots.

The FAA does not agree that student pilots who are motivated toward professional flying will be deterred from flight training because of added TCA training requirements. In fact, the FAA believes that prospective professional pilots will recognize the benefits of early exposure to TCA procedures training for their future careers.

An aviation organization and a local airport authority suggested that the FAA should have gone further and prohibited student pilots from operating at all high density TCA airports. The airport authority stated that operation in a high density TCA requires a very high level of flight experience to cope with the demands placed upon a pilot by ATC. Additionally, the aviation organization suggested that the duration of any authorization for a student pilot to operate in a TCA should be limited to a 30-day period. Another aviation organization suggested that the student pilot should have at least received training in the last 90 days in order for the instructor pilot endorsement to be effective and that the instructor pilot providing the training should endorse the student's logbook accordingly.

The FAA does not agree that student pilots should be prohibited from operating at all high density TCA airports. Although operation at such airports requires a high degree of familiarity with the required procedures, a student pilot can gain this familiarity through required flight instruction in operations at each specific high density airport at which the student is authorized to operate. However, the FAA does not agree with the feasibility of blanket endorsement for operations at all such airports since the student pilot has not yet acquired the experience, knowledge, and skill to operate in widely varying terminal areas without obtaining instruction on operating in each particular terminal area. In addition, the FAA believes that student pilot operations should be prohibited at certain high traffic density airports, as specified in proposed § 91.90(b)(2), because of the extremely high level of complexity at these locations. The FAA does agree that the recency of the training received is a valid consideration in determining the adequacy of a student pilot's ability to operate in a TCA. The FAA now requires student pilots to obtain flight instruction in each make and model of aircraft flown every 90 days in order to operate that aircraft in solo flight. The TCA student endorsement would fall into the same category.

Another commenter stated that proposed § 61.95(b) is not clear as to the need for actual flight instruction in a specific TCA to which a student may opeate on a cross-country flight. This commenter recommended that specific instructions in flight in the more complex TCA's be required but may not be necessary for operations into other less complex TCA's. Another aviation organization agreed that a 90-day endorsement is a realistic requirement to ensure that student pilots have adequate knowledge and skills to operate safely in TCA airspace. However, this organization stated that the FAA failed to adequately support the proposed requirement for a student to have received instruction at each airport in a TCA where he/she may choose to land on solo flights. This organization proposed revising §§61.95 and 91.195 to include separate items relating to ground instruction and appropriate endorsement, and flight instruction and endorsement.

The operating environment and special operating conditions remain unique at each TCA and, therefore, demand specific instruction in each one to ensure safe student pilot operation. Similarly, operating conditions at each airport within the surface area of a given TCA will be complex and unique and require that a student receive instruction at each such airport before operating at that airport solo. For these reasons, the FAA agrees that the wording of § 61.95 as proposed in Notice 87–7 should be clarified in this regard. The language of the final rule will mandate that the required flight instruction must include at least one flight in each TCA in which a student will be authorized to conduct solo flight and at least one takeoff and landing at each airport within the surface area of a TCA to which the student will operate. In any regard, the actual number of these types of instructional operation should be determined by the student's instructor.

One aviation organization stated that it was unsuccessful in determining whether the 12 TCA's cited in the notice of proposed rulemaking involve flight training schools and student pilots. However, this organization stated that a simple instructor pilot endorsement would be adequate for helicopter students as most of their operations; i.e., hovering and low altitude operations along charted helicopter routes, do not presently affect other controlled operations in a TCA.

Since each TCA and each airport or heliport within a TCA imposes a unique set of operating circumstances, a student pilot needs to receive instruction for each separate TCA and each airport or heliport within a TCA at which he/she operates. Therefore, a separate endorsement for each TCA operation should be received.

Regulatory Evaluation

The FAA published Notice 87–7 on June 16, 1987, addressing four issues, three of which might have some economic impact. One issue deals with changes in requirements for pilot certification. The second issue concerns the requirements for a transponder with Mode C within a 30-mile radius of a TCA primary airport. The third issue is the requirement for helicopters to be equipped with navigational instruments similarly to other aircraft within a TCA.

Pilot Certification

In the amendment to § 91.90, the FAA is requiring that the pilot-in-command of a civil aircraft operating within a TCA hold at least a private pilot certificate or be a student pilot who has a logbook endorsement by an authorized flight instructor certifying receipt of ground instruction, dual-flight training in the specific TCA, and competency to depart and land at the specific TCA primary airport as well as to transit through the TCA.

The FAA has concluded that the rules regarding pilot certification will have no adverse economic impact because they will merely formalize present training practices. Students are currently being provided with ground instruction and dual-flight training before being allowed to fly solo within either a Group I or II TCA, although no formal endorsement from an instructor is now required. The requirement for a logbook endorsement will impose only a minimal burden on flight instructors.

Transponder With Mode C

There were many comments relating to the economic impact of the requirement for a transponder with Mode C within 30 miles of a TCA primary airport. As a result of legislation, the FAA has addressed Mode C transponder issues under separate rulemaking action. Accordingly, the final rule contained herein deals only with the Notice 87–7 proposals that addressed single-class TCA's, helicopter navigational equipment and pilot requirements for operations in TCA's. However, the regulatory evaluation concerning the Mode C requirement is discussed in Docket No. 25531, Amendment No. 91–203.

Helicopter Navigational Equipment Requirements

Effective July 1, 1989, this rule requires helicopters to operate under the same navigational equipment requirements as other aircraft in a TCA.

Costs

Some helicopter operators will have to purchase VOR or tactical air navigation (TACAN) equipment. The FAA estimates that the cost of this equipment is $2,500. This cost is based on discussions with avionics manufacturers. Some commenters indicated that the cost of avionics was higher than the FAA estimates. There is, in fact, a wide variation in avionics cost. The FAA has selected the low cost equipment for its estimates since it meets the requirements of FAA regulations. Additional equipment features are not required as a result of this final rule.

Without an actual survey, it is difficult to determine the number of helicopters that may be impacted by this rule. In the notice of proposed rulemaking, the FAA estimated that about 50 percent of the helicopter fleet would be impacted by the proposed rule (includes the impact of the transponder with Mode C proposal). The commenters did not take exception to this estimate. A helicopter association stated that, typically, operators will equip their helicopters with transponders when it is necessary to routinely use TCA airspace for transit, departures, and landings. It is assumed that this typical scenario would apply to the equipage of navigational capability. It is further assumed that "typically" means at least 70 percent are equipped. The FAA estimates that approximately 25 percent of the helicopter fleet will operate in TCA airspace. Of this percentage, the vast majority is expected to be already equipped with the required navigational equipment.

Therefore, only 30 percent of the 25 percent that operate in a TCA need to be equipped with avionics. Since there are about 7,000 active helicopters (Source: "General Aviation Activity and Avionics Survey," FAA, December 1987) in the fleet, some 525 helicopters would be required to purchase avionics. At $2,500 for the navigational equipment, the cost to the helicopter industry would be $1,313,000. A yearly maintenance cost of about 5 percent or $66,000 per year must be added to this.

Benefits

The accident record for the last 10 years indicates that there have not been any midair collisions involving helicopters within TCA's. The historical record is not necessarily a reliable indicator of prospective accidents. It is clear that the ability to navigate more precisely with less deviations along a route, and the ability to provide ATC with more accurate position data, reduce the probability of a midair collision. If these regulations prevent only one accident involving a helicopter, the benefits would clearly exceed the costs of equipping them.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The FAA criteria for a substantial number of small entities is a number which is not less than 11 and which is more than one-third of the small entities subject to the proposed rule. A significant economic impact is one having an annual cost of more than $3,700 for an unscheduled operator of aircraft for hire.

The Initial Regulatory Flexibility Analysis published with the notice of proposed rulemaking indicated that the original proposed rule would not have a significant impact on a substantial number of small entities. This initial analysis indicated that the proposals would not affect the operations or impose any costs on the individual flight schools and flying clubs because their student training activities would not be affected. Since the annualized cost for the required navigational equipment is only about $200, Part 135 operators would not be impacted significantly.

There were numerous comments with respect to the impact on small businesses. The vast majority of these comments addressed the proposed transponder with Mode C requirement and did not directly address the requirements for small helicopter businesses to operate in a TCA with avionic requirements similar to other aircraft. One helicopter association did indicate that the typical helicopter operating in a TCA would be equipped with a transponder with Mode C. The FAA also believes this to be the case in regard to the required navigational equipment. For these reasons, it is certified that this rule will not have a significant effect on a substantial number of small entities.

Trade Impact Assessment

The rule will have no impact on trade opportunities for both the U.S. firms doing business overseas and foreign firms doing business in the United States.

Federalism Determination

The amendment set forth herein would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. The regulations set forth in this final rule would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.)* which has been construed to preempt State law regulating the same subject. Therefore, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The Rule

For the reasons stated above, the FAA is adopting the single-class TCA, student pilot endorsement, and helicopter navigational equipment provisions contained in Notice 87–7. The following is a discussion of the regulatory changes contained in this final rule:

Single Class TCA

Effective January 12, 1989, the regulations pertaining to TCA's are amended by removing all references to Group I, II, and III TCA's. With this effort all TCA's will be simply referred to as a TCA.

Pilot Qualifications

The regulations pertaining to pilot qualifications for operations in a TCA take effect January 12, 1989. Generally, each pilot-in-command of a civil aircraft, in order to operate within TCA airspace or to takeoff or land at an airport within a TCA, must possess at least a private pilot certificate. However, student pilots may be permitted to conduct certain operations within a TCA except at 12 specific TCA primary airports, where student pilot operations are presently prohibited and will continue to be prohibited even with an endorsement. In order to be permitted to operate solo in a TCA, a student pilot must obtain specified training and logbook endorsement from his/her certified flight instructor prior to conducting such operations. In addition, training operations in or through a TCA may be

required to be conducted along routes and/or in accordance with procedures developed and specified by the ATC facility having jurisdiction over the TCA. Establishment of these routes/procedures may take the form of a memorandum issued by that ATC facility and may be communicated by a letter to airmen or a letter of agreement between the ATC facility and a flight school or flying club.

Equipment Requirement

Effective July 1, 1989, the navigation equipment exclusion for helicopters operating in a TCA will be eliminated. These aircraft will be bound by the same equipment and operating requirements as other aircraft. The required equipment may be either a VOR or TACAN receiver.

Effective Date

This final rule takes effect 90 days after publication with an exception for the requirement for navigation equipment on helicopters, which takes effect on July 1, 1989. The FAA is confident that this 90-day period will permit flight instructors ample time to become familiar with the procedures for training and certification of student pilots for operation in a TCA. The 90-day period will also provide a reasonable time for flight schools to enter into letters of agreement with local ATC facilities, where necessary, for operation of continuing flight training operation in a TCA. The compliance date for navigational equipment on helicopters is extended to July 1, 1989, to provide sufficient time for helicopter operators to purchase and install the required equipment.

List of Subjects

14 CFR Part 61

Certification–Pilots and flight instructors.

14 CFR Part 71

Controlled airspace, Terminal control area.

14 CFR Part 91

Aviation safety, Safety, Aircraft, Air traffic control, Pilots, Airspace, Air transportation, Airports.

Adoption of the Amendments

For the reasons set forth in the preamble, Parts 61, 71, and 91 of the Federal Aviation Regulations, are amended as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for Part 61 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422; and 1427; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983).

2. Add a new § 61.95 to read as follows:

§ 61.95 Operations in a terminal control area and at airports located within a terminal control area.

(a) A student pilot may not operate an aircraft on a solo flight in the airspace of a terminal control area unless—

(1) The student pilot has received both ground and flight instruction from an authorized instructor on that terminal control area and the flight instruction was received in the specific terminal control area for which solo flight is authorized;

(2) The logbook of that student pilot has been endorsed within the preceding 90 days for conducting solo flight in that specific terminal control area by the instructor who gave the flight training; and

(3) The logbook endorsement specifies that the student pilot has received the required ground and flight instruction and has been found competent to conduct solo flight in that specific terminal control area.

(b) Pursuant to § 91.90(b), a student pilot may not operate an aircraft on a solo flight to, from, or at an airport located within a terminal control area unless—

(1) That student pilot has received both ground and flight instruction from an authorized instructor to operate at that airport and the flight and ground instruction has been received at the specific airport for which the solo flight is authorized;

(2) The logbook of that student pilot has been endorsed within the preceding 90 days for conducting solo flight at that specific airport by the instructor who gave the flight training; and

(3) The logbook endorsement specifies that the student pilot has received the required ground and flight instruction and has been found competent to conduct solo flight operations at that specific airport.

3. Amend § 61.193 to redesignate paragraphs (b)(4) and (b)(5) as paragraphs (b)(5) and (b)(6), respectively, and to add a new paragraph (b)(4) to read as follows:

§ 61.193 Flight instructor authorizations.

* * * * *

(b) The holder of a flight instructor certificate is authorized within the limitations of his instructor certificate to endorse—

* * * * *

(4) In accordance with § 61.95, the logbook of a student pilot he has instructed authorizing solo flights in a terminal control area or at an airport within a terminal control area.

* * * * *

4. In § 61.195, revise paragraph (d) to read as follows:

§ 61.195 Flight instructor limitations.

* * * * *

(d) *Logbook endorsement.* He may not endorse a student pilot's logbook—

(1) For solo flight unless he has given that student flight instruction and found that student pilot prepared for solo flight in the type of aircraft involved;

(2) For a cross-country flight, unless he has reviewed the student's flight preparation, planning, equipment, and proposed procedures and found them to be adequate for the flight proposed under existing circumstances; or

(3) For solo flights in a terminal control area or at an airport within the surface area of a terminal control area unless he has given that student ground and flight instruction and has found that student prepared and competent to conduct the operations authorized.

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

6. Section 71.12 is revised to read as follows:

§ 71.12 Terminal control areas.

The terminal control areas listed in Subpart K of this part consist of controlled airspace extending upward from the surface or higher to specified altitudes, within which all aircraft are subject to operating rules and pilot and equipment requirements specified in Part 91 of this chapter. Each such location includes at least one primary airport around which the terminal control area is located.

§ 71.401 [Amended]

7. Section 71.401 (a) and (b) are consolidated and redesignated as a single § 71.403 with a section heading as set forth below (the paragraph designations (a) and (b) are removed).

§ 71.403 Terminal control areas.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

8. The authority citation for Part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 31(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq:* E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

9. Section 91.90 is revised to read as follows:

§ 91.90 Terminal control areas.

(a) *Operating rules.* No person may operate an aircraft within a terminal control area designated in Part 71 of this chapter except in compliance with the following rules:

(1) No person may operate an aircraft within a terminal control area unless that person has received an appropriate authorization from ATC prior to operation of that aircraft in that area.

(2) Unless otherwise authorized by ATC, each person operating a large turbine engine-powered airplane to or from a primary airport shall operate at or above the designated floors while within the lateral limits of the terminal control area.

(3) Any person conducting pilot training operations at an airport within a terminal control area shall comply with any procedures established by ATC for such operations in terminal control area.

(b) *Pilot requirements.* (1) No person may takeoff or land a civil aircraft at an airport within a terminal control area or operate a civil aircraft within a terminal control area unless:

(i) The pilot-in-command holds at least a private pilot certificate; or,

(ii) The aircraft is operated by a student pilot who has met the requirements of § 61.95.

(2) Notwithstanding the provisions of (b)(1)(ii) of this section, at the following TCA primary airports, no person may takeoff or land a civil aircraft unless the pilot-in-command holds at least a private pilot certificate:

(i) Atlanta Hartsfield Airport, GA.

(ii) Boston Logan Airport, MA.

(iii) Chicago O'Hare International Airport, IL.

(iv) Dallas/Fort Worth International Airport, TX.

(v) Los Angeles International Airport, CA.

(vi) Miami International Airport, FL.

(vii) Newark International Airport, NJ.

(viii) New York Kennedy Airport, NY.

(ix) New York La Guardia Airport, NY.

(x) San Francisco International Airport, CA.

(xi) Washington National Airport, DC.

(xii) Andrews Air Force Base, MD.

(c) *Communications and navigation equipment requirements.* Unless otherwise authorized by ATC, no person may operate an aircraft within a terminal control area unless that aircraft is equipped with—

(1) An operable VOR or TACAN receiver (except for helicopter operations prior to July 1, 1989); and

(2) An operable two-way radio capable of communications with ATC on appropriate frequencies for that terminal control area.

(d) *Transponder requirement.* No person may operate an aircraft in a terminal control area unless the aircraft is equipped with the applicable operating transponder and automatic altitude reporting equipment specified in paragraph (a) of § 91.24, except as provided in paragraph (d) of that section.

Issued in Washington, DC, on October 6, 1988.

T. Allan McArtor,

Administrator.

[FR Doc. 88–23556 Filed 10–13–88; 8:45 am]

BILLING CODE 4910–13–M

federal register

Friday
October 14, 1988

Part III

Department of Labor

Employment and Training Administration

Apprenticeship 2000, Focus Paper; Notice; Request for Comments

DEPARTMENT OF LABOR

Employment and Training Administration

Apprenticeship 2000, Focus Paper

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice; request for comments.

SUMMARY: The Department of Labor's Employment and Training Administration (ETA) has completed the first stage of its review of the apprenticeship concept. This stage involved a public review of five broad issues surrounding expansion of the apprenticeship concept. This is the first in a series of three focus papers designed to build on the public response and to focus on more specific issues, options and possible outcomes. This paper examines options for program models based on a core apprenticeship definition and presents measures for defining quality in apprenticeship programs. Public comment is invited on the options presented as well as other suggested options.

DATE: Comments must be received by November 14, 1988.

ADDRESSES: Comments may be mailed to James D. Van Erden, Director, Bureau of Apprenticeship and Training, Employment and Training Administration, 200 Constitution Avenue NW., Room N–4649, Washington DC 20210.

FOR FURTHER INFORMATION CONTACT: James D. Van Erden, Director, Bureau of Apprenticeship and Training, Office of Job Training Programs, Employment and Training Administration. Telephone (202) 535–0540 (this is not a toll-free number.)

Signed at Washington, DC, this 7th day of October, 1988.

Roberts T. Jones,

Assistant Secretary of Labor for Employment and Training.

Apprenticeship 2000—Focus Paper on Expansion and Quality

Introduction

The ETA's Bureau of Apprenticeship and Training has completed the first stage of its review of the apprenticeship concept. The purpose of this review is to determine the role of the apprenticeship system in meeting America's future needs for a skilled work force. The first stage involved a public dialog on five broad issues surrounding expansion of the apprenticeship concept. (See **Federal Register**, 52 FR 45904, dated December 2, 1987.) During this stage of the review a supplementary short-term research program was also initiated to examine in detail a series of key questions impacting on apprenticeship and its role in training skilled workers. (See **Federal Register**, 53 FR 20386, dated June 3, 1988.)

The public response to the five broad issues has been compiled and analyzed. The response to the apprenticeship review has been overwhelmingly favorable. There is strong, broad-based support for the apprenticeship concept and for its expansion. (A summary report of the public comment was published in the **Federal Register**, 53 FR 34250, dated September 2, 1988.)

This is the first in a series of focus papers. These papers will build on the public response and are designed to:

Focus debate on specific issues and outcomes.

Examine the intial five issues in more detail and address those raised subsequently.

Examine options for improving the current apprenticeship program and for broadening the apprenticeship concept.

The comments received in response to these focus papers will be considered along with the results of the Apprenticeship 2000 short-term research projects, and will lead to a set of recommendations for change in the Apprenticeship system to be published in the final Apprenticeship 2000 report in December, 1988.

Key Questions

This stage of the apprenticeship review is intended to build on the current strong apprenticeship base. While this base provides a foundation for expansion of apprenticeship, several key questions must be answered before a significant expansion of the apprenticeship system can begin. These questions are:

- What, if any, modifications are needed to the basic apprenticeship model to effectively expand apprenticeship in traditional areas as well as in those areas where the traditional models may not apply?
- What key elements need to be built into apprenticeship to ensure that this system of training produces adaptable, skilled workers able to meet industries' needs?
- How can a broadened and improved apprenticeship system be implemented and maintained?

Discussion

This paper will explore the first key question by reviewing the basic apprenticeship definition and by examining options for other program structures. This paper will also address the second major question by examining how to measure and assure quality in apprenticeship programs. (The third question will be addressed in subsequent focus papers.)

Question #1: How can the apprenticeship concept be effectively broadened in traditional areas as well as in those areas where the traditional models may not apply?

The idea of expanding apprenticeship has probably existed as long as there have been apprentices. In recent times, it has been raised in serveral reviews of the Federal/State apprenticeship system and was the first issue raised as part of this initiative. In the past, this issue of expansion has been raised in the context of expansion of the current system, rather than an expansion of the apprenticeship concept.

There seems to be overwhelming consensus that the system works well where it is currently applied. Therefore, some type of expansion seems intuitively sound. However, the near consensus for expansion becomes less clear when the discussion shifts to specific details.

The term "apprenticeship" clearly has different meanings among various groups and individuals. Thus, support for expansion tends to be colored by, or viewed within, the context of an individual's definition of apprenticeship. For instance, at one end of the spectrum is a belief that "apprenticeship" means a system that produces a multi-skilled craft or trade journey worker, i.e. the traditional apprenticeship model. Those who hold this belief would generally define apprenticeship in terms of the longer, more traditional, time-based programs with expansion occurring within this definition. Within this definition, only a limited expansion can occur.

Another view is that the term "apprenticeship" can have a very broad meaning that is applicable not only to the traditional model but also to more narrow, specialized occupations that can be learned in a relatively short time. Within this definition, a very broad expansion of apprenticeship can occur.

Recognizing the rapidly changing technology in the workplace, many have said that apprenticeship cannot be a static program with a single outcome but should build in an element of upgrade training so that workers can adapt effectively to changing technology. Related to the upgrade training is the view that the apprenticeship concept can be used to provide career ladder opportunities for workers through continuous training through various skill levels.

The divergence of views on apprenticeship is understandable given the range of interests represented by the public comment. It also reflects the realities of the labor market in which the level of skills required for available jobs varies greatly. However, within this diversity, it should be possible to agree on a core definition for apprenticeship. The way to arrive at this core definition may be to step back from current perceptions to agree on a more elementary definition of apprenticeship, i.e. one that is not predicated on any existing program structure. Considering this, apprenticeship is skill learning through structured on-the-job training and progressive work experience combined with theoretical instruction.

This core definition of apprenticeship and the training concept it represents, theoretically, may be applied to any occupation that is mastered through this basic training structure. In other words, within this very broad framework, it should be possible to: (1) Retain the traditional apprenticeship system; (2) provide for "career ladder/upgrade" training, (3) allow for expansion of the apprenticeship concept within the traditional industries and occupations, and (4) provide for expansion to areas outside the current accepted occupational boundaries.

Public comments is requested on the feasibility of structuring program models based on a core definition of apprenticeship. Public comments is further invited on the options for program models presented below as well as other suggestions for program models.

Alternative Approaches

In order to see how the core definition of apprenticeship might actually be applied requires a shift in focus from principles to outcomes. This means a recognition that the outcome of apprenticeship, i.e. journey level completion is not the same for all. The important question becomes how to build sufficient flexibility into an expanded apprenticeship system so that it is responsive to employers' needs for differing levels of skilled workers while, at the same time, ensuring that the traditional journey level status is preserved and not diluted. Such flexibility is needed if apprenticeship is to assume a major role in preparing workers for the available skilled jobs in future years.

There are at least several approaches for accomplishing this objective of preserving the traditional apprenticeship model while building flexibility into an expanded system. These approaches are presented for public comment.

Approach 1. Separate Program Structure

The current apprenticeship system makes no real distinction among apprenticeable occupations. Once an occupation is determined to be apprenticeable, it is on an equal footing, in terms of recognition, with all other occupations. For example, an apprentice paralegal becomes a journey level paralegal much as an apprentice carpenter becomes a journey level carpenter. However, in fact, the training each received and the type of skills mastered are very different.

An alternative to this "equal outcome" is to create a separate program structure for all skill training that does not "fit" the traditional apprenticeship model. The terms "apprenticeship" and "journey level" worker would be reserved for the traditional craft programs involving manual or a combination of manual and technical skills.

A separate program structure with new terminology would be created for skills development where the core definition of apprenticeship applies but the training is not in traditional crafts. Although there would be a separate program structure, there would be common features between the skills development training structure and the apprenticeship. These common features might include the basic approach to learning, the industry-based, voluntary concept, registration of programs, and formal recognition of outcomes.

With respect to terminology, instead of calling the training apprenticeship, it might be called "internship" or "technical training" or some other terminology might be used. At the outcome, an individual would not be a journey level worker, but instead could be a "technician", or perhaps some other designation.

Public comment is sought on whether differing structures are a desirable outcome, and, if so, the respondent's rationale for such recommendation.

Approach 2. Program Levels

In addition to, or instead of, establishing a separate program structure, there could be created within the basic apprenticeship structure defined levels of skill attainment or completion. Each level of completion would be accorded specific recognition. With this approach, everyone would be an apprentice but the outcome would not be journey level status for every worker.

This kind of structure could also accommodate a career ladder approach to skill attainment and occupational advancement. With this approach, the key will be in defining the levels of attainment. Possible criteria that might be used include: hours of instruction, length of program, or skill level. The type of occupation and the industries represented could also be used as factors, with distinctions made between service, construction, or manufacturing occupations. Or, a combination of these factors or other factors might be used. There could also be built into this program structure a recognition process for upgrade training.

Public comment is sought on whether variable program levels are a desirable outcome, and if so, whether these levels should be a self-contained approach or used in combination with approach 1, and, finally,the respondent's rationale for making such recommendations.

Approach 3. Worker Certification

A single definition of apprenticeable occupation and completion to journey level status would be preserved. The current regulatory definition of apprenticeship would be modified, if needed, to promote broader flexibility; however, there would be no distinction between the traditional occupations and the newer, expanded occupations for apprenticeship. The basic recognition process for apprenticeship completion, the certificate of journey level status would also remain, with one major addition. That is, in addition to the certificate, an individual on completion would receive a separate certification or transcript of specific skill competencies achieved and, possibly, course work completions. This certification could be much like a college transcript with periodic updates to reflect new skills acquired and other training received. This approach would maintain the basic apprenticeship system while providing a means for recognizing differences in outcomes or achievement, not only among apprenticeable occupations but also among individual apprentices.

Public comment is sought on whether certifications with periodic renewal or updating are a desirable option, and, if so, the respondent's rationale for such recommendation.

Question #2. How should the quality of apprenticeship programs be defined and measured?

Many respondents to the original five broad issues expresses a concern with the quality of programs. This concern with quality is considered especially significant because it was raised independently—none of the five issues explicitly solicited opinions on the quality of apprenticeship programs. Based on this reponse it seems clear that if the apprenticeship system is to

continue its success in producing skilled and flexible workers, programs must continue to pay attention to the quality of their product.

A concern with quality is, of course, not unique to appreticeship. The Workforce 2000 projections indicate that skill requirements for all occupations will rise, that a higher degree of literacy will be required, and that the need for flexibility of workers will increase. The nation's education and training programs must all be quality programs if skilled workers are to be available in the number, and kind, required.

The existing federal regulations for apprenticeship establish 22 standards which must be met if a program is to be registered. Only some of these standards are related directly to quality. Of these, many which do address quality do not specify or suggest criteria to be used, nationally. Quality reviews are performed annually by Bureau of Apprenticeship and Training (BAT) or State Apprenticeship Council (SAC) staff for a portion of apprenticeship programs. There is no consistency between BAT and the different SACs on what to look for in these reviews or on what constitutes a quality program.

To assure that high quality training and instruction is achieved the factors that determine quality must be defined and applied uniformly. The focus of this discussion is to identify these factors and determine how they can be assured. This discussion assumes continuation of the concept of a voluntary, industry program, with a government role in technical assistance and monitoring. The roles of the different actors, including their responsibilities for quality, will be the subject of a later paper.

Public comment is sought on whether there can or should be a standard definition of quality for all programs—the established programs as well as new or expanded programs.

As a first step in examining quality in apprenticeship programs, it seems clear that quality can be measured on two distinctly different levels—process and outcome. For this discussion, process is defined to mean both program development (curriculum and work processes) and on-going training (on and off the job). Outcome is the result of the training, i.e. the success of the program in producing skilled workers. While recognizing that these levels are interrelated, we will focus this review on how quality measures can be determined at both of these levels.

Process

As indicated, process measures for quality apprenticeship programs include measures for both the program development and the training that follows. Both aspects are equally important and they cannot be considered independently of each other.

With respect to program development, several elements are evident:

• Curriculum

Curricula for the same or similar occupations now vary widely among individual programs. Are standard curricula required to produce consistent, high quality instruction nationwide? Should the structure and length of related instruction vary for occupations in labor intensive and knowledge intensive industries?

• Work Processes

The current federal regulations require, as a condition for program registration/approval, that the program standards contain an outline of work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process. Should program standards for work processes be more specific? For instance, should they include skill competencies which must be mastered at each level before moving to the next? Further, should there be provision for testing to ensure that these skills have, in fact, been mastered? To what degree should there be standardization of skill competency levels within occupations?

• Periodic assessment

Rapidly changing technology in the work place dictates a periodic assessment of the adequacy of curricula. Should there be requirements for such periodic assessment built into the program standards? If so, should these requirements be uniform or should they be left to the program sponsor to decide?

With Respect to Training Apprentices:

The process of training apprentices also has a direct bearing on quality. This training occurs both on and off the work site. From this perspective, at least several factors take on significance as determinants of quality. How important are these factors in developing skilled, flexible apprentices? And how might such factors be assured?

• Selection of apprentices

A training program begins with the selection of the individuals to be trained. The selection process normally includes an assessment of an individual's basic aptitude for the work as well as his or her current level of skills and knowledge. This process provides the foundation for successful training completion. Is is appropriate to include the selection process as a measure of a quality program? If so, how could this measure be defined while taking into account affirmative action goals?

• Ratio of apprentices to journey level workers

Currently, federal regulations require provision for a specific on-the-job ratio of journey level workers to apprentice. The purpose for the ratio is to ensure proper supervision, training, safety and continuity of employment. The question, here, is whether the ratio of journey level workers to apprentices is effective as a measure of program quality? Are there other measures or processes which would better assure safety and training goals are achieved?

• Qualifications of instructors

Currently, the regulations governing program standards require only assurance of qualified training personnel. "Assurance" and "qualified" are not defined. Thus, there are no national requirements for sponsors to provide instructor training for journey level workers who are providing OJT or related instruction. Nor are there specific criteria for selecting journey level workers as training instructors both on and off the work site. Accordingly, the qualifications of instructors vary widely and instructors may not themselves have had proper instructor training. Would the quality of apprenticeship programs be enhanced if all apprentice instructors received formal training in effective methods of teaching? Should there be separate standards for educators who provide the related instruction or are current teacher certification requirements sufficient? Further, should there be minimum standards for selection of related training instructors, for on-the-job instructors, for both?

• Recordkeeping

Records on apprentices are maintained by program sponsors and are used to track the progress of an apprentice. The accuracy and currency of these records may vary. Is it important to prescribe a minimum level of recordkeeping? If so, what should that minimum level be?

• Others

There are undoubtedly other factors which are important in measuring the quality of training that apprentices receive. What are these other factors and how might they be defined and measured?

Public comment is invited on whether each of the above factors are important measures of quality, how these measures might be defined and utilized. Suggestions for other "process" measures are also invited.

Outcomes. Ultimately, the quality of apprenticeship programs is measured by the ability of its products—the output of workers in training and that of journey level workers. Viewed from this perspective, are the following factors critical in defining quality and how can their inclusion be assured?

• Skills competency

Currently, for most programs, certification of completion means that the apprentice has substantially met the terms and conditions of the apprenticeship agreement. There is no recognition of the specific skill level attained by the graduate, nor is there a transcript which indicates the content of the training and instruction received. And, most apprenticeship programs do not require occupational performance tests before certification of completion. Would required competency tests or the issuance of transcripts contribute to quality in apprenticeship? Should all or only some of the programs have this? If some, what criteria would be used?

• Completion rates

The percentage of apprentices who ultimately complete their programs varies by multiple factors, such as trade or occuption, the industry, economic conditions and the quality of the programs. Given all these variables, can a program's record in completing apprentices be used as an indicator of its quality? If so, what, if any, consideration should be given with respect to:

—The length of time a program has been in operation,
—The impact of business, seasonal, or cyclical factors on program operations,
—The definition of completion, i.e. at what point should an individual no longer be considered an active apprentice?
—Transfers of apprentices from one program to another.

Public comment is invited on whether requirements for skill competency and completion rate measures are appropriate measures of successful program outcome and, if so, how these measures should be crafted. Public comment is also invited on other outcome measures that might be adopted.

Quality Assurance. It seems clear that in addition to defining the measures for quality, there must be mechanisms in place to ensure a program complies with the measures.

At the front end, or the program development stage, the quality measures can be requirements for program registration procedures. This leads to three key questions:

—Should these standards be applied retroactively to existing registered programs?
—If substantial changes are made to a program following registration, should the program sponsor be required to initiate a new program registration? If so, how would "substantial changes" be defined?
—If a program is denied registration for failure to meet quality standards, should there be rights of appeal? What is the appropriate appeal authority in BAT and in SAC States?

There are at least several options for measuring quality on an on-going basis:

—Periodic compliance reviews for quality
—Periodic program reports by program sponsors
—Periodic recertification of programs

These approaches could be used singly or in combination. Once the mechanisms for measuring on-going quality are determined:

—What are the consequences if a program is found deficient? Assuming allowance of time for corrective action, are there or should there be any alternatives to program deregistration?
—Should there be appeal rights from a finding of deficiency or a decision to deregister a program?

Public comment is requested on each of the specific questions asked as well as suggestions for defining "periodic" as used above.

Summary of Public Comment Requested

ETA is requesting comment on a number of specific questions and areas related to apprenticeship models and to defining and measuring quality in apprenticeship programs. For ease in responding, a summary is provided below. Respondents are asked to follow the format in preparing responses. This will facilitate the review and analysis of the replies received.

Question #1: How can the apprenticeship concept be effectively broadened in traditional areas as well as in those areas where the traditional models may not apply?

A. *Core definition of apprenticeship*—Public comment is invited on the feasibility of structuring program models based on a core definition of apprenticeship.

B. *Alternative approaches for recognizing outcomes*—Public comment is invited on several approaches (i.e. program models) for recognizing the varying outcomes or levels of achievement from completion of an apprenticeship program.

1. *Approach 1. Separate program structure.* This approach would preserve the traditional apprenticeship model and create a separate program structure for skills development where the core definition of apprenticeship applies but the training is not in the traditional crafts or does not follow the traditional model.

2. *Approach 2. Program levels.* In addition to, or instead of, establishing a separate program structure, there could be created within the basic apprenticeship structure defined levels of skill attainment. Each level of completion would be accorded specific recognition.

3. *Approach 3. Worker certification.* The present structure would be continued with one addition. Upon completion to journey level status, an individual would receive, in addition to a certificate, a transcript of specific skill competencies achieved and, possible, course work completions.

Question #2: How should the quality of apprenticeship programs be defined and measured?

A. *Standard definitions of quality.* Public comment is sought on whether there can or should be a standard definition of quality for all programs.

B. *Process measures.* Public comment is invited on a number of possible "process" measures for quality in apprenticeship programs. Process is defined to mean both program development and the training that follows.

1. With respect to program development, public comment is requested on:

a. Curriculum—Are standard curricula required to produce consistent, high quality instruction nationwide? Should the structure and length of related instruction vary for occupations in labor intensive and knowledge intensive industries?

b. Work Processes—Should program standards for work processes be more specific? For instance, should they include skill competencies which must be mastered at each level before moving to the next? Further, should there be provisions for testing to ensure that these skills have, in fact, been mastered? To what degree should there be standardization of skill competency levels within occupations?

C. Periodic Assessment—Should there be requirements for period assessment built into program standards? If so, should these requirements be uniform or should they be left to the program sponsor to decide?

2. With respect to training apprentices, public comment is requested on:

a. Selection of Apprentices—Is it appropriate to include the selection process as a measure of a quality program? If so, how could this measure be defined while taking into account affirmative action goals?

b. Ratio of Apprentices to Journey Level Workers—Is this an effective measure of program quality? Are there other measures or processes which would better assure safety and training goals are achieved?

c. Qualifications of Instructors—Would the quality of apprenticeship programs be enhanced if all the apprentice instructors received formal training in effective methods of teaching? Should there be separate standards for educators who provide the related instruction or are current teacher certification requirements sufficient? Further, should there be minimum standards for selection of related training instructors, for on-the-job instructors, for both?

d. Recordkeeping—Is it important to prescribe a minimum level of record keeping? If so, what should that minimum level be?

c. *Outcome measures.* Public comment is invited on possible outcome or success measures for apprenticeship programs.

1. Skills Competency—Would required competency tests or the issuance of transcripts contribute to quality in apprenticeship?

2. Completion Rates—Given all the variables that affect completion, can a program's record in completing apprentices be used as an indicator of its quality? If so, how would all the variables be addressed?

D. *Quality assurance.* Public comment is requested on questions relating to the mechanisms for ensuring quality and the possible consequences for programs which fail to meet quality standards.

1. With respect to program registration, should standards be applied to existing programs? Should sponsors be required to initiate a new registration where programs are substantially changed? Should there be appeal rights if program registration is denied because of failure to meet quality standards?

2. With respect to on-going oversight, public comment is invited as to whether there should be periodic compliance reviews, periodic program reports by the program sponsor and/or periodic recertification of programs. If a program fails to maintain quality, what alternatives are available and should any decision be appealable?

[FR Doc. 88-23719 Filed 10-13-88; 8:45 am]

BILLING CODE 4510-30-M

federal register

Friday
October 14, 1988

Part IV

Office of Management and Budget

Budget Rescissions and Deferrals; Notices

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 10 deferrals of budget authority now totalling $2,024,171,278.

The deferrals affect programs in Funds Appropriated to the President, and the Departments of Agriculture, Defense, Energy, Health and Human Services, Justice, State, and Transportation.

The details of these deferrals are contained in the attached report.

Ronald Reagan.

The White House,

September 30, 1988.

BILLING CODE 3110-01-M

1

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President:	
	International Security Assistance:	
D89-1	Economc support fund.....	592,760
	Special Assistance for Central America:	
D89-2	Promotion of stability and security in Central America.....	1,000
	Department of Agriculture:	
	Forest Service:	
D89-3	Expenses, brush disposal.....	144,649
D89-4	Cooperative work.....	335,263
	Department of Defense - Civil:	
D89-5	Wildlife conservation.....	1,212
	Department of Energy:	
	Power Marketing Administration:	
D89-6	Southwestern Power Administration, Operation and maintenance.....	2,800
	Department of Health and Human Services:	
	Social Security Administration:	
D89-7	Limitation on administrative expenses (construction).....	6,745
	Department of Justice:	
	Office of Justice Programs:	
D89-8	Crime victims fund.....	90,000
	Department of State:	
	Bureau for Refugee Programs:	
D89-9	U.S. emergency refugee and migration assistance fund.....	26,135
	Department of Transportation:	
	Federal Aviation Administration:	
D89-10	Federal and equipment (Airport and airway trust fund).....	823,608
	Total, deferrals.....	2,024,171

SUMMARY OF SPECIAL MESSAGES
FOR FY 1989
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
First special message:		
New items	---	2,024,171
Revisions to previous special messages	---	---
Effects of first special message	---	2,024,171
Amounts from previous special messages that are changed by this message (changes noted above)	---	---
Subtotal, rescissions and deferrals	---	2,024,171
Amounts from previous special messages that are not changed by this message	---	---
Total amount proposed to date in all special messages	---	2,024,171

Deferral No: D89-1

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	New budget authority..... $ _____ (P.L._____)
Bureau: International Security Assistance	Other budgetary resources.. 592,760,000
Appropriation title and symbol:	Total budgetary resources.. 592,760,000
Economic support fund 1/ 118/91037 11X1037	Amount to be deferred: Part of year..... $ 592,760,000 Entire year..... _____
OMB identification code: 11-1037-0-1-152	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [X] Multiple-year Sept. 30, 1989 (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Coverage:

Appropriation	Account Symbol	OMB Identification Code	Amount Deferred
Economic support fund.....	11 X 1037	11-1037-0-1-152	1,000,000
Economic support fund.....	118/91037	11-1037-0-1-152	591,760,000
			592,760,000

Justification: This action defers funds pending approval of specific loans and grants to eligible countries by the Secretary of State after review by the Agency for International Development and the Treasury Department. This will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limits of available funds. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1988 (D88-1A).

Deferral No: D89-2

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Funds Appropriated to the President	**New budget authority**..... $ _____ (P.L. _____)
Bureau: Special Assistance for Central America	**Other budgetary resources**.. 1,799,000
Appropriation title and symbol:	**Total budgetary resources**.. 1,799,000
Promotion of Stability and Security in Central America 1/ 11X1091	**Amount to be deferred:** **Part of year**..... $ 1,000,000 **Entire year**..... _____
OMB identification code: 11-1091-0-1-053	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other _____
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: These funds were appropriated to facilitate, through support for such activities as verification and monitoring, the regional peace initiative signed in Guatemala City on August 7, 1987.

These funds contain an estimated unobligated balance from prior-year authority of $1,799,000. Of this amount, $1,000,000 has been deferred. The Department of State will monitor the status of the peace initiative and recommend further disposition of the funds as appropriate. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1988 (D88-2).

Deferral No: D89-3

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	New budget authority..... $ 54,680,000 (16 U.S.C. 490)
Bureau: Forest Service	Other budgetary resources.. 149,771,000
Appropriation title and symbol: Expenses, brush disposal 1/ 12X5206	Total budgetary resources.. 204,451,000
	Amount to be deferred: Part of year..... $ ____
	Entire year..... 144,649,000
OMB identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ____

Justification: Purchasers of National Forest timber are required to deposit the estimated cost to the Forest Service for disposing of brush and other debris resulting from timber cutting operations pursuant to 16 U.S.C. 490. The deposits becoming available in the current year are estimated and the related disposal operations are planned for the following year. Efficient program planning and accomplishment is facilitated by operating a stable program well within the funds available in any one year for this purpose. Much of the brush disposal work for which fees are collected cannot be done in the same year because of weather conditions or because harvesting is not completed. The Forest Service is planning for a stable year-to-year program which will require $59.8 million in FY 1989. The current fiscal year reserve of $144.6 million is established pursuant to the provisions of the Antideficiency Act (31 U.S.C. 1512) as a reserve for contingencies.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-3A).

Deferral No: D89-4

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	**New budget authority**..... $ 267,748,000 (16 U.S.C. 576b)
Bureau: Forest Service	**Other budgetary resources**.. 649,069,000
Appropriation title and symbol: Cooperative work 1/ 12X8028	**Total budgetary resources**.. 916,817,000
	Amount to be deferred: Part of year..... $ ____ Entire year..... 335,263,000
OMB identification code: 12-8028-0-7-302	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: Funds are received from States, counties, timber sale operators, individuals, associations, and others. These funds are expended by the Forest Service as authorized by law and the terms of the applicable trust agreements. The work consists of protection and improvement of the National Forest System. The work benefits the national forest users, research investigations, reforestation, and administration of private forest lands. Much of the work for which deposits have been made cannot be done, or is not planned to be done, during the same year that the collections are being realized. Examples include areas where the timber operators have not completed all of the contract obligations during the year funds are deposited. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-5).

Deferral No: D89-5

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Defense - Civil	New budget authority..... $ 2,105,000 (16 U.S.C. 670F)
Bureau: Wildlife Conservation, Military Reservations 1/	Other budgetary resources.. 1,547,125
Appropriation title and symbol: Wildlife Conservation, Army 21X5095 Wildlife Conservation, Navy 17X5095 Wildlife Conservation, Air Force 57X5095	Total budgetary resources.. 3,652,125
	Amount to be deferred: Part of year..... $ ____ Entire year..... 1,212,125
OMB identification code: 97-5095-0-2-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Coverage:

Appropriation	Account Symbol	OMB Identification Code	Amount Deferred
Wildlife Conservation, Army.....	21X5095	21-5095-0-2-303	$1,018,061
Wildlife Conservation, Navy.....	17X5095	17-5095-0-2-303	118,000
Wildlife Conservation, Air Force....	57X5095	57-5095-0-2-303	76,064
			1,212,125

Justification: These are permanent appropriations of receipts generated from hunting and fishing fees in accordance with the purpose of the law -- to carry out a program of natural resource conservation. These funds are being deferred because: (1) the authorizing legislation states that installations may accumulate funds over a period of time to fund a major project, (2) the installation may be designing and obtaining approval for the project, and (3)

1/ These accounts were the subject of a similar deferral in FY 1988 (D88-9B).

Deferral No: D89-5

there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. Funds collected in a prior year are deferred in order to be available to finance the program during summer and fall months or in subsequent years. Additional amounts will be apportioned when projects are identified. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D89-6

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority**..... $ 15,389,000 (P.L. 100-371)
Bureau: Power Marketing Administration	**Other budgetary resources**.. 23,841,000
Appropriation title and symbol: Southwestern Power Administration, Operation and maintenance 1/ 89X0303	**Total budgetary resources**.. 39,230,000
	Amount to be deferred: Part of year..... $ ____
	Entire year..... 2,800,000
OMB identification code: 89-0303-0-1-271	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other ____

Justification: This account funds the activities of the Southwestern Power Administration (SWPA), an agency that markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern states. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which power is distributed to customers. The law requires SWPA to deliver power to its customers at the lowest cost consistent with sound business practice. Further, the law requires SWPA to recover all costs from its customers, thus mandating that SWPA carefully examine proposed costs to avoid unnecessary spending. In FY 1988, available funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it because of operational changes. As a result, the level of unobligated funds carried into FY 1989 for purchasing power was higher than assumed when the FY 1989 Budget was prepared. There currently is no plan to use these funds in FY 1989, although the funds will be made available if a significant, unplanned need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-16A).

Deferral No: D89-7

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Health and Human Services	**New budget authority**..... $ _____ (P.L. _____)
Bureau: Social Security Administration	**Other budgetary resources**.. 7,376,607
Appropriation title and symbol:	**Total budgetary resources**.. 7,376,607
Limitation on administrative expenses (construction) 1/ 75X8704	**Amount to be deferred:** Part of year..... $ _____ Entire year..... 6,744,607
OMB identification code: 20-8007-0-6-651	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund:	**Type of budget authority:**
[ ] Annual	[X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: This account provides funding for construction and renovation of the Social Security Administration's (SSA) headquarters and field office buildings. The only costs in FY 1989 are for roof repair and replacement projects. It has been determined that obligational authority in the amount of this deferral is not needed at the present time. Some additional obligations will occur in FY 1990 for roof repair and replacement. Should new requirements arise, subsequent apportionments will include revisions to this deferral. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-10A).

Deferral No: D89-8

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Justice	**New budget authority.....** $ 90,000,000 (P.L. 98-473)
Bureau: Office of Justice Programs	**Other budgetary resources...** 85,000,000
Appropriation title and symbol: Crime victims fund 1/ 15X5041	**Total budgetary resources...** 175,000,000
	Amount to be deferred: Part of year..... $ ____ Entire year..... 90,000,000
OMB identification code: 15-5041-0-2-754	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act [ ] Other ____
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: This appropriation is a special fund which is credited with Federal criminal fines, forfeited appearance bonds, and penalties not to exceed $110 million each fiscal year. From these funds, grants are provided to states for crime victim compensation programs and crime victim assistance programs. Each state receives a small amount fixed by law plus additional amounts based on actual program performance. The carryover from FY 1988 will be obligated early in FY 1989. The estimated FY 1989 collections are deferred and will be obligated in FY 1990. This allows the Office of Justice Programs to know precisely how much money is available for award and avoid overobligating or underobligating fund collections. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-19).

Deferral No: D89-9

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State	New budget authority..... $ _____ (P.L. _____) Other budgetary resources.. 26,135,000 Total budgetary resources.. 26,135,000
Bureau: Bureau for Refugee Programs	
Appropriation title and symbol: United States emergency refugee and migration assistance fund 1/ 11X0040	Amount to be deferred: Part of year..... $ _____ Entire year..... 26,135,000
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: Section 501(a) of the Foreign Relations Authorization Act, 1976 (Public Law 94-141) and Section 414(b)(1) of the Refugee Act of 1980 (Public Law 96-212) amended Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $50,000,000 to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for the Emergency Fund to the Secretary of State but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

These funds have been deferred pending Presidential decisions required by Executive Order No. 11922 and to achieve the most economical use of appropriations. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512). As a result of subsequent releases of these funds in FY 1988, the amount deferred has been reduced to $20,134,291.

1/ This account was the subject of a similar deferral in FY 1988 (D88-11).

Deferral No. D89-9

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D89-10

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Transportation	**New budget authority.....** (P.L.) $
Bureau: Federal Aviation Administration	**Other budgetary resources.** 1,323,773,223
Appropriation title and symbol: Facilities and equipment (Airport and airway trust fund) 1/ 69X8107 695/98107 697/18107 698/28107 696/08107	**Total budgetary resources.** 1,323,773,223
	Amount to be deferred: Part of year..... $
	Entire year..... 823,607,546
OMB identification code: 69-8107-0-7-402	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund:	**Type of budget authority:**
[ ] Annual Sept. 30, 1989 / Sept. 30, 1990	[X] Appropriation
[X] Multiple-year Sept. 30, 1991 (expiration date)	[ ] Contract authority
[X] No-Year Sept. 30, 1992	[ ] Other

Justification: Funds from this account are used to continue to procure specific Congressionally-approved facilities and equipment for the expansion and modernization of the National Airspace System. The projects financed from this account include construction of buildings, and the purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system, and expansion/improvement of navigational and landing aid systems. Funds to continue these activities were justified and provided for in the Department's regular budget submissions and were appropriated by Congress for the year in which requested.

Because of the lengthy procurement and construction time for these interrelated facilities and complex equipment systems, it is not possible to obligate all the funds necessary to complete each project in the year funds were appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with FAA's full funding approach and Congressional intent to provide resources for a project's total cost, and is taken under provision of the Antideficiency Act (31 U.S.C. 1512), which authorizes the establishment of reserves for contingencies.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1988 (D88-12A).

[FR Doc. 88-23763 Filed 10-13-88; 8:45 am]
BILLING CODE 3110-01-C

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one revised deferral of budget authority now totalling $20,134,291.

The deferral affects programs for the Department of State

The details of this deferral are contained in the attached report.

Ronald Reagan.

The White House,

September 30, 1988.

BILLING CODE 3110-01-M

1

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Department of State:	
	Bureau of Refugee Programs:	
D88-11A	United States emergency refugee and migration assistance fund.....	20,134
	Total, deferrals.....	20,134

2

SUMMARY OF SPECIAL MESSAGES
FOR FY 1988
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Fifth special message:		
New items.....	---	---
Revisions to previous special messages..	---	8,496
Effects of fourth special message.....	---	8,496
Amounts from previous special messages that are changed by this message (changes noted above).....	---	11,638
Subtotal, rescissions and deferrals.....	---	20,134
Amounts from previous special messages that are not changed by this message....	---	9,299,944
Total amount proposed to date in all special messages.....	---	9,320,078

D88-11A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D88-11 transmitted to Congress on October 1, 1987.

This revision to a deferral of the Department of State's Emergency refugee and migration assistance fund increases the amount previously reported from $11,638,000 to $20,134,291. This net increase of $8,496,291 results from additional funds provided by the Dire Emergency Supplemental minus drawdowns for refugee assistance and admissions needs.

Deferral No: D88-11A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State	**New budget authority.....*** $ 24,000,000 (P.L. 100-393)
Bureau: Bureau for Refugee Programs	**Other budgetary resources..*** 12,634,291
Appropriation title and symbol: United States emergency refugee and migration assistance fund 1/ 11X0040	**Total budgetary resources..*** 36,634,291 **Amount to be deferred:** **Part of year.....** $ **Entire year.....*** 20,134,291
OMB identification code: 11-0040-0-1-151	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: Section 501(a) of the Foreign Relations Authorization Act, 1976 (Public Law 94-141) and Section 414(b)(1) of the Refugee Act of 1980 (Public Law 96-212) amended Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $50,000,000 to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for the Emergency Fund to the Secretary of State but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

These funds have been deferred pending Presidential decisions required by Executive Order No. 11922 and to achieve the most economical use of appropriations. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

1/ This account was the subject of a similar deferral in 1988 (D88-11).
* Revised from previous report.

Deferral No. 88-11A

Estimated Program Effect: None

Outlay Effect: None

[FR Doc. 88-23764 Filed 10-13-88; 8:45 am]
BILLING CODE 3110-01-C

federal register

Friday
October 14, 1988

Part V

Office of Management and Budget

Cost Principles for State and Local Governments; Proposed Revisions to Circular No. A-87; Notice

OFFICE OF MANAGEMENT AND BUDGET

Proposed Revisions to Circular No. A-87 "Cost Principles for State and Local Governments"

AGENCY: Financial Management Division, Office of Management and Budget.

ACTION: Proposed revisions to Circular No. A-87.

SUMMARY: This notice offers interested parties an opportunity to comment on proposed revisions to OMB Circular No. A-87 "Cost Principals for State and Local Governments."

An interagency task force was established to review existing cost principles for State and local governments. The task force studied Inspector General reports and recommendations solicited suggestions for changes to the Circular from State and local governments and compared for consistency the provisions of other OMB cost principles covering nonprofit organizations and universities to Circular No A-87. The proposed revised Circular reflects the results of these efforts.

DATE: To be assured of consideration, comments on this proposed Circular must be in writing and must be received on or before December 13, 1988.

FOR FURTHER INFORMATION CONTACT: Palmer Marcantonio, 202-395-3993.

SUPPLEMENTARY INFORMATION:

Summary of Significant Changes

The most significant changes include:

1. Provisions for a reasonable working capital reserve in internal service funds to cover 60 days cash expenditures. The revised circular also calls for changes in the accounting and reporting of internal service fund activities.

2. Changes to policies governing self insurance funds to provide that allowable costs would be based on actual claims.

3. Several new provisions to the pension rules to make them compatible with other cost principles.

4. A new section on "post retirement health benefits" which provides that amounts actually paid for health benefits or insurance paid to retirees are allowable costs.

5. Changes that would make interest costs on equipment acquisitions and major building reconstruction and remodeling completed on or after January 1, 1989 an allowable cost.

6. A new section on rental costs based on rental cost rules contained in Circular No. A-122, "Cost principles for Nonprofit organizations." The new section limits rental costs on certain kinds of leases to the cost of ownership.

7. Expansion of the current prohibitions against legal expenses for prosecuting claims against the government.

8. New standards patterned after Circular No. A-122 "Cost Principles for Nonprofit Organizations" to improve systems used to determine and support charges to Federal programs for salaries and wages.

9. Clarifying changes explaining that taxes a governmental unit imposes on itself (e.g., State sales taxes paid by State hospitals) and other political entities within a State are unallowable.

Public Comment

We expanded the allowability of interest costs associated with capital expenditures as part of the proposed revisions to A-87. However, there is concern that such an expansion could precipitate an unsustainable and indeterminate rise in the Federal matching payments to State and local governments. We are soliciting comments on the prospects of such an increase as well as the utility of such a policy. Specifically, comments should focus on the extent to which an expanded definition of the allowability of interest would increase costs above prior year costs.

In addition to the specific changes proposed below, the Office of Management and Budget encourages interested parties to propose additional changes to the Circular. An example of such a change might be moving away from methodologies that do not assign costs based on benefits received.

We would also be interested in proposals for alternative approaches to delivering Federal assistance funds or changes which might improve the Federal, State, local and Tribal governments' administration of programs. Examples of new approaches might include moving away from a cost based overhead payment system to a fixed price/percentage amount grant approach, or tailoring requirements for selected entities with unique problems such as Indian Tribal Governments.

Darrell A. Johnson,

Assistant Director for Administration.

[Circular No. A-87 (Revised)]

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

Subject: Cost Principles for State and Local Governments

1. *Purpose.* This Circular establishes principles and standards for determining costs applicable to grants, contracts, and other agreements with State and local governments and federally-recognized Indian tribal governments.

2. *Authority.* This Circular is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; and Executive Order 11541.

3. *Policy intent.* This Circular provides principles for determining the allowable costs of programs administered by State, local and federally-recognized Indian tribal governments under grants, contracts, and other agreements with the Federal Government. They are designed to provide the basis for a uniform approach to the problem of determining costs and to promote efficiency and better relationships between grantees and the Federal Government. The principles are for determining costs only and are not intended to identify the circumstances nor to dictate the extent of Federal and State or local participation in the financing of a particular program or project. They are designed to provide that federally-assisted programs bear their fair share of costs recognized under these principles except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

4. *Applicability and scope.*

a. The provisions of this Circular apply to all Federal agencies responsible for administering programs that involve grants, contracts, and other agreements with State, local, and federally-recognized Indian tribal governments. To the extent permitted by law, these principles constitute guidance to be applied by agencies consistent with and within the discretion conferred by the statutes governing agency action.

b. Its provisions do not apply to grants, contracts, and other agreements with:

(1) Publicly-financed educational institutions subject to Office of Management and Budget Circular No. A-21, and

(2) Publicly owned hospitals and other providers of medical care or services subject to requirements promulgated by the sponsoring Federal agencies.

c. However, this Circular does apply to central service and department/agency costs which are allocated or billed to those educational institutions, hospitals, and other providers of medical care or services from other State and local government departments/agencies.

d. Any other exceptions will be subject to approval by the Office of Management and Budget in particular

cases where adequate justification is presented.

5. *Attachments.* The principles and related policy guides are set forth in the attachments, which are:

Attachment A—Principles for Determining Costs Applicable to Grants and Contracts with State, Local, and Federally-recognized Indian Tribal Governments.
Attachment B—Selected Items of Cost.
Attachment C—State/local-wide Central Service Cost Allocation Plans.
Attachment D—Public Assistance Cost Allocation Plans.
Attachment E—State and Local Indirect Cost Proposals.

6. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Systems and Policy Branch, Office of Management and Budget, Washington, DC 20503, telephone 202–395–3993.

James C. Miller III,
Director.

Attachment A—Principles for Determining Costs Applicable to Grants and Contracts With State, Local, and Federally Recognized Indian Tribal Governments

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A. Purpose and Scope

1. *Objectives.* This attachment sets forth principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments under grants, contracts, and other agreements with the Federal government (collectively referred to in this Circular as "Federal awards"). The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal, State, local or Indian tribal government participation in the financing of a particular program or project. They are designed to provide that federally-assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or increment above cost is intended.

2. *Policy Guides.* The application of these principles is based on the fundamental premises that:

a. State, local, and federally-recognized Indian tribal governments (collectively referred to as "governmental units" in this Circular) are responsible for the efficient and effective administration of Federal awards through the application of sound management practices.

b. The governmental unit assumes the responsibility for seeing that Federal funds have been expended and accounted for consistent with underlying agreements and program objectives.

c. Each governmental unit, in recognition of its own unique combination of staff, facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.* a. These principles will be applied by all Federal agencies in determining costs incurred by State, local, and federally-recognized Indian tribal governments under Federal grants, cost reimbursement type contracts, and cooperative agreements (including subgrants and subcontracts) except those with (1) publicly-financed educational institutions subject to Office of Management and Budget Circular A–21, and (2) publicly-owned hospitals and other providers of medical care subject to requirements promulgated by the sponsoring Federal agencies.

b. All cost-reimbursement subawards (subgrants, subcontracts, etc.) are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a governmental unit (other than a college, university or hospital), this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial organizations shall apply; if a subaward is to a college or university, Circular A–21 shall apply; if a subaward is to a hospital, the cost principles used by the Federal awarding agency for awards to hospitals shall apply; if a subaward is to some other nonprofit organization, Circular A–122 shall apply.

B. Definitions

1. *Approval or authorization of the awarding or cognizant Federal agency* means documentation evidencing consent prior to incurring a specific cost. If such costs are specifically identified in a grant budget, approval of the budget constitutes such approval. If the costs are covered by a cost allocation plan, approval of the plan constitutes the approval.

2. *Awarding agency* means any department, agency, commission, or instrumentality in the executive branch of the Federal Government which makes awards to State, local, or federally-recognized Indian tribal governments or, with respect to subawards, the governmental unit making the subaward.

3. *Cognizant agency* means the Federal agency which, on behalf of all Federal agencies, is responsible for reviewing and approving cost allocation plans or indirect cost proposals developed under this Circular.

4. *Cost,* as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency.

5. *Cost allocation plan* means any of the following.

a. *Central service cost allocation plan* means the documentation identifying, accumulating, and distributing the costs of activities provided by a governmental unit on a centralized basis to its departments/agencies as described in Attachment C of this Circular.

b. *Public assistance cost allocation plan* means a narrative description of the procedures that a public assistance agency/department will use in identifying, measuring and allocating all costs incurred in support of all programs administered or supervised by that department/agency as described in Attachment D of this Circular.

c. *Indirect cost rate proposal* means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate as

described in Attachment E of this Circular.

6. *Cost objective* means a function, organizational subdivision, contract, grant, or other activity for which cost data are needed and for which provision is made to accumulate those costs.

7. *Federal award* means a grant, contract, or other agreement, between the Federal Government and a State, local, or federally-recognized Indian tribal government, whereby the Federal Government provides funds to carry out specified programs or projects.

8. *Federally-recognized Indian tribal government* means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

9. *Governmental unit* means a State, local, or federally-recognized Indian tribal government, or any subdivision thereof.

10. *Grantee department or agency* means the subdivision of a State, local, or federally-recognized Indian tribal government which is responsible for the performance or administration of all or some part of a Federal award.

11. *Local government* means a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

12. *State* means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments.

C. Basic Guidelines

1. *Factors affecting allowability of costs.* To be allowable under a Federal award, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards and be allocable thereto under these principles.

b. Be authorized or not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the governmental unit.

e. Be accorded consistent treatment. Consequently, a cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to a Federal award as an indirect cost.

f. Be determined in accordance with generally accepted accounting principles appropriate to the circumstances.

g. Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-supported activity in either the current or a prior period.

h. Be net of all applicable credits.

i. Be adequately documented.

2. *Reasonable costs.* A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness of specific costs must be scrutinized with particular care in connection with governmental units or subdivisions thereof which receive the preponderance of their support from awards made by Federal agencies. In determining reasonableness of a given cost, consideration shall be given to:

a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.

b. The restraints or requirements imposed by such factors as sound business practices, arms length bargaining, Federal, State and other laws and regulations, and terms and conditions of the Federal awards.

c. Market prices for comparable goods or services.

d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large and the Federal government.

e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

3. *Allocable costs.* a. A cost is allocable to a particular cost objective to the extent of benefits received by such cost objective.

b. Costs incurred in meeting cost-sharing or matching requirements, donated services or in-kind contributions, and unallowable costs which represent activities which benefit from a governmental unit's indirect costs must receive an allocation of indirect costs by being included in (1) the allocation base(s) used to assign costs to particular cost objectives and (2) the direct cost base(s) used to compute indirect cost rates.

c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be shifted to other Federal awards to overcome fund deficiencies, avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.

d. Where an allocation of joint costs will ultimately result in charges to a federally-supported program, a cost allocation plan will be required as prescribed in Attachments C, D, and E.

4. *Applicable credits.* a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; insurance refunds or rebates; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable cost they shall be credited to the Government either as a cost reduction or cash refund as appropriate.

b. In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit or the acquisition of capital items should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the governmental unit in determining the rates or amounts to be charged to Federal supported projects for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds or by non-Federal funds in satisfaction of a statutory Federal cost sharing or matching requirement.

c. Program income, as defined in the "Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments (Common Regulations)" or other applicable regulations, shall be treated appropriately in accordance with the

provisions of those Common Regulations or other applicable regulations.

D. Composition of Cost

1. *Total cost.* The total cost of a federally-supported program is comprised of the allowable direct cost of the program, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs.* There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other ultimate cost objective. It is essential, therefore, that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under federally-supported activities are provided in the sections which follow.

E. Direct Costs

1. *General.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to federally-supported or other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to Federal awards and other ultimate cost objectives.

2. *Application.* Typical direct costs chargeable to federally-supported programs are:

a. Compensation of employees for the time devoted and identified specifically to the performance of those programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of those programs.

c. Equipment and other approved capital expenditures.

d. Travel expenses incurred specifically to carry out the program.

3. *Minor items.* Any direct cost of a minor amount may be treated as an indirect cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all cost objectives.

F. Indirect Costs

1. *General.* Indirect costs are those: (a) Incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

2. *Cost Allocation Plans and Indirect Cost Proposals.* Requirements for development and submission of cost allocation plans and indirect cost proposals are contained in Attachments C., D., and E.

3. *Limitation on indirect costs.* a. Federal awards may be subject to laws that limit the amount of indirect costs that may be allowed. Agencies that make awards of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such award does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this Circular, whichever is smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this Circular, the amount not recoverable as indirect costs under one Federal award may not be shifted to another federally-supported program or award, unless specifically authorized by Federal legislation.

G. Interagency Services

The cost of service provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro rata share of indirect costs. A standard indirect cost allowance equal to ten per cent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. The services covered by this Section do not include centralized services included in central service cost allocation plans as described in Attachment C.

Attachment B—Selected Items of Cost

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Sections 1 through 39 provide principles to be applied in establishing the allowability of certain items of cost. These principles apply whether a cost is treated as direct or indirect. A cost is allowable for Federal reimbursement only to the extent of benefits received by Federal programs and its conformance with the general policies and principles stated in Attachment A to this Circular. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost.

1. *Accounting.* The cost of establishing and maintaining accounting and other information systems is allowable.

2. *Advertising.* a. The costs allowable for advertising are those which are solely for:

(1) Recruitment of personnel;

(2) Procurement of goods and services;

(3) Disposal of scrap or surplus materials;

(4) Other purposes specifically provided for in the award.

b. Advertising media includes newspapers, magazines, radio and television programs, direct mail, convention exhibits, and the like.

3. *Advisory Councils.* Costs incurred by advisory councils or committees are allowable.

4. *Audit Service.* The costs of audits are allowable provided that the audits were made in accordance with the Single Audit Act as implemented by Circular A–128 "Audits of State and Local Governments." Generally, the percentage of costs charged to Federal programs for a single audit shall not exceed the percentage that Federal funds expended represent of total funds expended by the recipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs.

5. *Automatic Data Processing.* The cost of the data processing services is allowable (but see section 17, Equipment and Other Capital Expenditures).

6. *Bad Debts.* Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

7. *Bonding Costs.* Costs of bonding are allowable to the extent that such bonding is in accordance with sound business practice.

8. *Budgeting.* Costs incurred for the development, preparation, presentation, and execution of budgets are allowable.

9. *Communications.* Costs of telephone, mail, messenger and similar communication services are allowable.

10. *Compensation for Personal Services*—a. *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this Circular and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established policy of the govermental unit consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with State, local, or Indian tribal government laws and rules and meets Federal merit system or other requirements where applicable; and

(3) Is determined and supported as provided in subsection h. below.

b. *Reasonableness.* Compensation for employees engaged in federally-assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State, local, or Indian tribal government. In cases where the kinds of employees required for federally-assisted activities are not found in the other activities of the State, local, or Indian tribal government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

c. *Unallowable costs.* Costs which are unallowable under other sections of these principles shall not be allowable under this section solely on the basis that they constitute personal compensation.

d. *Fringe benefits.* (1) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limted to, the costs of leave, employee insurance, pensions and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, employer-employee agreement or an established policy of the employer.

(2) Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave and the liike, are allowable if: (a) They are provided under established written leave policies; and (b) the costs are equitably allocated to all related activities, including Federally-supported programs. However, leave costs are allowable only to the extent of leave actually taken by employees or payments made to current or former employees for unused leave.

(3) Fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (but see section 23, Insurance and Indemnification); pension plan costs (see subsection e. below); and the like are allowable, provided such benefits are granted under established written policies. Such benefits, whether treated as indirect costs or as direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such awards and other activities.

e. *Pension plan costs.* Pension costs which are incurred in accordance with established written policies of the governmental unit and which meet the following conditions are allowable.

(1) Such policies meet the test of reasonableness.

(2) The methods of cost allocation do not discriminate against Federal programs.

(3) The cost assigned to each fiscal year is determined in accordance with generally accepted accounting principles. Once a governmental unit has selected a method for determining the cost of a pension plan, it shall continue to use that method until a change is mandated by generally accepted accounting principles or approved by the cognizant agency.

(4) For governments using pay-as-you-go systems, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries. When such a government converts to an accrual system which complies with generally accepted accounting principles, any increased costs associated with its previous failure to fund the full costs of past periods are unallowable.

(5) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service costs, caused by a delay in funding the actuarial liability beyond 30 days after each quarter of the year to which such costs are assignable, are unallowable.

f. *Post-retirement health benefits.* Costs of health insurance or health services for retirees and their spouses, dependents, and survivors which are incurred in accordance with established written policies of the governmental unit are allowable. However, such costs are limited to the actual expenditures computed in accordance with the cash basis of accounting.

g. *Severance Pay.* (1) Payments in addition to regular salaries and wages, made to workers whose employment is being terminated, are allowable to the extent that, in each case, they are required by (a) law, (b) employer-

employee agreement, or (c) established written policy.

(2) Actual severance payments (but not accruals) associated with normal turnover are allowable. Such payments shall be allocated to all activities of the governmental unit. However, if individual departments or agencies of the governmental unit experience significantly different levels of turnover, the governmental unit shall bring this to the attention of the cognizant Federal agency and, if required by the cognizant agency, recognize those differences by use of separate allocations or other techniques which result in a reasonable allocation.

(3) Abnormal or mass severance pay will be considered on a case by case basis and is allowable only if approved by the cognizant Federal agency.

h. *Support of salaries and wages.* (1) Charges for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the State, local, or Indian tribal government and approved by a responsible officials(s) of the governmental unit. Distributions of salaries and wages must be supported by personnel activity reports as prescribed in subparagraph (2) below, except when a substitute system has been approved in writing by the cognizant Federal agency.

(2) Reports reflecting the distribution of activity for each employee are required for all employees whose compensation is charged, in whole or in part, directly to Federal awards or for whom a distribution is needed to support the determination or allocation of indirect costs. Such reports must meet the following standards.

(a) The reports must reflect an after-the-fact distribution of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards.

(b) Each report must account for the total activity for which employees are compensated.

(c) The reports must be signed by the individual employee, and by a responsible supervisory official having first hand knowledge of the activities performed by the employee, assuring that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the period(s) covered by the reports.

(d) The reports must be prepared at least monthly and must coincide with one or more pay periods.

(e) Certifications covering employees who devote all their effort to a single Federal project or program may be prepared on a quarterly basis. Such certifications may be signed by the employees or by a responsible supervisory official having first hand knowledge of the activities performed by the employees, assuring that all of their activities during the period covered had been devoted to the single project or program to which their salaries were charged.

(3) Salaries and wages of employees used in meeting cost sharing or matching requirements on awards must be supported in the same manner as those claimed for reimbursement under Federal awards.

(4)(a) Substitute systems (see paragraph (1) above) which use sampling methods to allocate salary and wage costs among programs or activities (primarily associated with Public Assistance Programs—e.g., AFDC, Medicaid etc.) must meet acceptable statistical sampling standards including:

(i) The sampling universe must include all of the employees whose salaries and wages are to be allocated;

(ii) The entire time period involved must be covered; and

(iii) The results must be statistically valid and applied to the period being sampled.

(b) Less than full compliance with the above statistical sampling standards may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal programs will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal programs than a system which complies with the standards.

i. *Backpay.* Under the conditions set forth below, certain forms of backpay are allowable.

(1) Backpay resulting from violations of Federal Labor Laws or the Civil Rights Act of 1964 is allowable only to the extent that it represents additional pay for services performed for which employees were underpaid. However, backpay is unallowable if it represents anything other than such an underpayment, such as for an improper discharge of, or discrimination against, an employee.

(2) Backpay to employees for the difference between past and current wage rates for work performed without a contract or labor agreement during labor management negotiations, or during the period of a governmental appropriation process, is allowable. Such backpay to nonunion employees is also allowable.

(3) All other backpay is unallowable.

j. *Donated Services.* (1) Donated or volunteer services may be furnished to a governmental unit by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimburseable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of the "Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments (Common Regulations)".

(2) The value of donated services utilized in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the governmental unit's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs.

(3) To the extent feasible, donated services will be supported by the same methods used by the governmental unit to support the allocability of regular personnel services.

11. *Contingencies.* Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable. The term "contingency reserve" excludes self-insurance reserves (see subsection 23.c.) and pension plan costs (see subsection 10.d.).

12. *Contributions and Donations.* Contributions and donations, including cash, property and services, by governmental units to others, regardless of recipient, are unallowable.

13. *Depreciation and Use Allowance.* a. Compensation for the use of buildings, other capital improvements, and equipment on hand may be made through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.) except as provided in subsection f. below.

b. The computation of use allowances or depreciation shall be based on the acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The acquisition cost of an asset donated to the governmental unit by an unrelated third party shall be its fair market value at the

time of donation. Governmental or quasigovernmental organizations located within the same State shall not be considered unrelated third parties for this purpose.

c. The computation of use allowances or depreciation will exclude:

The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the governmental unit, or a related donor organization, in satisfaction of a statutory matching requirement.

d. Where the use allowance method is followed, the use allowance for buildings and improvements (including land improvements such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components (e.g., plumbing system, heating and air condition, etc) cannot be segregated from the building's shell. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory equipment will be considered as not being permanently fixed to the building if it can be removed without the destruction of, or need for costly or extensive alterations or repairs to the building or the equipment. Equipment that meets these criteria will be subject to the six and two-third percent equipment use allowance limitation.

e. Where the depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, technological developments, and the renewal and replacement policies followed for the individual items or classes of assets involved. The method of depreciation used to assign the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater or lesser in the early portions of its useful life than in the later portions, the straight line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency. When the depreciation method is introduced for application to an asset previously subject to a use allowance, the annual depreciation charge thereon may not exceed the amount that would have resulted had the depreciation method been in effect from the date of acquisition of the asset; and the combination of use allowances and depreciation applicable to the asset must not exceed the total acquisition cost of the asset. When the depreciation method is used for buildings, a building's shell may be segregated from each building component (e.g., plumbing system, heating, and air conditioning system, etc.) and each item depreciated over its estimated useful life; or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life.

f. No depreciation or use charge may be allowed on any assets that have been fully depreciated except in unusual circumstances and with prior approval of the cognizant Federal agency.

g. Charges for use allowances or depreciation must be supported by adequate property records and physical inventories must be taken at least once every two years (a statistical sampling basis is acceptable) to ensure that assets exist and are usable and needed. When the depreciation method is followed adequate depreciation records indicating the amount of depreciation taken each period must also be maintained.

14. *Disbursing Service.* The cost of disbursing funds by the Treasurer or other designated officer is allowable.

15. *Employee Morale, Health and Welfare costs.* The cost of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State, local or Indian tribal policy are allowable. Income generated from any of these activities will be offset against expenses.

16. *Entertainment.* Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, and gratuities) are unallowable.

17. *Equipment and Other Capital Expenditures.* a. The cost of facilities, equipment and other capital assets, and repairs which materially increase the value or useful life of capital assets are unallowable as a direct cost except when specifically approved by the Federal grantor agency.

b. As used in this paragraph the following terms have the meanings as set forth below:

(1) Equipment means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost of more than $5,000.

(2) "Acquisition cost" means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective intransit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the governmental unit's regular written accounting practices.

c. When assets acquired with Federal grant funds are no longer needed, disposal of the assets shall be handled in accordance with the provisions of the "Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments (Common Regulations)" or other applicable regulations.

d. When replacing equipment purchased in whole or in part with Federal funds, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

e. Equipment and other capital expenditures are unallowable as indirect costs. However, see section 13 for allowability of use allowances or depreciation on buildings, capital improvements and equipment. See also section 35 for allowability of rental costs for land, buildings and equipment.

18. *Fines and Penalties.* Cost of fines, penalties, damages and other settlements, resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, or local laws and regulations are unallowable except when:

a. Incurred as a result of compliance with specific provisions of the award or written instructions from the grantor;

b. Representing back pay(see subsection 10.i.).

19. *Fund Raising, and Investment Management Costs.* a. Costs of organized fund raising, including financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable, regardless of the purpose for which the funds will be used.

b. Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable. However, such costs associated with investments covering pension, self-insurance or other funds which include Federal participation allowed by this Circular are allowable.

c. Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in paragraph c.3.(b) of Attachment A.

20. *Gains and Losses on Disposition of Depreciable Property or Other Capital Assets.* a. (1) Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions

(a) The gain or loss is processed through a depreciation reserve account and is reflected in the depreciation allowable under section 17.

(b) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(c) A loss results from the failure to maintain permissible insurance, except as otherwise provided in subsection 23.d.

(d) Compensation for the use of the property was provided through use allowances in lieu of depreciation in accordance with section 13.

b. Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions shall be considered on a case-by-case basis.

c. Gains or losses of any nature arising from the sale or exchange of property other than the property covered in subsection a. above shall be excluded in computing award costs.

21. *General Government Expenses.* a. The general costs of government are unallowable (but see section 38). These include:

(1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executives of federally recognized Indian tribal governments;

(2) Salaries and other expenses of State legislatures, Tribal councils or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction;

(3) Cost of the judiciary branch of a government;

(4) Cost of prosecutorial activities unless treated as a direct cost to a specific program when authorized by program regulations (however, this does not preclude the allowability of the non-prosecutorial legal activities of the Attorney General); and

(5) Other general types of government services normally provided to the general public such as fire and police, unless provided for as a direct cost in program regulations.

b. For federally-recognized Indian tribal governments, the portion of salaries and expenses directly attributable to managing and operating programs by the chief executive and his staff is allowable. The allowable portion shall be determined by the Federal cognizant agency and the Indian government representatives on a reasonable bases.

22. *Idle Facilities and Idle Capacity.* a. As used in this section the following terms have the meanings set forth below:

(1) "Facilities" means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the governmental unit.

(2) "Idle facilities" means completely unused facilities that are excess to the governmental unit's current needs.

(3) "Idle capacity" means the unused capacity of partially used facilities. It is the difference between (a) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and (b) the extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

(4) "Cost of idle facilities or idle capacity" means costs such as maintenance, repair, housing, rent, and other related costs; e.g., property taxes, insurance, and depreciation or use allowances.

b. The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subparagraph, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

c. The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets have substantially the same function may be idle facilities.

23. *Insurance and Indemnification.* a. Costs of insurance required, or approved and maintained pursuant to the award agreement are allowable.

b. Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for certain self-insurance programs are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the

provision is made shall not exceed the present value of the liability.

(2) Contributions to a reserve for worker's compensation, unemployment compensation, severance pay and similar employee benefit programs are unallowable. Actual claims paid for such benefits are allowable as a general administrative expense to be allocated to all activities of the State, local or Indian tribal government. However, if individual departments or agencies of the governmental unit experience significantly different levels of claims for these benefits, the governmental unit shall bring this to the attention of the cognizant Federal agency and, if required by the cognizant agency, recognize those differences by use of separate allocations or other techniques which result in a reasonable allocation. If the Federal government has participated in any accumulated reserves for such benefits prior to the effective date of this provision, those reserves shall be depleted before any additional claims will be allowable.

(3) Earnings of investment income on reserves must be credited to those reserves.

(4) Amounts of contributions to reserves must be based on sound actuarial bases using the most likely assumptions. Reserve levels must be analyzed and updated with reasonable frequency and reserve amounts in excess of claims run-off must be identified and justified in the cost allocation plan or indirect cost proposal.

(5) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the governmental unit.

(6) Whenever funds are transferred from a self-insurance reserve to other (e.g., general fund) accounts refunds shall be made to the Federal government for its share of funds transferred.

d. Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the award agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. Insurance refunds shall be credited against insurance costs.

f. Indemnification includes securing the State, local and Indian tribal government against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the State, local or Indian tribal Government only to the extent expressly provided for in the Federal award except as provided in d. above.

24. *Interest.* a. Costs incurred for interest on borrowed capital or the use of a governmental unit's own funds, however represented, are unallowable except as specifically provided in subsection b. below or authorized by Federal legislation.

b. The cost of interest paid to an external party is allowable where associated with the following assets, provided the assets are used in support of Federal awards and the total costs (including depreciation or use allowance, operation and maintenance costs, interest, etc.) do not exceed the rental cost of comparable assets in the same locality.

(1) Buildings acquired or completed on or after October 1, 1980.

(2) Major building reconstruction and remodeling completed on or after January 1, 1989.

(3) Acquisition or fabrication of capital equipment completed on or after January 1, 1989.

25. *Maintenance, Operations and Repairs.* The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations and the like are allowable to the extent that they (1) keep property (including Federal property, unless otherwise provided for) in an efficient operating condition (2) do not add to the permanent value of property or appreciably prolong its intended life and (3) are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures. (See section 13, Depreciation and Use Allowances and section 17, Equipment and Other Capital Expenditures).

26. *Materials and Supplies.* The cost of materials and supplies is allowable. Purchases should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of materials costs.

27. *Memberships, Subscriptions and Professional Activities.* a. Costs of the governmental unit's memberships in business, technical and professional organizations are allowable when the benefit from the membership is related to the grant program.

b. Costs of the governmental unit's subscriptions to business, professional and technical periodicals are allowable.

c. Costs of technical meetings and conferences, including meals, transportation, rental of meeting facilities and other incidental costs are allowable. Adequate records must be maintained to document that the primary purpose of the meeting was for dissemination of technical information or to otherwise promote the objectives of Federal programs.

d. Costs of membership in civic, community, and social organizations, or organizations substantially engaged in lobbying activities are not allowable.

28. *Motor Pools.* The cost of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

29. *Preaward Costs.* Preaward costs are those incurred prior to the effective date of the award directly pursuant to the negotiation and in anticipation of the award where such costs are necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

30. *Professional Service Costs.* a. Cost of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, whether or not officers or employees of the governmental unit, are allowable, subject to b., c., and d. of this section, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government

b. In determining the allowability of costs for services from individuals who are not officers or employees of the governmental unit in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant.

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the governmental unit's capability in the particular area.

(3) The past pattern of such costs particularly in the years prior to Government awards.

(4) The impact of Government awards on the governmental unit's business (i.e., what new problems have arisen).

(5) Whether the proportion of Government work to the governmental unit's total business is such as to influence the governmental unit in favor of incurring the cost, particularly where the services rendered are not of a continuing nature, and have little relationship to work under Government grants and contracts.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualification of the individual or concern rendering the service and the customary fees charged, especially on non-government awards.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

c. In addition to the factors in subsection b. above, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

d. Cost of legal, accounting, and consulting services, and related costs incurred in connection with defense against Federal claims or appeals or antitrust suits, and the prosecution of claims or appeals against the Government, are unallowable. Cost of legal, accounting, and consulting services, and related costs incurred in connection with patent infringement litigation, organization and reorganization, are unallowable unless otherwise provided for in the award.

31. *Proposal Costs.* Costs of preparing proposals on potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental unit.

32. *Publication and Printing Costs.* Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling are allowable.

33. *Rearrangements and Alterations.* Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal program are allowable with the prior approval of the Federal awarding agency.

34. *Reconversion Costs.* Costs incurred in the restoration or rehabilitation of the governmental unit's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, fair wear and tear excepted, are allowable.

35. *Rental Costs.* a. Subject to the limitations described in subsections b. through d. of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.

b. Rental costs under sale and leaseback arrangements are allowable only up the amount that would be allowed had the State, local or Indian tribal goverment continued to own the property.

c. Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the governmental unit. For this purpose, less-than-arms-length leases include, but are not limited to, those where:

(1) One party to the lease is able to control or substantially influence the actions of the other;

(2) Both parties are parts of the same State, locality or Indian tribe; or

(3) The State, locality or Indian tribe of one party to the lease has created a building authority or similar entity to act in its behalf to obtain and lease the facilities covered by the lease.

d. Rental costs under leases which create a material equity in the leased property or which are required to be treated as capitalized leases under generally accepted accounting principles are allowable only up to the amount that would be allowed had the State or local government purchased the property on the date the lease agreement was executed; e.g., depreciation or use allowance, maintenance, taxes, insurance but excluding any unallowable costs. For this purpose, a material equity in the property exists if the lease is noncancelable or is cancelable only upon the occurrence of some remote contingency and has one or more of the following characteristics:

(1) The State, local or tribal government has the right to purchase the property for a price which at the beginning of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option);

(2) Title to the property passes to the governmental unit at some time during or after the lease period;

(3) The term of the lease (initial term plus periods covered by bargain renewal options, if any) is equal to 75 percent or more of the economic life of the leased property; i.e., the period the property is expected to be economically usable by one or more users.

36. *Taxes.* Taxes which the Governmental unit is legally required to pay are allowable except for taxes assessed by a Governmental unit upon itself, its component parts (including State hospitals) or other political entities within the State where it is located.

37. *Training.* The cost of training customarily provided for employee development is allowable.

38. *Travel Costs.* Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-federally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available. Notwithstanding the provisions of section 21, travel costs of officials covered by that section, when specifically related to grant programs, are allowable with the prior approval of a grantor agency.

39. *Underrecovery of Costs Under Federal Agreements.* Any excess costs over the Federal contribution under one award agreement are unallowable under other award agreements.

Attachment C—State/Local-Wide Central Service Cost Allocation Plans

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A. General

1. Most governmental units provide certain services, such as motor pools, computer centers, purchasing, accounting, etc., to operating agencies on a centralized basis. Since Federally-supported programs are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefiting activities on a reasonable and consistent basis. The Central Service Cost Allocation Plan provides that process. All costs and other data used to distribute the costs included in the plan should be supported by formal accounting records and other records that will support the propriety of the costs assigned to Federal awards.

2. Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

B. Definitions

1. *Central Service Cost Allocation Plan* means the documentation identifying, accumulating and distributing the allowable costs of services provided by a governmental unit on a centralized basis to its departments/agencies. The costs of these services may either be billed to users or allocated to users.

2. *Billed central services* means central services that are billed to benefiting agencies and/or programs on an individual fee for service or similiar basis, and the billings are included in the accounting records of the benefiting agencies. Typical examples of billed central services include computer services, transportation services, insurance, and fringe benefits.

3. *Allocated central services* means central services that benefit operating agencies but are not billed to the agencies on a fee for service or similar basis. These costs are allocated to benefiting agencies on some reasonable basis. Examples of such services might include general accounting, personnel administration, purchasing, etc.

4. *Agency or operating agency* means an organizational unit or sub-division within a governmental unit that is responsible for the performance or administration of programs for activities of the governmental unit.

C. Scope of the Central Service Cost Allocation Plans

The central service cost allocation plan will include all central service costs that will be claimed (either as a billed or an allocated cost) under Federal awards and will be documented as described in Section F below. Costs of central services not included in the plan will not be reimbursed.

D. Submission Requirements

1. All States will submit a plan for each year in which they claim central service costs under Federal awards.

2. Local governments that have been designated as "major local governments" by the Office of Management and Budget are also required to submit a plan to their cognizant agency annually.

3. All other local governments claiming central service costs must develop a plan in accordance with the requirements described in this Circular and maintain the plan and related supporting documentation for audit. These local governments are not required to submit their plans for Federal approval unless they are specifically requested to do so by the cognizant agency.

4. All central service cost allocation plans will be prepared (and when required, submitted) within six months after the close of each of the governmental unit's fiscal years. Extensions may be granted by the cognizant agency on a case-by-case basis.

E. Documentation Requirements for Submitted Plans

The documentation requirements described in this section may be modified, expanded, or reduced by the cognizant agency on a case-by-case basis. For example, the requirements may be reduced for those central services which have little or no impact on Federal programs. Conversely, if a review of a plan indicates that certain additional information is needed, and will likely be needed in future years, it may be routinely requested in future plan submissions. Items marked with an asterisk (*) should be submitted only once; subsequent plans should merely indicate any changes since the last plan.

1. *General.* All proposed plans must be accompanied by the following: An organization chart showing all operations of the State/local government whether or not they are shown as benefiting from central service functions *; a copy of the financial statements to support the allowable costs of each central service activity included in the plan; and a certification that the plan was prepared in accordance with this Circular, that it contains only allowable costs, and that it was prepared in a manner that treated similar costs consistently among the various Federal programs and between Federal and non-Federal programs.

2. *Allocated Central Services.* For each allocated central service, the plan must also include the following: a brief description of the service*; an identification of the unit rendering the service and the operating agencies receiving the service; the items of expense included in the cost of the service; 3 the method used to distribute the cost of service to benefiting agencies; and a summary schedule showing the allocation of each service to the specific benefiting agencies. If any self-insurance funds or fringe benefits are treated as allocated (rather than billed) central services, documentation discussed in paragraphs 3.b. and c. below shall also be included.

3. *Billed Services*—a. *General.* The information described below should be provided for all billed central services, including internal service funds, self-insurance funds and fringe benefit funds.

b. *Internal service Funds.* (1) For each internal service fund, the plan should include: A brief description of each service *; a fund balance sheet for each fund based on individual accounts contained in the governmental unit's accounting system; revenue/expenditure statement, with revenue broken out by source, e.g., regular billings, memo billings, interest earned, etc.; a listing of all transfers into and out of the fund; a description of the procedures (methodology) used to charge the costs of each service to users, including how billing rates are determined *; a schedule of current rates; and a schedule comparing the full revenue (including imputed revenue) generated by the service to the allowable costs of the service, as determined under this Circular, with an explanation of how variances will be handled.

(2) Revenues should consist of all revenue generated by the service, including unbilled and uncollected revenue. If some users were not billed for the services (or were not billed at the

full rates), a schedule showing the full "imputed" revenue associate with these users should be provided. Expenditures should be broken out by cost category (e.g., salaries, supplies, etc.).

c. *Self-Insurance Funds.* For each self-insurance fund, the plan should include: The fund balance sheet; a statement/schedule showing fund income (contributions, earnings, etc.) and fund outlays; a listing of all transfers into and out of the fund; the type(s) of risk(s) covered by the fund (e.g., automobile liability, worker's compensation, etc.) *; an explanation of how the level of fund contributions are determined, including a copy of the current actuarial report (with the actuarial assumptions used) if the contributions are determined on an actuarial basis; and a description of the procedures used to charge or allocate fund contributions to benefiting activities *. Reserve levels in excess of claims runoff must be identified and justified.

d. *Fringe benefits.* For fringe benefit costs, the plan should include: A listing of fringe benefits provided to State/local employees, and the overall annual cost of each type of benefit; current fringe benefit policies *; and procedures used to charge or allocate the costs of the benefits to benefiting activities *. In addition, for pension plans the following information should be provided: the governmental unit's funding policies; the pension plans' costs accrued for the year, the amount funded, and date(s) of funding; and a copy of the current actuarial report (including the actuarial assumptions) and the plan trustee's report.

F. Negotiation and Approval of Central Service Plans.

1. All proposed Central Service Cost Allocation Plans that are required or requested to be submitted, will be reviewed, negotiated, and approved by the Federal cognizant agency on a timely basis. Once an agreement with the governmental unit has been reached, it will be accepted and used by all Federal agencies unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special consideration it will, prior to the time the plans are negotiated, notify the cognizant agency.

2. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the governmental unit. This agreement will be subject to re-opening, only at the option of the cognizant agency, and then only if: (a) It is subsequently found to violate a statute; (b) the information provided by the governmental unit upon which the cognizant agency relied during the plan review and negotiation process is later found to be materially incomplete or inaccurate; or (c) the cognizant agency was not made aware of major changes in accounting practices occurred during the effective period of the agreement. The results of the negotiation shall be made available to all Federal agencies for their use.

G. Other Policies.

1. *Use of Proprietary Fund Accounts for Internal Services.* Internal service activities must be accounted for and reported in individual proprietary fund accounts in order to properly account for revenue, expense, and profit or loss.

2. *Working Capital Reserves.* A reasonable working capital reserve to cover cash expenditures (excluding capital items) is permitted in internal service funds. A reserve of up to 60 days' cash expenditures (excluding capital items) is considered reasonable. Reserves beyond this level must be approved by the cognizant agency as part of the plan approval process.

3. *Carry-forward Adjustments.* Allocated central service costs are usually negotiated and approved for a future fiscal year on a "fixed with carry-foward" basis. Under this procedure, the fixed amounts for the future year covered by agreement are not subject to adjustment for that year. However, when the actual costs of the year involved become known, the differences between the fixed amounts previously approved and the actual costs will be carried foward and used as an adjustment to the fixed amounts established for a later year. This "carry-forward" procedure applies to all central service whose costs were fixed in the approved plan. A carry-foward adjustment is not permitted, however, for a central service activity that was not included in the approved plan.

4. *Records Retention.* All Central Service Cost Allocation Plans and related documentation used as a basis for claiming costs under Federal Awards must be retained for audit in accordance with the Records Retention requirements contained in the "Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments (Common Regulations)" or other applicable regulations.

5. *Appeals.* If a dispute arises in the negotiation of a plan between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

6. *OMB Assistance.* To the extent that problems are encountered among the Federal agencies in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance as required to resolve such problems in a timely manner.

Attachment D—Public Assistance Cost Allocation Plans

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3. State public assistance agency costs
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D. Submission, Documentation and Approval of Public Assistance Cost Allocation Plans
E. Review of Implementation of Approved Plans

A. General

1. Federally-financed programs administered by State public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of their stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementating the public assistance cost allocation plan. It is the purpose of this Attachment to extend these requirements to all Federal agencies whose programs are administered by a State public assistance agency. Major Federally-financed programs typically administered by State public assistance agencies include: Aid for Families with Dependent Children, Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services.

2. An interim guide has also been developed by the Department of Health and Human Services entitled "A Guide for State and Local Government Public Assistance Agencies/Departments—Procedures for the Preparation and Submission of Cost Allocation Plans". A copy of this guide may be obtained from HHS.

B. Definitions

1. *State public assistance agency* means the State agency administering or supervising the administration of the public assistance programs operated by the State as identified by Subpart E of 45 CFR Part 95. For the purpose of this Attachment, these programs would also

include all other programs administered by State public assistance agencies.

2. *Public Assistance Cost Allocation Plan* means a narrative description of the procedures that will be used in identifying, measuring and allocating all "State public assistance agency costs" (as defined in paragraph 3. below) to all of the programs administered or supervised by the State agency.

3. *State public assistance agency costs* includes all costs incurred by, or allocable to, the State public assistance agency, except expenditures for financial assistance, medical vendor payments, food stamp coupons, and payments for services and goods provided directly to program recipients.

C. Policy

State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR Part 95. The plan will include all programs administered by the State public assistance agency. Where a letter of approval or disapproval is transmitted to a State public assistance agency in accordance with Subpart E, it will apply to all Federal agencies and programs. The remaining sections of this Attachment summarize the provisions of Subpart E of 45 CFR Part 95.

D. Submission, Documentation and Approval of Public Assistance Cost Allocation Plans

1. A currently approved public assistance cost allocation plan will continue in effect until the occurrence of an event that would make the current plan outdated. At that time, the State public assistance agency is required to promptly develop and submit an amendment to the cost allocation plan to HHS for review and approval.

2. Under the coordination process outlined in Subpart E, affected Federal agencies will review all new plans and plan amendments and provide comments as appropriate to HHS. The effective date of the plan or plan amendment will be the first day of the quarter following the submission of the plan or amendment unless another date is specifically approved by HHS. HHS, as the cognizant agency acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the State public assistance agency and will inform the State agency of the action taken on the plan or plan amendment.

E. Review of Implementation of Approved Plans

1. Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal Government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the funding agencies, audits under OMB Circular A–128, or audits conducted by the cognizant audit agency.

2. Where inappropriate charges affecting more than one funding agency are identified, the HHS cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E. If a disallowance involving two or more funding agencies is required, it will be issued by HHS on behalf of all affected Federal agencies.

3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more funding agencies, the dispute shall be resolved in accordance with the appeals procedures set out in 45 CFR Part 75. Disputes involving only one funding agency will be resolved in accordance with the funding agency's appeal process.

4. To the extent that problems are encountered among the Federal agencies in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance as required to resolve such problems in a timely manner.

Attachment E—State/Local Indirect Cost Rate Proposals

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A. General

1. Indirect costs are those that have been incurred for common or joint purposes benefiting more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.

2. Indirect costs include (a) the indirect costs originating in each grantee department or agency performing Federal awards and (b) the costs of central governmental services distributed through the central service cost allocation plan (as described in Attachment C) not otherwise treated as direct costs.

3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each grantee department or agency claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

4. Because of the diverse characteristics and accounting practices of State and local agencies and Indian tribal governments, it is not possible to specify the types of costs which may be classified as indirect costs in all situations. However, typical examples of indirect costs may include certain State/local-wide central service costs, general administration of the grantee department or agency, accounting and personnel services performed within the grantee department or agency, depreciation or use allowances on

buildings and equipment, the costs of operating and maintaining facilities, etc.

5. This Attachment does not apply to State public assistance agencies. These agencies should refer instead to Attachment D.

B. Definitions

1. *Indirect cost rate proposal* means the documentation prepared by a State or local agency or Indian tribal government to substantiate its claim for the reimbursement of indirect costs.

2. *Indirect cost rate* is a device for determining in a reasonable manner what proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

3. *Indirect cost pool* is the accumulated costs that jointly benefit two or more programs or other cost objectives.

4. *Base* means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost base selected should result in each program bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

5. *Predetermined rate* means an indirect cost rate, applicable to a specified current or future period, usually the governmental unit's fiscal year. This rate is based on an estimate of the costs to be incurred during the period. Except under very unusual circumstances, a predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.) Predetermined rates may not be used by governmental units that have not submitted and negotiated the rate with the cognizant agency.

6. *Fixed rate* means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

7. *Provisional rate* means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on awards pending the establishment of a "final" rate for that period.

8. *Final rate* means an indirect cost rate applicable to a specified past period which is based on the actual allowable costs of the period. A final rate is not subject to adjustment.

9. *Base period* for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to activities performed in that period. The base period normally should coincide with the grantee department or agency's fiscal year, but in any event, shall be so selected as to avoid inequities in the allocation of costs.

C. Allocation of Indirect Costs and Determination of Indirect Cost Rates

1. *General.* a. Where a grantee department or agency has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures as described in paragraph 2. below.

b. Where a grantee department or agency has several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual awards and other activities included in that function by means of an indirect costs rate(s).

c. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in paragraphs 2, 3 and 4 below.

2. *Simplified Method.* a. Where a grantee agency's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (i) classifying the grantee agency's total costs for the base period as either direct or indirect, and (ii) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where a grantee department or agency has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to that department or agency is relatively small.

b. Both the direct costs and the indirect costs should exclude capital expenditures and unallowable costs. However, unallowable costs which represent activities must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

c. The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such as flow-through funds, major subcontracts, etc.), direct salaries and wages, or other base which results in an equitable distribution.

3. *Multiple Allocation Base Method.* a. Where a grantee agency's indirect costs benefit its major functions in varying degrees, such costs shall be accumulated into separate cost groupings. Each grouping shall then be allocated individually to benefiting functions by means of a base which best measures the relative benefits.

b. The cost groupings should be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, taking into consideration the materiality of the amounts involved and the degree of precision needed.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefiting functions. When an allocation can be made by assignment of a cost grouping directly to the function benefited, the allocation shall be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Federal Government and the grantee department or agency. In general, any cost element or cost related factor associated with the agency's activities is potentially adaptable for use as an allocation base provided that: (i) it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, and the like); and (ii) it is common to the benefiting functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with paragraph 4 below, the separate groupings of indirect costs allocated to each major function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall then be distributed to individual awards included in that function by use of a single indirect cost rate.

e. The distribution base used in computing the indirect cost rate for each function may be total direct costs (excluding capital expenditures and other distorting items such as flow-through funds, major subcontracts, etc.), direct salaries and wages, or other base which results in an equitable distribution. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage relationship between the particular indirect cost pool and the distribution base identified with that pool.

4. *Special Indirect Cost Rates.* a. In some instances, a single indirect cost rate for all activities of a grantee department or agency or for each major function of the agency may not be appropriate. It may not take into account those different factors which may substantially affect the indirect costs applicable to a particular program or group of programs. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the organizational arrangements used or any combination thereof. When a particular program(s) is performed in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to that program(s). The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided: (i) The rate differs significantly from the rate which would have been developed under paragraphs 2. and 3. above, and (ii) the programs to which the rate would apply are material in amount.

b. Although this Circular adopts the concept of the full reimbursement of indirect costs, there are some Federal statutes which restrict the reimbursement of certain indirect costs on Federal awards. Where such restrictions exist it may be necessary to develop a special rate for the affected program. Where a "restricted rate" is required, the same procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement.

D. Submission and Documentation of Proposals

1. *Submission of Indirect Cost Proposals.* a. All grantee departments or agencies desiring to claim indirect costs under Federal awards must prepare an indirect cost proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the Records Retention requirements contained in the "Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments (Common Regulation)" or other applicable regulations.

b. State and local grantee agencies for which cognizance assignments have been designated must submit their indirect cost proposals to their cognizant agency. OMB will periodically publish lists of State and local agencies identifying the appropriate Federal cognizant agencies. The cognizant agency for all grantee agencies not identified by OMB will be determined based on the Federal agency providing the largest amount of Federal funds. In these cases, grantee agencies must develop indirect cost proposals in accordance with the requirements of this Circular and maintain the proposal and related supporting documentation for audit. These grantee agencies are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency.

c. All Indian tribal governments desiring reimbursement of indirect costs must submit their indirect cost proposals to the Department of Interior (their cognizant Federal agency).

d. Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of each of the governmental units fiscal years, unless an exception is approved by the cognizant Federal agency. If at that time the proposed central service plan for the same period has not been approved, the indirect cost proposal may be prepared including an amount for central services that is based on the latest available central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

2. *Documentation of Proposals.* The following should be included with each indirect cost proposal:

a. The rates proposed, including subsidiary worksheets and other relevant data cross-referenced and reconciled to the financial data noted in paragraph b. below. Allocated central service costs will be supported by the summary table included in the proposed central service cost allocation plan (this is not required if the central service cost allocation plan for the same fiscal year has been approved by the cognizant agency).

b. A copy of the financial data (financial statements, budgets, accounting reports, etc.) upon which the rate is based. Adjustments resulting from the use of unaudited data will be recognized, where appropriate, by the Federal cognizant agency in a subsequent proposal.

c. The approximate amount of direct base costs incurred under Federal awards. These costs should be broken out between salaries and wages and other direct costs.

d. A chart showing the organizational structure of the agency during the period for which the proposal applies, along with a functional statement(s) noting the duties and/or responsibilities of all units that comprise the agency. (Once this is submitted, only revisions need be submitted with subsequent proposals.)

e. A certification that the proposal was prepared in accordance with this Circular, that it contains only allowable indirect costs, and that it was prepared in a manner that treats similar costs among the Federal programs and between Federal and non-Federal programs consistently.

E. Negotiation and Approval of Rates

1. Indirect cost rates will be reviewed, negotiated, and approved by the cognizant Federal agency on a timely basis. Once a rate has been agreed upon it will be accepted and used by all Federal agencies unless prohibited or limited by statute. Where a Federal funding agency has reason to believe that special operating factors affecting its awards necessitate special indirect cost rates, it will, prior to the time the rates are negotiated, notify the cognizant Federal agency.

2. The use of predetermined rates is encouraged where there is reasonable assurance based on past experience and reliable projection of the grantee agency's costs, that the rate is not likely to exceed a rate based on its actual costs. Long-term agreements utilizing predetermined rates extending over two or more years are encouraged where appropriate.

3. The results of each negotiation shall be formalized in a written agreement

between the cognizant agency and the governmental unit. This agreement will be subject to re-opening, only at the option of the cognizant agency, and then only if: (i) It is subsequently found to violate a statute; (ii) the information provided by the governmental unit upon which the cognizant agency relied during the proposal review and negotiation process is later found to be materially incomplete or inaccurate; or (iii) the cognizant agency was not made aware of major changes in accounting practices that occurred during the effective period of the agreement. The agreed upon rates will be made available to all Federal agencies for their use.

F. Other Policies

1. *Fringe Benefit Rates.* If overall fringe benefit rates are not approved for the governmental unit as part of the central service costs allocation plan, these rates will be reviewed, negotiated and approved for individual grantee agencies during the indirect cost negotiation process. In these cases, a proposed fringe benefit rate computation should accompany the indirect cost proposal. If fringe benefit rates are not used at the grantee agency level (i.e., the agency specifically identifies fringe benefit costs to individual employees), the grantee agency should so advise the cognizant agency.

2. *Billed Services Provided by the Grantee Agency.* In some cases, grantee agencies provide and bill for services similiar to those covered by central service cost allocation plans (e.g., computer centers). Where this occurs, the grantee agency should be guided by the requirements in Attachment C relating to the development of billing rates and should advise the cognizant agency of any billed services. Reviews of these types of services (including reviews of costing/billing methodology, profits or losses, etc.) will be made on a case-by case basis as warranted by the circumstances involved.

3. *Indirect Cost Allocations Not Using Rates.* In certain situations, a grantee agency, because of the nature of its programs, may be required to develop a cost allocation plan that distributes indirect (and, in some cases, direct) costs to the specific funding sources. In these cases a narrative cost allocation methodology should be developed, documented, maintained for audit or submitted, as appropriate, to the cognizant agency for review, negotiation and approval.

4. *Appeals.* If a dispute arises in a negotiation of an indirect cost rate (or other rate) between the cognizant agency and the governmental unit, the dispute shall be resolved in accordance with the appeals procedures of the cognizant agency.

5. *OMB Assistance.* To the extent that problems are encountered among the Federal agencies in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance as required to resolve such problems in a timely manner.

[FR Doc. 88-23643 Filed 10-13-88; 8:45 am]
BILLING CODE 3110-01-M

federal register

Friday
October 14, 1988

Part VI

Office of Management and Budget

Final Issuance of Transmittal Memorandum No. 7 Amending OMB Circular No. A-76; Performance of Commercial Activities: Notice

OFFICE OF MANAGEMENT AND BUDGET

Performance of Commercial Activities (OMB Circular A-76); Final Issuance of Transmittal Memorandum No. 7

AGENCY: Office of Management and Budget.

ACTION: Final issuance of Transmittal Memorandum No. 7 amending OMB Circular No. A-76, "Performance of Commercial Activities."

SUMMARY: This Notice contains Transmittal Memorandum No. 7, dated September 28, 1988, to Circular No. A-76, "Performance of Commercial Activities."

This transmittal Memorandum updates the retirement cost factors, the miscellaneous fringe benefit cost factor for Federal employees, the tax rates used for commercial firms, and the Federal pay raise assumptions for 1989 through 1993. It deletes material mark-up rates applied for General Services Administration (GSA) items, and revises material mark-up rates applied to Defense Logistics Agency (DLA) items.

This Memorandum rescinds Transmittal Memorandum No. 4, dated October 29, 1986, which implemented the requirements of the Federal Employees Retirement System Act of 1986 (FERS) to exclude the employers' costs of social security (OASDI) and thrift plans from A-76 cost comparisons. Public Law 100-366, signed on July 13, 1988, requires all retirement costs to be included in A-76 cost comparisons. This Memorandum also deletes the requirement for agencies to publish their schedules for conducting cost comparison studies in the *Commerce Business Daily* and the **Federal Register**. Executive Order 12615 requires OMB to publish the schedules. Summary reports on the implementation of OMB Circular No. A-76 to be submitted by all agencies to the Office of Federal Procurement Policy, OMB, are deleted; future information will be contained in the A-76 Management Information System.

The updated standard retirement cost factor represents the Government's share of the full dynamic normal costs of the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). This is a composite factor based on the percentage of payroll costs participants in each system represented. The Government's contributions to Social Security (OASDI) and thrift savings plan costs are also included.

The revised fringe benefit cost factor represents the amount the Government contributes to other fringe benefits for employees (workmen's compensation, bonuses and awards and unemployment programs). This revised cost figure was provided by the Office of Personnel Management. Originally, prices paid by the agencies for GSA material did not include all the costs of the acquisition and storage functions performed by GSA, and these costs were added through the use of a standard factor. Public Law 100-202, section 619 now requires inclusion of these costs in the GSA prices, therefore, it is no longer necessary to apply a mark-up rate to GSA prices.

The revised mark-up rates to be applied to DLA prices to show full acquisition and supply costs were provided by DLA.

The Tax Rate Table provides by types of industry the appropriate tax rates in relation to business receipts. The tax rates have been revised by the Internal Revenue Service to reflect the latest rates as of 1984.

The deletion of the requirement for agencies to publish their schedules once per year in the *Commerce Business Daily* and the **Federal Register** is a result of Executive Order 12615, Performance of Commercial Activities, dated November 19, 1987, which required OMB to publish the schedules.

The annual reporting requirements in Chapter 4 of the Supplement to OMB Circular No. A-76, are deleted. The data will be obtained from the A-76 Management Information System on a quarterly basis.

The pay raise assumptions for Federal employees for 1989 through 1993 have been changed to reflect the President's agreement with Congress on the raise to be effective in January 1989.

The revision does not require any agency to (1) create or maintain a duplicative control/monitoring/reporting system or (2) adopt any additional controls, not presently in compliance with the Federal Acquisition Regulations (FAR).

SUPPLEMENTARY INFORMATION: On August 23, 1988 OMB published a draft transmittal memorandum for a ten day public comment period. Only one comment was received; that OMB specify that it would publish the annual study schedules in the **Federal Register** and *Commerce Business Daily*. The recommendation has been included. The final Memorandum also contains two other changes. The decision on the Federal Pay Raise for 1989 was made so the new figure (4.1 percent) was included and a mistake in the rate for medicare was discovered and that rate was lowered from 2.17 percent to the appropriate rate of 1.45 percent.

FOR FURTHER INFORMATION CONTACT: Linda Mesaros, Office of Federal Procurement Policy, Office of Management and Budget, (202) 395-3300.

Darrell A. Johnson,

Assistant Director for Administration.

BILLING CODE 3110-01-M

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 28, 1988

Circular No. A-76
Revised
Transmittal Memorandum No. 7

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: James C. Miller III
Director

SUBJECT: Performance Of Commercial Activities

This Transmittal Memorandum revises the treatment of retirement costs for both government and contractors and updates certain other cost factors. Public Law 100-366 amends the "Federal Employees' Retirement System Act of 1986" to require that all employer paid retirement costs for the Federal Employees Retirement System and the contractor be included in the A-76 cost comparison process. Transmittal Memorandum No. 4 is rescinded by this memorandum. Therefore, all renumbered lines and added lines on the cost comparison forms at Illustrations 1-1 and 5-1, and added paragraphs in the Supplement introduced by Transmittal Memorandum No. 4 are hereby deleted. In addition, this Memorandum updates the federal pay raise assumptions for 1989 through 1993, updates the cost factor for miscellaneous fringe benefits, deletes the mark-up rates applied to General Services Administration (GSA) materials, revises the mark-up rates applied to Defense Logistics Agency (DLA) materials, and revises contractor tax rates. This Memorandum also changes the instructions for publication of inventories and study schedules, and deletes all of Chapter 4, "Annual Reporting Requirement" in Part I of the Supplement.

Paragraph C.1.b, Chapter 1, Part I, of the Supplement

The requirement in this paragraph for agencies to publish their schedules for conducting cost comparison studies in the Commerce Business Daily and the Federal Register is deleted. Executive Order 12615 requires the Office of Management and Budget (OMB) to publish the schedules for public review. OMB will publish the schedules not later than 30 days before the start of each fiscal year in both publications cited above.

~~CERTIFIED TO BE A TRUE COPY OF THE~~ ORIGINAL

~~CERTIFYING OFFICER~~

Chapter 4, Part I, of the Supplement

This chapter is deleted. Quarterly reporting is required by Executive Order 12615. It will be accomplished through the A-76 Management Information System.

Illustration, 1-1, Chapter 1, Part IV, of the Supplement

Lines 13 through 17 of the cost comparison form for in-house vs. contract performance should be changed back to the original nomenclature and format specified in the Supplement, dated August, 1983. Delete the Line - Social Security (OASDI) and Savings Plan Costs (Deduct), which was added by Transmittal Memorandum No. 4. Lines 13 through 17 should be as follows:

TOTAL CONTRACT COSTS ----------Line 13

CONVERSION DIFFERENTIAL ----------Line 14

TOTAL (Line 13 & 14) ----------Line 15

COST COMPARISON (Line 15 minus Line 6) -----Line 16

COST COMPARISON DECISION ----------Line 17

Paragraph C, Chapter 2, Part IV of the Supplement

The pay raise assumptions for Federal employees contained in the President's FY 1989 budget have been changed through discussions with Congress. Both military and civilian pay raises effective in January 1989 will be 4.1 percent. For military pay raises for 1990 and beyond the agencies will use their internal planning numbers. The following rates for civilian employees should be applied per paragraph C of the Supplement on page IV-6 and 7:

Federal Pay Raise Assumptions	Inflation Factors
Effective Date	Civilian
January 1989	4.1
January 1990	3.0
January 1991	3.0
January 1992	3.0
January 1993	3.0
January 1994	3.0

Paragraph D.3.g(1)(a), Chapter 2, Part IV, of the Supplement

The revised standard retirement cost factor to be used is 21.7 percent for all agencies except the Department of Medicine and Surgery (DM&S) within the Veterans Administration (VA). The factor for DM&S is 11.4 percent. The standard factor represents the Government's share of the full dynamic normal costs of the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). This factor also includes the Government's contributions to the Old Age, Survivors and Disability Insurance (OASDI) portion of Social Security and thrift savings plan costs.

The revised retirement cost factors for special class employees are 26 percent for air traffic controllers and 25.5 percent for law enforcement and fire protection employees, except for fire fighters within DM&S. The factor for DM&S is 15.6 percent.

Paragraphs D.3.g(1)(b). Chapter 2, Part IV, of the Supplement.

Revised standard fringe benefit cost factors to be applied under paragraph D.3.g. in the Supplement to the Circular are as follows:

Fringe Benefit Factor	Revised Cost
Federal employee miscellaneous fringe benefits (workmen's compensation, bonuses and awards and unemployment programs)	1.70

The factor for Federal employee insurance remains at 4.7 percent. The factor for FICA (Medicare) remains at 1.45 percent.

Paragraph D.3.g(2), Chapter 2, Part IV, of the Supplement

Add the following paragraph at the end of D.3.g(2) to Chapter 2, Part IV of the Supplement: (The original paragraph was deleted by Transmittal Memorandum No. 4)

"The Federal Insurance Contributions Act (FICA) cost factor listed below, will be applied to civilian employees not covered by either of the two

civilian retirement systems (normally intermittent and temporary employees). Be careful to apply the FICA rate only to wages and salaries subject to the tax; there is an annual salary limitation for FICA tax (See Transmittal Memorandum No. 6). Costs for employees covered by FICA are as follows:

FY 1989	7.51
FY 1990	7.62
FY 1991	7.65
FY 1992	7.65
FY 1993	7.65

Paragraphs E.3.a(1), (2), and (3), Chapter 2, Part IV of the Supplement

The material mark-up rates which are applied for GSA material and supply services under paragraph E.3.a.(1), (2), and (3) are deleted. Public Law 100-202, Section 619 provides for the inclusion of acquisition and storage costs in the price charged by GSA.

Paragraphs E.3.b.(1) and (2), Chapter 2, Part IV, of the Supplement

The material mark-up rates which are applied for DLA material and supply services are revised as follows:

Material	Percent
Wholesale Stock Fund	13.6
Direct Delivery	6.2

Paragraphs H and I, Chapter 3, Part IV, of the Supplement

Delete these paragraphs which were added by Transmittal Memorandum No. 4. Add the following paragraph H as originally contained in Chapter 3, Part IV of the Supplement dated August,1983; this paragraph had been deleted by Transmittal Memorandum No.4:

"H. TOTAL--Line 13

Add lines 7, 8, 9 and 10. If there is a number in parenthesis; i.e., a deduction, in line 11, add to line 12 and subtract this total from the total of lines 7 through 10 and enter the difference on line 13. If the number in line 11 is not in parenthesis, it should be added to the total of lines 7 through 10, and then subtract line 12 from

the total of lines 7 through 11 and enter the difference on line 13."

Chapter 4, Part IV, of the Supplement

Delete the renumbering of line numbers referenced by Transmittal Memorandum No. 4. Proper numbering is the original numbering contained in Chapter 4, Part IV of the Supplement dated August, 1983.

Illustration 5-1, Chapter 5, Part IV, of the Supplement

Lines 15 through 19 of the "Cost Comparison Form for Expansions, New Requirements and Conversion to In-House Performance" should be changed back to the original nomenclature and format specified in the Supplement, dated August, 1983. Delete the Line-Social Security (OASDI) and Savings Plan Costs (Deduct), which was added by Transmittal Memorandum No. 4. Lines 15 through 19 should be as follows:

TOTAL CONTRACT COSTS ----------Line 15

CONVERSION DIFFERENTIAL (For ----------Line 16
Expansions, note net difference,
Chapter V, E.)

TOTAL (Line 8 & 16) ----------Line 17
COST COMPARISON (Line 17 minus line 15) ---Line 18

COST COMPARISON DECISION ----------Line 19

Appendix D, Part IV, of the Supplement

A revised Tax Rate Table, Appendix D, with new tax rates is attached. This tax table will be substituted for the Appendix D found in Part IV of the Supplement to the Circular.

This revision is effective as follows: all changes affecting retirement costing procedures shall be effective as of July 13, 1988 and shall apply to all cost comparisons in process where the Government's in-house cost estimate had not been opened before July 13, 1988. All other changes in the Transmittal Memorandum are effective upon the date of this signed memorandum and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been opened before this date.

Attachment

Attachment

PART IV----COST COMPARISON HANDBOOK

APPENDIX D

TAX RATE TABLE *

CODE NO.	INDUSTRY	TAX RATE(%)
	Extractive Industries	
10-01-0400	Agriculture Production	0.9
10-01-0600	Agricultural Services	0.6
20-02-1010	Mining Iron Ores	2.7
20-02-1070	Mining Copper, Lead, Zinc, Gold and Silver Ores	0.6
20-02-1098	Mining Other Metals	0.7
20-03-1150	Coal Mining	0.9
20-05-1430	Sand, Gravel, Dimension, Crushed and Broken Stone	1.8
	Construction	
30-06-1510	General building (construction)	0.5
30-06-1531	Operative builders (construction)	1.2
30-07-1600	Heavy construction	0.7
30-08-1711	Plumbing, heating, air conditioning	0.5
30-08-1731	Electrical work	0.5
30-08-1798	Other special trades	0.6
	Manufacturing	
40-09-2010	Meat products	0.7
40-09-2020	Dairy products	1.2
40-09-2030	Preserved fruits and vegetables	1.8
40-09-2040	Grain mill products	1.3
40-09-2050	Bakery products	2.0
40-09-2060	Sugar and confectionary products	2.3
40-09-2089	Bottled soft drinks and flavorings	1.9
40-09-2096	Other food and kindred products	1.2
40-12-2315	Men's and boy's clothing	1.5
40-12-2345	Women's and children's clothing	1.2
40-12-2388	Other apparel and accessories	1.3
40-12-2390	Other fabricated textile products	1.2
40-13-2415	Logging, sawmills and planing mills	1.1

* Tax Rates are in relation to business receipts.

** Does not reflect revisions contained in the 1987 Standard Classification Manual.

CODE NO.	INDUSTRY	TAX RATE(%)
	Manufacturing	
40-13-2430	Millwork, plywood, related products	1.4
40-13-2498	Other wood products	1.0
40-14-2500	Furniture and fixtures	2.4
40-15-2625	Pulp, paper and board mills	1.6
40-15-2699	Other paper products	3.0
40-16-2710	Newspapers (printing and publishing)	4.5
40-16-2720	Periodicals (printing and publishing)	1.9
40-16-2735	Books, greeting cards and miscellaneous publishing	4.1
40-16-2799	Commercial and other printing and printing trade services	1.4
40-17-2815	Industrial chemicals, plastics materials and synthetics	2.4
40-17-2830	Drugs	0.7
40-17-2840	Soap, cleaners and toilet goods	2.0
40-17-2850	Paints and allied products	1.8
40-17-2898	Agricultural and other chemical products	2.7
40-18-2998	Petroleum and coal products,not elsewhere classified	0.8
40-19-3050	Rubber products; plastics, footwear, hose and belting	2.0
40-19-3070	Miscellaneous plastics products	1.5
40-20-3140	Leather footwear	1.8
40-20-3198	Leather and leather products not elsewhere classified	0.7
40-21-3225	Glass products	1.6
40-21-3240	Cement, hydraulic	0.8
40-21-3270	Concrete, gypsum and plaster products	2.4
40-21-3298	Other nonmetallic mineral products	2.5
40-22-3370	Ferrous metal industries; miscellaneous primary metal products	0.6
40-22-3380	Nonferrous metal industries	0.7
40-23-3410	Metal cans and shipping containers	1.9
40-23-3428	Cutlery, hand tools and hardware; screw machine products, bolts and similar products	3.4
40-23-3430	Plumbing and heating, except electric and warm air	3.2
40-23-3440	Fabricated structural metal products	1.4
40-23-3460	Metal forgings and stampings	1.4
40-23-3470	Casting, engraving and allied services	1.5

CODE NO.	INDUSTRY	TAX RATE(%)
	Manufacturing(continued)	
40-23-3480	Ordnance and accessories, except vehicles and guided missiles	3.0
40-23-3490	Miscellaneous fabricated metal products	1.9
40-24-3520	Farm machinery	0.6
40-24-3530	Construction and related machinery	0.8
40-24-3540	Metal working machinery	1.4
40-24-3550	Special industry machinery	1.5
40-24-3570	Office and computing machines	7.0
40-24-3598	Other machinery, except electrical	2.0
40-25-3665	Radio, television, communication equipment	1.3
40-25-3670	Electronic components and accessories	2.2
40-25-3698	Other electrical equipment	2.7
40-26-3710	Motor vehicles and equipment	2.4
40-27-3725	Aircraft, guided missiles and parts	1.2
40-27-3730	Ship and boat building and repairing	1.3
40-27-3798	Other transportation equipment, except motor vehicles	2.5
40-28-3815	Scientific instruments and measuring devices; watches and clocks	3.3
40-28-3845	Optical, medical and opthalmic goods	3.1
40-28-3860	Photographic equipment and supplies	3.3
40-29-3998	Miscellaneous manufacturing and manufacturing not allocable	1.9
	Transportation And Utilities	
50-30-4000	Railroad transportation	1.3
50-30-4100	Local and interurban passenger transit	1.7
50-30-4200	Trucking and warehousing	1.1
50-30-4400	Water transportation	0.9
50-30-4500	Transportation by air	1.4
50-30-4600	Pipe lines, except natural gas	1.5
50-30-4700	Transportation services not elsewhere classified	0.5
50-31-4825	Telephone, telegraph and other communication services	3.1
50-31-4830	Radio and Television broadcasting	3.8
50-32-4910	Electric services	3.7
50-32-4920	Gas production and distribution	1.5
50-32-4930	Combination utility services	3.8
50-32-4990	Water supply and other sanitary services	3.6

CODE NO	INDUSTRY	TAX RATE(%)
	Wholesale Trade	
61-33-5004	Groceries and related products	0.4
61-34-5008	Machinery, equipment and supplies	0.8
61-35-5010	Motor vehicles and automotive equipment	1.9
61-35-5030	Lumber and construction materials	0.6
61-35-5050	Metals and minerals, except petroleum and scrap	0.4
61-35-5060	Electrical goods	0.9
61-35-5070	Hardware, plumbing and heating	0.8
61-35-5098	Other durable goods	0.7
61-35-5110	Paper and paper products	0.5
61-35-5129	Drugs, chemicals and allied products	0.9
61-35-5130	Apparel, piece goods and notions	0.6
61-35-5150	Farm-product raw materials	0.1
61-35-5170	Petroleum and petroleum products	0.3
61-35-5180	Alcoholic beverages	0.7
61-35-5190	Miscellaneous nondurable goods; wholesale trade not allocable	0.6
	Retail Trade	
62-36-5220	Building materials dealers	0.9
62-36=5251	Hardware stores	0.7
62-36-5265	Garden supplies and mobile home dealers	0.5
62-37-5300	General merchandise stores	1.2
62-38-5400	Food stores	0.5
62-39-5541	Gasoline service stations	0.2
62-39-5598	Other automotive dealers	0.6
62-40-5600	Apparel and accessory stores	1.3
62-41-5700	Furniture and home furnishings stores	1.1
62-42-5800	Eating and drinking places	1.0
62-43-5912	Drug stores and proprietary stores	1.1
62-43-5921	Liquor stores	0.3
62-43-5995	Other retail stores	0.7
63-44-5997	Wholesale and retail trade not allocable	0.6
	Services	
80-52-7000	Hotels and other lodging places	1.1
80-53-7200	Personal services	1.3
80-54-7310	Advertising services	1.1
80-54-7389	Business services, except advertising	1.2
80-55-7500	Auto repair and services	0.8
80-55-7600	Miscellaneous repair services	0.7

CODE NO.	INDUSTRY	TAX RATE(%)
	Services	
80-56-7812	Motion picture production, distribution and services	0.9
80-56-7830	Motion picture theatres	2.0
80-56-7900	Amusement and recreation services, except motion pictures	1.0
80-57-8015	Physicians' services	0.5
80-57-8021	Dentists' services	0.3
80-57-8050	Nursing and personal care facilities	0.7
80-57-8071	Medical Laboratories	1.4
80-57-8099	Other medical services	1.7
80-57-8111	Legal services	0.5
80-57-8200	Educational services	1.2
80-57-8599	Miscellaneous services, not elsewhere classified	0.8

[FR Doc. 88-23765 Filed 10-13-88; 8:45 am]
BILLING CODE 3110-01-C

federal register

Friday
October 14, 1988

Part VII

Department of Agriculture

Animal and Plant Health Inspection Service
Food Safety and Inspection Service

9 CFR Part 71 et al.
Swine Identification; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Food Safety and Inspection Service

9 CFR Parts 71, 78, 85, 309, 310, and 320

[Docket No. 88-055]

Swine Identification

AGENCIES: Animal and Plant Health Inspection Service, USDA, and Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (the Department) is adding to its existing identification and recordkeeping requirements for swine new provisions to mandate that all swine in interstate commerce be identified and that records concerning the swine identification be maintained. Expanding requirements, so that all swine in interstate commerce are identified and records of their identification maintained, will allow the Animal and Plant Health Inspection Service (APHIS) of the Department to trace a swine disease to its source much more efficiently than was possible before these requirements became effective. APHIS needs to be able to locate sources of infection in order to eradicate certain diseases and stop them from spreading. Expanding identification and recordkeeping requirements for swine in interstate commerce will also allow the Food Safety and Inspection Service (FSIS) of the Department to determine more easily the source of meat that is adulterated with drug and other chemical residues at levels higher than the allowed tolerance. FSIS needs to be able to locate these sources of contamination in order to better keep the United States meat supply free of meat that could harm the health of the American public.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. W.E. Ketter, Regulatory Communications and Compliance Policy Staff, VS, APHIS, USDA, Room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5863; or Dr. Douglas L. Berndt, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, FSIS, USDA, Room 4444, P.O. Box 96464, Washington, DC 20090-6464, 202-447-3219.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1988, the United States Department of Agriculture (USDA) published a proposal (53 FR 3146-3156, Docket number 87-103) to amend its regulations to require all swine in interstate commerce to be identified and to require records concerning the swine identification to be maintained. That document explained, in detail, how and why the proposed regulations were developed. For the reader's convenience, we would like to summarize some of that material.

The Food Safety and Inspection Service (FSIS) of the USDA, under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), has responsibility for ensuring that meat and meat food products in interstate commerce are wholesome and not adulterated or misbranded. One program the agency conducts is the National Residue Program, designed to help prevent products that are adulterated with residues of drugs and other chemicals, such as pesticides and industrial contaminants, from being distributed in commerce.

There are not enough FSIS personnel to test every animal or carcass for possible adulteration with chemical residues, and even if there were, it is not practical to retain every carcass until test results are known. This fact was an important consideration in establishing the National Residue Program. Also, the cost of testing all animals or carcasses and holding them for test results would be prohibitive. Therefore, a system whereby FSIS can predict which animals or carcasses are most likely to be adulterated has been needed to help the agency more accurately choose animals and carcasses for blood and tissue sample testing, use its personnel more efficiently, more effectively enforce its regulations, and more effectively keep adulterated meat out of the nation's food supply.

To do this, FSIS needs a system in which all swine in interstate commerce arriving at slaughter are identified and in which a record of the previous ownership and location of each swine is available. Then, when FSIS locates an adulterated carcass, the animal from which the carcass is derived can be traced back through marketing channels. Tracing animals allows officials to locate other animals that are likely to yield adulterated meat. However, prior to the effective date of these regulations/amendments, the identification requirements for swine did not provide a means for all swine in interstate commerce to be traced through marketing channels.

Another agency within the Department, the Animal and Plant Health Inspection Service (APHIS), is responsible, in part, for protecting the health of United States livestock and poultry. In order to fulfill this responsibility, APHIS has promulgated regulations requiring animals moving in interstate commerce to be tested for disease and inspected for pests, requiring certain animals moving in interstate commerce to be identified, and otherwise governing the interstate movement or commerce of livestock and poultry in the United States.

Millions of livestock are slaughtered every year in the United States. Many of these animals are moved interstate to slaughter. If any of them are found to be infected with certain diseases, APHIS attempts to trace the route the animals took through marketing channels to arrive at slaughter. In that way, APHIS can find out where diseased animals were located, when they were there, and what other animals came in contact with them. Each animal that a diseased animal came in contact with is exposed and may itself become infected, and may in turn have the capability of infecting other animals. Therefore, if APHIS is to successfuly control and eradicate certain livestock diseases in this country, it must be able to trace individual animals.

Prior to the effective date of these amendments, APHIS had some regulations requiring identification of swine moved in interstate commerce. However, not all swine were covered, and the system did not provide a means for all swine in interstate commerce to be traced through marketing channels.

Therefore, as the first step towards ensuring that information is available to allow tracing of swine, the Department published a proposal to amend the regulations in Title 9, Code of Federal Regulations, to expand the identification and recordkeeping requirements relating to swine. The proposal affected only regulations promulgated and enforced by APHIS or by FSIS. The proposal was published in the **Federal Register** on February 3, 1988, at 53 FR 3146-3156. At that time, the Department requested written comments on the proposal.

The comment period closed April 4, 1988; we received 184 comments. They were from state and federal government agencies, trade organizations, corporations, and individuals. Six stated, without elaborating, that they were in favor of the proposed regulations. One stated, without elaborating, that they were against the proposed regulations. Another 3 comments were received which did not

respond to the proposed regulations. The remaining 174 letters made comments and suggestions.

The comments were received indicate general support for some system to identify swine in the United States, both for disease control purposes and to help ensure an unadulterated meat supply for consumers. However, most of the comments expressed concern about one or more aspects of our proposed regulations. We will individually discuss these issues below, by subject.

Comments

Residues

Numerous comments referred to the problem of residues in pork and pork products. Many suggested that rather than setting up a regulatory system to allow USDA representatives to locate the source of adulteration, problem drugs such as sulfa drugs should simply be banned by the Department. These drugs are regulated by the Food and Drug Administration (FDA). That Agency, not the USDA, is responsible for approving or disapproving the use of animal drugs such as sulfa drugs and enforcing their proper use. Therefore, USDA does not have the direct authority to take the regulatory action suggested by these comments.

Definition of "Interstate Commerce"

The proposed regulations require all swine "in interstate commerce" to be identified. Many commenters stated that the proposed definition of "interstate commerce" is vague. A careful reading of their comments suggests that they in fact did understand the definition, but were confused because the definition is different from the meaning of "interstate commerce" we have used in previous regulations. Therefore, though we are not changing the proposed definition in response to these comments, we would like to explain further, and give examples, of what "interstate commerce" means.

We proposed to define "interstate commerce" as:

> Trade, traffic, transportation, or other commerce between a place in a state and any place outside of that state, or between points within a state but through any place outside of that state. (See § 71.1, definition of "Interstate commerce")

We explained in the background information to the proposed regulations (see 53 FR 3151) that the proposed definition of "Interstate commerce" is intended to cover as many swine as possible under the animal quarantine laws and the Federal Meat Inspection Act, including those swine in foreign commerce that are imported into the United States." We also stated (see 53 FR 3152) that:

> [u]nder the proposed swine identification requirements, individual swine may need to be identified even if they are not immediately being moved interstate. This is because the proposed regulations are based on the broadest possible definition of "interstate commerce" under the animal quarantine laws and the federal Meat Inspection Act. Transactions and movements occurring prior to, during, and after an interstate transaction or movement would be included as long as the commerce in the swine continued. For example, if a swine is sold and the buyer and seller are in different states, that swine would be required under the proposed regulations to be identifed, whether or not it moves interstate. That is because the transaction itself would be in "interstate commerce," as the Department proposes to define that term. Prior and subsequent movements and transactions would also be in interstate commerce, as long as the swine remain in commerce.

Here are other examples:

(1) If the seller and buyer are both in state X, but the buyer is acting for a corporation in state Y, the swine purchased would be in interstate commerce whether or not if ever moved outside of state X. *Reason:* The financial transaction involved a seller in one state and or buyer in another state.

(2) If seller and buyer are both in state X, but send swine to state Y for slaughter, the swine would be in interstate commerce. *Reason:* The swine have moved interstate.

(3) If the seller and buyer are both in state X, but the swine is in state Y, the swine would be in interstate commerce even if it never moved outside of state Y. *Reason:* The financial transaction is one state involved swine in another state.

If there is a series of transactions involving the same swine, the individual transactions may or may not be "in interstate commerce," depending upon whether the character of the swine (feeder, breeder, or slaughter animal) changes over the course of the transactions, the length of time between transactions and the intent of the buyer in each transaction. This means that if one transaction in a series is clearly in "interstate commerce," other transactions occurring before or after it in the same, unbroken series, may also be considered to be "in interstate commerce." Every situation must be considered individually. However, to help clarify how we will apply these concepts, here are some examples:

(1) Seller, buyer, and feeder pig are all in state X. Immediately after the feeder pig is purchased by the buyer, the buyer sells it to a broker, also in state X. The broker immediately sells the feeder pig to a buyer in state Y. *All* three transactions would be in interstate commerce. *Reason:* The final transaction involved a buyer and seller in two different states. This transaction was therefore in interstate commerce. However, it was merely the last transaction in an unbroken series of transactions. During the course of the transactions, the swine was not held by any buyer for more than a minimal period of time, the swine did not change character during the course of the transactions (i.e. it remained a feeder pig; it did not grow enough to become a breeding or slaughter animal), and the intent of the buyers all appears to have been to sell the animal quickly for an immediate profit. Therefore, the pig would be considered to have entered interstate commerce at the time of the first transaction.

(2) Seller, buyer, and feeder pig are all in state X. The buyer holds the feeder pig in state X for a substantial period of time until it is large enough to slaughter. The buyer sells it, as a slaughter animal, to a broker in state X, who immediately sells it to a packing plant in state Y. In this situation, only the second and third transactions are in interstate commerce; the first transaction is not. *Reason:* The buyer in the first transaction kept the feeder pig a substantial period of time, in this case until it changed character and became a slaughter animal. Holding the swine for this length of time breaks the series of transactions involving the interstate commerce concerning that swine. Whether an animal is held for a sufficient period of time to change its character and break its interstate commerce is a factual question which must be addressed on a case-by-case basis. However, the second transaction is in interstate commerce because the buyer, a broker in the same state, does not intend to hold the animal, but sells it immediately across the state line to a packing plant.

We received one comment asking us to consider the potential effect of the regulations on the "delivery procedures" for swine purchased under futures contracts. The commenter pointed out that very few swine are actually delivered, that is, moved from buyer to seller, under futures contracts. We have carefully considered this issue. Our regulations will apply to all swine in interstate commerce. If swine purchased under futures contracts are in interstate commerce, they will be subject to the regulations in the same manner as all other swine in interstate commerce. However, the regulations can be applied only to *specific* swine. If a futures contract specifies a certain number of

swine, but not their source, owner, location, or other information which indicates which specific swine are involved, the identification and recordkeeping requirements cannot be applied. At the time specific swine are selected, these requirements can be applied; if the swine are in interstate commerce, they will have to be identified and records made and maintained as required by the regulations. Whether the swine are in interstate commerce or not would be determined as explained above. Delivery of the swine would be one of the factors considered.

Identification Exemption for Farrow-to-Finish Swine

Our proposal included provisions requiring all swine in interstate commerce, except farrow-to-finish swine, to be individually identified. Under the proposal, farrow-to-finish swine would be required instead to be identified by lot. (See § 71.19(c)(1)–(5).) Many comments stated that all swine, without exception, should be required to be individually identified. Various reasons were given: exemptions would be unfair to small producers because they could not take advantage of them, and would therefore incur higher marketing costs than large producers; exemptions would be unfair to auction markets and stockyards, which could lose business because producers would be encouraged to bypass them and sell their swine directly to packers; and exemptions would be unfair simply because all swine should be subject to the same rules regardless of the situation.

We have carefully considered all the comments on this issue. We have decided not to make any changes in the proposed identification exemption for farrow-to-finish swine. Our goal in implementing these regulations is to ensure that swine can be traced through marketing channels when necessary, whether to locate the source of adulterated meat or diseased swine or to locate swine which could carry disease. We proposed to exempt farrow-to-finish swine from the individual identification requirements only if they were handled, from farrowing to slaughter, in a manner ensuring that they could be traced to their source. Our proposed handling requirements included requirements that they be maintained as a group, be moved directly from producer to slaughter, and never be commingled with other swine. We believe these requirements alone will allow us to trace these animals through marketing channels. We do not intend, and cannot justify, imposing unproductive and unnecessary requirements. Requiring farrow-to-finish swine to be individually identified would add nothing to our ability to trace swine through marketing channels. Therefore, we are making no changes in the regulations on the basis of these comments.

One comment asked how low-weight swine in a farrow-to-finish lot of animals would be handled, because packers reject swine below a certain minimum weight. Another commenter remarked that some animals in a farrow-to-finish lot might become separated from the others. Under our regulations, none of these swine would qualify for the farrow-to-finish exemption because they would not meet all the requirements of that exemption. Therefore, they would have to comply with the other requirements of the regulations and be individually identified. This would be true of any swine that does not meet the requirements for the farrow-to-finish exemption, for whatever reason.

Exemption of Other Swine

We received many comments suggesting various types (feeders, breeders, market animals, slaughter hogs, sows, boars, etc.) of swine that we should or should not require to be identified. We are not making any changes based on these comments. As we have explained, we need to be able to trace all swine back through marketing channels, and we therefore are requiring all swine in interstate commerce to be identified. We have attempted though, in designing these regulations, to minimize their impact by requiring individual identification only when we believe it is necessary. If we determine in the future that additional swine can be exempted from the individual identification requirements without defeating the purpose of the regulations, we will consider amending the regulations.

We also received 1 comment suggesting we allow trucks to carry unidentified swine from more than one owner at the same time, if the swine from each owner are kept separate on the truck. We have carefully considered this and have decided not to make any changes in the regulations. We doubt that it would be practical to keep groups of swine completely separate on a truck. Even if it were practical, without additional requirements, such as requiring the swine to be individually identified immediately on arrival at their destination, the chances of the swine being commingled with other swine, intentionally or accidentally, would be very great. If this happened, the purpose of the regulations, to allow tracing of swine back through marketing channels, would be defeated.

Handling Farrow-to-Finish Swine at Slaughter

The proposed rule stated that farrow-to-finish swine would not need to be individually identified if certain conditions were met. One of the conditions was that the swine be "slaughtered one after another, as a group, and not mixed with other swine at slaughter." (See § 71.1(c)(5).) Some comments were received stating that this was not practical at most slaughtering establishments unless the "slaughtering line" was slowed down, and slowing the line would increase costs. We have considered these comments and decided to amend the proposed regulations to provide, as an alternative, that farrow-to-finish swine may be individually identified at slaughter. Applying individual identification at the slaughterhouse would not slow the slaughter line, but would allow us to trace the swine. Therefore, we are amending § 71.19(c)(5) to add this option.

Who Applies Identification

Many commenters stated that the proposed regulations were unclear as to who would be responsible for identifying swine. Others stated that we should specify who must apply identification. Some commenters stated that truck drivers who haul swine should not be responsible for ensuring that the swine are identified.

As we stated in our proposal, it is vital that swine are identified and a record kept of the identification and other information. Without both identification and recordkeeping, tracing swine back through marketing channels is impossible. (See 53 FR 3150.) However, it is not important who applies the identification, only that it be on the swine. For this reason we did not propose to require any specific person to apply it. However, because it is so important that the swine be identified and a complete record kept, we did propose to make every person who handles swine in interstate commerce responsible for the identification. Our requirement reads:

> Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, is responsible for the identification of the swine * * *
> (§ 71.19(a)(2))

This includes truck drivers and every other person who handles swine in interstate commerce. This requirement does not mean that all persons "responsible for the identification of the swine" are required to apply identification to the swine. If identification is already on the swine, the person is only required to make and keep a record of that, and other, information (see § 71.19(e)(1).) If no identification is on the swine, the person can either apply it themselves or refuse to handle the swine unless someone else applies the identification.

Several comments were received suggesting we simplify our proposed regulations to require all producers to individually identify all their swine, whether or not the animals were or ever would be in interstate commerce. Some commenters suggested that each producer in the United States be assigned a confidential identification number to use on all their swine. We are making no changes in the regulations based on these comments. Though the suggested change—to require producers to apply identification—would simplify the requirements, the Department does not have the statutory authority to impose such a rule. FSIS's authorizing statutes give that agency no authority over live animals prior to their arrival at slaughter. APHIS's statutory authority extends only to interstate, not intrastate, commerce. (See, for example, 21 U.S.C. 111, giving APHIS authority "to prevent the introduction or dissemination of the contagion of any contagious, infectious, or communicable disease of animals and/or live poultry from a foreign country into the United States or from one State or Territory of the United States or the District of Columbia to another.") Under this limited authority, if livestock are not in interstate commerce, we cannot regulate them. There are some livestock in the United States that never enter interstate commerce. If we required producers to identify all their stock, as suggested by the commenters, regardless of whether the animals are in interstate commerce, we would be exceeding our authority because we would be requiring animals in intrastate commerce, not in interstate commerce, to be identified.

Several commenters suggested that our proposed regulations would not "allow" producers to identify their own hogs. We believe these commenters misread our proposal. The proposal places no restrictions on who may place identification on swine. It is true that certain identification devices are issued only to certain persons. For example, certain metal eartags are issued only to accredited veterinarians and state and federal representatives. However, a swine owner can, if he or she wishes, arrange at any time to have an accredited veterinarian or state or federal representative place metal eartags on his or her swine. A swine owner can also, if he or she wishes, personally place any other type of approved identification on his or her swine whenever they wish.

When Identification is Applied

Some commenters suggested that instead of requiring swine to be identified "in interstate commerce," we require them to be identified at the "first point of concentration" in marketing channels, at sale, at the "point of origin," or at some other specific, uniform time or place. We are not making any changes in the regulations based on these comments. As explained above, APHIS only has authority to regulate in interstate commerce. Swine can be moved to the "first point of concentration" or sold without ever entering interstate commerce. We therefore cannot regulate swine on this basis alone. Also, we intend these regulations to have the broadest possible coverage. The requirement that swine "in interstate commerce" be identified effectively requires the largest possible number of swine to be identified, within our statutory authority. It also effectively requires swine to be identified as early as possible in marketing channels. Any other requirement as to time or place of identification would narrow the coverage of the regulations and defeat their purpose.

Identification Devices and Markings

Numerous comments were received which dealt with our proposed list of approved swine identification. Some commenters believe some of the identification devices listed will not be satisfactory in actual use. Other commenters suggested devices to add to the proposed list.

We are not making any changes in the proposed list of approved means of identification based on these comments. We agree with the commenters who stated that all the listed means of identification have flaws. We agree that tattoos are not always legible; we agree that backtags and eartags sometimes come off. These failings are in fact the reason why we proposed to limit the use of certain devices to the situations where we believe they will be satisfactory. For example, we would not allow backtags to be used except on swine moving to slaughter. Reason: Backtags generally stay on long enough for swine to move from stockyard to slaughter, but not longer. We believe the proposed list of swine identification includes all devices now available to be used in the situations where they are the most practical. We also believe the regulations provide enough different types of swine identification to allow all swine in interstate commerce to be identified, regardless of their situation. For these reasons, we are not making any changes in the proposed list of approved swine identification.

We anticipate that new and better identification devices will be developed in the future. In fact, several commenters suggested that machine-readable bar code tags could be used. We are not aware of existing tags of this sort that are practical for use on swine. However, we want to be sure that our regulations always allow the best available identification to be used. For this reason, we included in our proposed regulations basic requirements for submitting new identification devices and methods to the Department for approval and inclusion in the regulations. These requirements appear at § 71.19(g). After the effective date of these regulations, these commenters and other persons can apply to the Department to have identification methods and devices added to the list of approved swine identification.

One commenter stated that the regulations should prohibit tampering with identification on swine. Such a prohibition was proposed and is in the final regulations at § 71.19(f).

Tattoos

Tattoos were the specific identification devices most often mentioned by commenters. They are also the device most likely to be used to identify swine. Many commenters suggested that a four-character tattoo be allowed. The proposed rule allowed only a six-character tattoo approved by Veterinary Services. (See § 71.1, definition of "Veterinary Services approved tattoo" and § 71.19(b)(3).)

We have carefully considered these comments and decided to amend the regulations to allow, in addition to the proposed six-character tattoo, the use of four-character tattoos. (See new § 71.19(b)(3).) Four-character tattoos are currently the industry standard, and they are successfully and widely used. We see no reason not to allow their continued use. It appears that we can trace swine through marketing channels if they are marked with either a four-character tattoo or a six-character tattoo.

Fee for Applying Identification

Another issue raised by commenters was the cost of applying individual identification to swine. Commenters pointed out that it costs money to identify swine—there is the cost of the identification device itself and the cost of paying someone to apply it. Many commenters suggested that anyone applying identification to swine should be authorized to charge a fee for performing the service. Twenty-five cents was suggested by most as being reasonable. Many commenters stated that there should be a uniform fee.

We agree that applying identification to swine costs money. However, neither FSIS nor APHIS has the authority to set a fee or to authorize anyone to charge a fee for applying identification.

What Records Need to the Kept

Many commenters objected to our proposal to require everyone handling swine in interstate commerce, or applying official eartags or backtags to swine, to keep a record of all serial numbers and other approved means of identification appearing on the swine. (See proposed §§ 71.19(d)(1)(iii), 71.19(e)(1)(i), 78.33(d)(l)(iii), and 78.33(e)(l)(i).) The commenters stated that such extensive record keeping was not necessary, that some of the identification might not be legible and it would take too much time to read and record all the identification on the swine.

We agree that identification on swine is not always legible. We also agree that it would take time to read and record all identification on a swine. We intended, by proposing this requirement, to ensure that there would always be adequate information available to allow us to trace swine back through marketing channels to their source. Although having a record of all identification appearing on a swine would be best, it is not absolutely necessary. What is absolutely necessary is that each individual swine can be linked to its previous step in the marketing chain. Then, even if a swine is repeatedly bought and sold or moved from location to location, it can be traced back through the entire chain. This can be accomplished if each person who handles the swine keeps a record of swine identification which links the animal to the person from whom they purchased or otherwise obtained it, i.e., the previous step in the chain. Based on these facts, we have decided to amend our proposal to require that each person handling swine in interstate commerce keep a record of the serial numbers and other approved means of identification appearing on the swine that is adequate to identify each swine to the person from whom it was purchased or otherwise obtained. (See amended §§ 71.19(e)(1)(i) and 78.33(e)(1)(i).) These sections will now require a record of "[a]ll serial numbers and other approved means of identification appearing on the swine that are needed to identify the swine to the person from whom it was purchased or otherwise obtained." We are also amending §§ 71.19(d)(1) and 78.33(d)(1) to require persons applying USDA swine backtags and official eartags to record the "serial numbers or other approved means of identification appearing on the swine that are necessary to identify the swine to its owner and location." We are also amending these sections to clarify that they require persons applying USDA swine backtags and official eartags to record the numbers of the tags they are applying. These changes will ensure that all persons handling swine in interstate commerce and all persons applying USDA swine backtags and official eartags maintain similar records which will allow the swine to be traced through marketing channels.

We are also amending proposed § 320.1(b)(1)(ix), which requires certain persons "engaged, for commerce, in the business of slaughtering any swine for use as human or animal food" to maintain records of "all the serial numbers and other approved means of identification appearing on the swine." We are amending this section to require that these persons maintain records of "all serial numbers and other approved means of identification appearing on all test swine selected at ante-mortem inspection by FSIS representatives for residue testing." Under this amended regulation, packers and others will be required to keep a record of the individual identification appearing only on a few swine, rather than on all swine, as we originally proposed. This will reduce the recordkeeping required. However, it will ensure that all the information we need to trace swine back through marketing channels is available when needed. We may need to trace an animal back through marketing channels for two reasons: Either the meat from the animal is adulterated or the animal is diseased. Obtaining test results for residues takes time, and the carcass of the animal tested will have left the packer before the test results are available. However, lesions and other altered tissue suggestive of disease can be detected while the carcass is still at the packer. The amended regulations will ensure that the identification information on all animals is available when needed. For animals tested for residues, identification information will remain available for two years and test samples can be identified to the swine from which they came during that time period. For animals found to show signs of disease, identification information will remain available, on the carcass, throughout post-mortem examination (see current § 310.2(a) and new § 310.23(a)) and the carcass can be immediately identified to the swine from which it came. For all swine, the packer or other recordkeeper must maintain records identifying the swine back to the seller and source. (See new § 320.1(b)(1)(ix).)

Recordkeeping Form

Several commenters suggested that a specific form be developed for keeping swine identification records. We are making no changes in our proposed regulations based on these comments. We have intentionally not adopted a new form for this purpose because we do not believe it is necessary or desirable. There are already numerous forms which persons handling swine in interstate commerce must maintain. Any of them can be used to keep a record of identification information. An additional form would simply increase the amount of paperwork. Also, we need only the information; it is irrelevant for our purposes where it is recorded or the format used. Therefore we are leaving the choice of format and document to the recordkeeper. If it becomes apparent after the regulations are effective that a specific form is needed, we will design one.

Length of Time to Keep Records

Our proposed regulations required that records be kept of swine identification. The proposed regulations also stated that the records would have to be kept for 2 years. (See § 71.19(e)(2).) Many commenters stated that 2 years was too long a period of time.

We have considered these comments and have decided to make no changes in the regulations. As we stated in our proposal, we chose a 2-year period because that period of time "conforms with standard business practices in the industry, under which records of sale, delivery receipt, transfer of ownership, and other matters are commonly retained for at least 2 years." (53 FR 3151) We still believe requiring records to be kept for some other period of time would be unnecessarily confusing.

Cost of Compliance, General

Many commenters stated that it would be costly, both in dollars and in

time, to comply with the proposed regulations by applying identification and keeping records. We agree that complying with the regulations will involve some costs. However, we believe some expense is justified to help ensure that consumers are protected from adulterated meat and meat food products and to help protect livestock from disease. We believe the regulations we have designed are the least expensive means of achieving these goals.

Liability for Losses

Many commenters raised the question of liability for losses if an animal is found at slaughter to be diseased or its meat adulterated. This issue is not within the jurisdiction of APHIS or FSIS.

Miscellaneous Comments

We received many comments containing only general statements that the proposed regulations were "unfair" or "impractical" or need more study, that they constituted unwarranted government interference with free enterprise or did not go far enough to regulate the marketing of swine, that they would not guarantee food safety, that they would aggravate existing problems, or that we need other regulations to solve the problems we uncover through these regulations. We are not making any changes based on these comments. We have attempted to design effective regulations that will have minimal impact on the swine industry. If in practice we determine ways in which the regulations can be improved, we will propose to amend them at that time.

Several commenters addressed the issue of inspections. Several stated that before we conduct an inspection we should give the person whose records we intend to inspect advance notice of the inspection. Several other commenters stated that we should only conduct inspections during the normal business hours of the business involved, rather than between 8 a.m. to 5:30 p.m., Monday through Friday, as we proposed. We have carefully considered these comments, and determined that no changes in the proposed regulations are necessary at this time. We do not believe that advance notice of inspections is necessary or desirable. If a business is operating, the records should be available as a matter of routine. Also, we believe giving advance notice would, to some extent, defeat the purpose of the regulations. With regard to the times for inspection, we are aware that not all persons required to keep records under these regulations are open for business or available at all times during the hours provided in the regulations. We will attempt, as much as possible, to conduct inspections during the hours these persons are normally available. Our inspectors are aware of the normal business hours of the businesses in their area. We do not anticipate that these provisions will cause any difficulties in practice. If, however, we find that this is not true, we will consider amending the provisions.

Several commenters stated that records of swine ownership and movement should be kept confidential. We are not making any changes in the regulations based on these comments. Under these regulations, we do not have control or possession of any of the documents on which these records are kept. Therefore we cannot control access to them. Also, as pointed out in our proposal (53 FR 3153), many swine in the United States were already subject to identification and documentation requirements prior to the effective date of these regulations. We are not aware of any problems concerning the confidentiality of that information. Therefore we do not anticipate any problems concerning the confidentiality of information required under these regulations.

One comment stated that there is a conflict between the meaning of the term "Veterinary Services approved tattoo," included in these regulations concerning swine identification, and the "official AV (adult vaccination) tattoo" referred to in § 78.1 of the APHIS regulations concerning brucellosis in cattle (9 CFR Part 78). We do not believe there is any conflict. The tattoo for swine must conform to the official National Tattoo System. This is an established system, designed and operated by APHIS, for identifying swine. These tattoos consist of 3 letters and 3 digits. The tattoo referred to in Title 9, Part 78, which is used only on cattle, consists of a digit, then the U.S. Registered Shield and "V", then another digit.

A comment was received which suggested we list ear notches used by breeding stock companies as approved identification for swine. The regulations as proposed included as approved identification only ear notches recorded in the book of record of a purebred registry association. We are making no changes in the regulations based on this comment. Ear notches recorded in the book of record of purebred registry associations are recognized industry-wide as standard, traceable identification. APHIS allows them to be used as identification under other portions of its regulations. (See 9 CFR Parts 78 and 85) However, ear notches used by breeding stock companies are not recognized industry-wide, there is no uniform system for designating the notches to be used, no central clearing house for keeping a record of them, and they are not easily traced. However, as explained above, the regulations we are proposing include provisions for adding new means of identification to the list of approved identification for swine. Ear notches used by breeding stock companies could be considered under these provisions. (See § 71.19(g).)

We received 2 comments asking if swine imported into the United States would be covered under the regulations. Yes, swine entering the United States will be covered under these regulations. These swine are in interstate commerce under our definition of that term.

We received numerous comments asking how we intend to enforce these regulations. FSIS and APHIS will enforce these regulations as they enforce their other regulations. Inspectors and other personnel routinely visit farms, auction markets, and stockyards, and inspection on a daily basis slaughtering facilities in order to enforce these agencies' regulations. Inspections will continue. When violations of these swine identification and recordkeeping regulations are found, these agencies will handle them as they do violations of their other regulations.

Miscellaneous Changes

We are making several minor nonsubstantive changes for the purposes of clarity.

We are also correcting one section of our proposed regulations. Section 78.33(d), as proposed, incorrectly implied that accredited veterinarians are not assigned serial numbers of United States Department of Agriculture swine backtags or of Veterinary Services approved tattoos. This is not true. It is also inconsistent with proposed § 71.19(d), which correctly stated that United States Department of Agriculture swine backtags and Veterinary Services approved tattoos are issued to anyone, including accredited veterinarians, who applies for them. Therefore, we are correcting § 78.33(d) to clarify that accredited veterinarians are issued serial numbers of United States Department of Agriculture swine backtags and Veterinary Services approved tattoos.

Executive Order 12291 and Regulatory Flexibility Act

The Department is issuing this rule in conformance with Executive Order 12291, and has determined that it is not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic region; and will 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.

A copy of the Department's cost analysis of this rule is available for public inspection in Room 1143, USDA—South Building, 14th Street and Independence Avenue, SW, Washington, DC between 8 a.m. and 4:30 p.m., Mondays through Fridays, except holidays.

We are required, by the Regulatory Flexibility Act, to determine whether these regulations will have a significant economic effect on a substantial number of small entities. The entities we must consider are organizations, businesses, and government entities. "Small" entity is defined by Small Business Administration (SBA) regulations (see 13 CFR 121.2.)

Organizations and government entities, with extremely rare exceptions, will not be affected by these regulations. Only certain businesses that handle swine in interstate commerce must comply with these regulations. They will be producers, auctions, dealers, and other marketing entities, transporters, and meat packers. However, many of these businesses will not be affected by these regulations. As explained in our cost analysis of the regulations (hereinafter referred to as the cost analysis), these types of businesses must already comply with other regulations. In many cases, by complying with existing regulations, these businesses are effectively complying with these regulations. For them, no new activities will be required. In addition, many swine producers, marketers, transporters, and packers will not need to comply with these regulations because they are not handling any swine in interstate commerce.

The businesses which will be affected by the regulations vary in size. Some of them are "small entities," as defined by SBA regulations.[1]

These regulations will impact on businesses in two primary ways: (1) By requiring swine to be identified; and (2) by requiring businesses to keep records. Unfortunately, the only statistics relevant to the effect these regulations will have on businesses concern swine, not businesses handling swine. However, after studying the statistics available to us, we have concluded that these regulations will not have a significant effect on a substantial number of small entities.

As explained in our cost analysis, approximately 72.8% of swine slaughtered in the United States are classified as "farrow-to-finish" swine. Producers, marketers, truckers, and slaughterers of farrow-to-finish swine may be small businesses. Under our regulations, "farrow-to-finish" swine that meet certain criteria are exempt from the identification requirements. We believe virtually all "farrow-to-finish" swine will meet these criteria, and therefore will be exempt from the identification requirements of these regulations. In addition, businesses handling "farrow-to-finish" swine will not have to meet any new recordkeeping requirements under these regulations. Therefore, the effect on these entities, whatever their size, will be zero.

Also as explained in our cost analysis, approximately 21.1% of swine slaughtered in the United States are classified as "feeder pig/finishing". Under our regulations, the estimated *maximum* cost added by these regulations per swine for feeder pig/finishing is $0.00 for farms, $0.21 for truckers, $0.08 for marketers, and $0.04 for packers. We believe these costs are insignificant.

Together, these two categories of swine comprise 93.9% of all swine slaughtered in the United States. The remaining 6.1% of slaughter swine is made up of sows, stags, and boars. Of these swine, sows and boars are not affected by these regulations. This is because they must already meet the requirements of other regulations (see 9 CFR Parts 78 and 85), and in meeting those requirements they are complying with the requirements of these regulations. Stags sold for slaughter comprise an extremely small portion of all swine sold for slaughter, and some of them are not in interstate commerce and therefore not affected by these regulations.

Not all swine are marketed or moved as slaughter swine; many are marketed as feeder pigs. Feeder pigs are immature swine ready for fattening to slaughter weight. After sale for feeding, these swine typically remain at one location until they are of slaughter weight. Because these swine are kept in one place long enough to change their character from feeder pigs to slaughter swine, they may not be considered to be "in interstate commerce," as that term is defined in these regulations. Feeder swine not in interstate commerce are not affected by these regulations. Therefore, the businesses producing them, marketing them, and transporting them are not affected by these regulations. This is true whether or not they are "small entities."

In summary, we know that both large and small entities produce, market, transport, or slaughter swine. It appears that a substantial portion of these entities are large entities and therefore not covered by the Regulatory Flexibility Act. We also know that, of the small entities which produce, market, transport, or slaughter swine, some portion will not be affected by these regulations because they are either already in compliance or because they will not be required to comply. We also know that the effect on those small entities which are affected by the regulations is minimal. For these reasons, we have concluded that these regulations will not have a significant economic effect on a substantial number of small entities.

Executive Order 12372

These programs/activities under 9 CFR Parts 71, 78, and 85, are listed in the Catalog of Federal Domestic Assistance under No. 10.025 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44

[1] SBA regulations define small "meat packing plants" and small businesses processing "sausages and other prepared meat products" as those with fewer than 500 employees (see 13 CFR 121.2, Final rule Size Standards by SIC Industry, SIC numbers 2011 and 2013.) SBA regulations define small "wholesale livestock" businesses as those with fewer than 500 employees (see 13 CFR 121.2, Final Rule Size Standards by SIC Industry, SIC # 5154). SBA regulations define small "local trucking without storage" and "trucking, except local" businesses as those with less than $12.5 million annual revenue (see 13 CFR 121.2, Final Rule Size Standards by SIC Industry, SIC numbers 4212 and 4213.) SBA regulations define a small "agricultural production-livestock (except beef cattle feedlots (custom) and chicken eggs)" business as a business with annual revenue of less than $100,000 (see 13 CFR 121.2, Final Rule Size Standards by SIC Industry, SIC # 0212–0291.)

U.S.C. 3501, *et. seq.*,) the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and given OMB control number 0579-0047.

List of Subjects

9 CFR Part 71

Animal diseases, Livestock and livestock products, Poultry and poultry products, Quarantine, Transportation.

9 CFR Part 78

Animal diseases, Cattle, Hogs, Quarantine, Transportation.

9 CFR Part 85

Animal diseases, Livestock and livestock products, Quarantine, Transportation.

9 CFR Part 309

Ante-mortem inspection.

9 CFR Part 310

Post-mortem inspection.

9 CFR Part 320

Records, Registration, Reports.

Accordingly, Parts 71, 78, 85, 309, 310, and 320 are amended as follows:

PART 71—GENERAL PROVISIONS

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

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 71.1 is amended by adding the following definitions in alphabetical order:

§ 71.1 Definitions.

* * * * *

Accredited Veterinarian. A veterinarian who is approved by the Administrator, in accordance with Part 161 of this Chapter, to perform official animal health work of the Animal and Plant Health Inspection Service specified in Subchapters, A, B, C, and D of this Chapter; and to perform work required by cooperative state-federal disease control and eradication programs.

Area Veterinarian in Charge. The veterinary official of Veterinary Services, who is assigned by the Administrator to supervise and perform the official animal health work of the Animal and Plant Health Inspection Service in the state concerned.

* * * * *

Interstate commerce. Trade, traffic, transportation, or other commerce between a place in a state and any place outside of that state, or between points within a state but through any place outside of that state.

* * * * *

Official eartag. An identification eartag approved by Veterinary Services as being tamper-resistant and as conforming to the nine-character alpha-numeric National Uniform Eartagging System, which provides unique identification for each animal.

* * * * *

Premises of origin. The farm or other premises where the animals are farrowed and remain until moved in interstate commerce.

Purebred registry association. A swine breed association formed and perpetuated for the maintenance of records of purebreeding of swine species for a specific breed whose characteristics are set forth in constitutions, by-laws, and other rules of the association.

* * * * *

State animal health official. The state official responsible for livestock and poultry disease control and eradication programs.

State representative. An individual employed in animal health work by a state or a political subdivision thereof and authorized by such state or political subdivision to perform the function involved.

* * * * *

United States Department of Agriculture swine backtag. A backtag issued by Veterinary Services for use on swine, which conforms to the eight-character alpha-numeric National Backtagging System and uniquely identifies each individual swine.

* * * * *

Veterinary Services approved tattoo. A tattoo, conforming to the six character alpha-numeric National Tattoo System, which provides unique identification for each herd or lot of swine.

* * * * *

§ 71.1 [Amended]

3. In § 71.1, the definition of "State" is revised to read as follows:

State. Any of the 50 states, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the District of Columbia, and any territories and possessions of the United States.

4. In Part 71, a new § 71.19 is added to read as follows:

§ 71.19 Identification of swine in interstate commerce.

(a)(1) Except as provided in paragraph (c) of this section, no swine may be sold, transported, received for transportation, or offered for sale or transportation, in interstate commerce, unless they are individually identified by means of identification approved by the Administrator and listed in paragraph (b) of this section. All swine shall remain so identified while they are in interstate commerce.

(2) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, is responsible for the identification of the swine as provided by this section.

(b) Means of swine identification approved by the Administrator are:

(1) Official eartags, when used on any swine;

(2) United States Department of Agriculture swine backtags, when used on swine moving to slaughter;

(3) Veterinary Services-approved tattoos, and 4-character tattoos, when used on swine moving to slaughter, except sows and boars as provided in § 78.33 of this title;

(4) Ear notching when used on any swine, if the ear notching has been recorded in the book of record of a purebred registry association; and

(5) Ear tattoos when used on any swine, if the ear tattoos have been recorded in the book of record of a purebred registry association.

(c) Swine that are kept as a group are not required to be individually identified when in interstate commerce if:

(1) They were born on the same premises;

(2) They were raised on the same premises where they were born;

(3) They are moved in a group directly to a slaughtering establishment from the place where they were raised;

(4) They are not mixed with swine from any other premises, between the time they are born and the time they arrive at the slaughtering establishment; and

(5) They are slaughtered one after another, as a group, and not mixed with other swine at slaughter; or approved identification is applied to the swine after entry into the slaughtering establishment.

(d) Serial numbers of United States Department of Agriculture swine backtags and Veterinary Services-approved tattoos will be assigned to each person who applies to the state animal health official or the Area Veterinarian in Charge for the state in which that person maintains his/her or its place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or state or federal representative who requests

official eartags from the state animal health official or the Area Veterinarian in Charge, whoever is responsible for issuing official eartags in that state. Persons assigned serial numbers of United States Department of Agriculture swine backtags, Veterinary Services-approved tattoos, and official eartags must:

(1) Record the following information on a document:

(i) All serial numbers applied to the swine;

(ii) Any other serial numbers and approved identification appearing on the swine that are needed to identify the swine to its previous owner and location;

(iii) The street address, including the city and state, or the township, county, and state, of the premises where the approved means of identification were applied; and

(iv) The telephone number, if available, of the person who owns or possesses the swine.

(2) Maintain these records at the person's place of business for 2 years; and

(3) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(e)(1) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, must keep records relating to the transfer of ownership, shipment, or handling of the swine, such as yarding receipts, sale tickets, invoices, and waybills upon which is recorded:

(i) all serial numbers and other approved means of identification appearing on the swine that are necessary to identify it to the person from whom it was purchased or otherwise obtained; and

(ii) the street address, including city and state, or the township, county, and state, and the telephone number, if available, of the person from whom the swine were purchased or otherwise obtained.

(2) Each person required to keep records under this paragraph must maintain the records at his/her or its place of business for at least 2 years after the person has sold or otherwise disposed of the swine to another person, and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the swine identified in the records. The person shall make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(f) No person may remove or tamper with any approved means of identification required to be on swine pursuant to this section while it is in interstate commerce, except at the time of slaughter as provided in 9 CFR 309.16(e).

(g) Written requests for approval of swine identification devices and markings not listed in paragraph (b) of this section should be sent to the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Hyattsville, Maryland 20782. If the Administrator determines that the devices and markings will provide a means of tracing swine in interstate commerce, a proposal will be published in the **Federal Register** to add the devices and markings to the list of approved means of swine identification.

PART 78—BRUCELLOSIS

5. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.1 [Amended]

6. In § 78.1, the definition of "United States Department of Agriculture backtag" is revised to read as follows:

* * * * *

United States Department of Agriculture swine backtag. A backtag issued by Veterinary Services for use on swine, which conforms to the eight-character alpha-numeric National Backtagging System and uniquely identifies each individual swine.

* * * * *

7. In § 78.33, paragraphs (c), (d), and (e) are revised to read as follows:

§ 78.33 Sows and boars.

* * * * *

(c) Sows and boars may be moved in interstate commerce for purposes other than slaughter or breeding without restriction under this subpart, if they are identified as required by § 71.19 of this chapter.

(d) Serial numbers of United States Department of Agriculture swine backtags and Veterinary Services-approved tattoos will be assigned to each person who applies to the state animal health official or the Area Veterinarian in Charge for the state in which that person maintains his or her place of business. Serial numbers of official eartags will be assigned to each accredited veterinarian or state or federal representative who requests official eartags from the state animal health official or the Area Veterinarian in Charge, whoever is responsible for issuing official eartags in that state. Persons assigned serial numbers of United States Department of Agriculture swine backtags, Veterinary Services approved tattoos, and official eartags must:

(1) Record the following information on a document:

(i) All serial numbers applied to the swine;

(ii) Any other serial numbers and approved identification appearing on the swine that are needed to identify the swine to its owner and location;

(iii) The street address, including the city and state, or the township, county, and state of the premises where the approved means of identification were applied; and

(iv) The telephone number, if available, of the person who owns or possesses the swine.

(2) Maintain these records at the place of business for 2 years; and

(3) Make these records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) upon request by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

(e)(1) Each person who buys or sells, for his or her own account or as the agent of the buyer or seller, transports, receives for transportation, offers for sale or transportation, or otherwise handles swine in interstate commerce, must keep records relating to the transfer of ownership, shipment, or handling of the swine, such as yarding receipts, sale tickets, invoices, and waybills, upon which are recorded:

(i) All serial numbers and other approved means of identification appearing on the swine that are necessary to identify it to the person from whom it was purchased or otherwise obtained; and

(ii) The street address, including the city and state, or the township, county, and state, and the telephone number, if available, of the person from whom the

swine were purchased or otherwise obtained.

(2) Each person required to keep records under this paragraph must maintain these documents at his/her or its place of business for at least 2 years after the person has sold or otherwise disposed of the swine to another person and for such further period as the Administrator may require by written notice to the person, for purposes of any investigation or action involving the swine identified in the records. The person shall make the records available for inspection and copying during ordinary business hours (8 a.m. to 5:30 p.m., Monday through Friday) by any authorized employee of the United States Department of Agriculture, upon that employee's request and presentation of his or her official credentials.

PART 85—PSEUDORABIES

8. The authority citation for Part 85 continues to read as follows:

Authority: 21 U.S.C. 111, 112, 113, 115, 117, 120, 121, 123–126, 134b, 134f, CFR 2.17, 2.51, and 371.2(d).

§ 85.5 [Amended]

9. In § 85.5, paragraphs (a)(3), the phrase "identification tag, tattoo, earnotch recognized by a breed association, or similar identification of each swine being moved" is revised to read "identification of the swine as required by § 71.19 of this chapter", and the phrase "individual identification required by this paragraph" is revised to read "identification required by § 71.19 of this chapter".

10. In § 85.5, paragraph (b)(5), the phrase "identification tag tattoo, earnotch recognized by a breed association, or similar identification of each animal being moved" is revised to read "identification of the swine as required by § 71.19 of this chapter".

§ 85.6 [Amended]

11. In § 85.6, paragraph (b)(2), the phrase "identification tag, tattoo, earnotch recognized by a breed association, or similar identification of each animal being moved;" is revised to read "identification of the swine required by § 71.19 of this chapter;".

12. In § 85.7, paragraph (b)(3)(i)(B) is revised to read as follows:

§ 85.7 Interstate movement of swine not vaccinated for pseudorabies and not known to be infected with or exposed to pseudorabies.

* * * * *

(b) * * *

(3) * * *

(i) * * *

(B) The swine are identified at the approved livestock market to the farm of origin by the identification required by § 71.19 of this chapter.

13. In § 85.7, paragraph (b)(3)(ii), the phrase "an earnotch recognized by a breed associated [sic.], identification tag, tattoo, or similar identification." is revised to read "a means of identification required by § 71.19 of this chapter,".

14. In § 85.7, paragraph (c)(2), the phrase "identification tag, tattoo, ear notch recognized by a breed association, or similar identification of each animal being moved;" is revised to read "identification required by § 71.19 of this chapter;".

§ 85.11 [Removed]

15. Section 85.11 is removed.

PART 309—ANTE-MORTEM INSPECTION

16. The authority citation for Part 309 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended. 81 Stat. 584. 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C 1254, unless otherwise noted.

17. Section 309.16 is amended by adding a new paragraph (e) to read as follows:

§ 309.16 Livestock suspected of having biological residues.

* * * * *

(e) The name of each and all person(s) who sold or consigned each swine to the establishment shall be made available by the establishment to any Program employee or other authorized employee of the United States Department of Agriculture upon that employee's request and presentation of his or her official credentials. Swine identification, by means approved by the Animal and Plant Health Inspection Service, USDA, under Part 71 of this title, must be maintained throughout post-mortem inspection, in accordance with § 310.23(a) of this subchapter.

PART 310—POST-MORTEM INSPECTION

18. The authority citation for Part 310 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended. 81 Stat. 584. 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254, unless otherwise noted.

19. The table of contents is amended to add, in numerical order, "310.23 Identification of carcasses and parts of swine."

20. A new § 310.23 is added to read as follows:

§ 310.23 Identification of carcasses and parts of swine.

(a) The identification of the carcasses and parts of swine identified in accordance with Part 71 of this title shall be made available to the inspector upon the inspector's request throughout post-mortem inspection.

(b) If the establishment fails to provide required swine identification, the inspector shall order the retention of swine caracasses at the establishment until the completion of tests to confirm that the carcasses are not adulterated.

PART 320—RECORDS, REGISTRATION, AND REPORTS

21. The authority citation for Part 320 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 9903, as amended. 81 Stat. 584. 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254, unless otherwise noted.

22. Section 320.1(b)(1) is amended by adding a new paragraph (ix) to read as follows:

§ 320.1 Records required to be kept.

(b) * * *

(1) * * *

(i) * * *

(ix) In the case of a person belonging to the class specified in paragraph (a)(1), and engaged, for commerce, in the business of slaughtering any swine for use as human or animal food, the name and address (including the city and state, or the township, county, and state) of each person from whom the person belonging to the class so specified purchased or otherwise obtained each swine, and the telephone number, if available, of the person from whom the swine were purchased or otherwise obtained, and all serial numbers and other approved means of identification appearing on all test swine selected at antemortem inspection by FSIS representatives for residue testing.

Done at Washington, D.C., this 11th day of October, 1988.

Robert Melland,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 88–23758 Filed 10–12–88; 11:56 am]

BILLING CODE 3410–34–M

federal register

Friday
October 14, 1988

Part VIII

Department of Justice

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Notice of Proposed Rulemakings

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Placement of 3,4-Methylenedioxy-N-ethylamphetamine, and N-Hydroxy-3,4,methylenedioxy-amphetamine Into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued by the Administrator of the Drug Enforcement Administration (DEA) to place 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylene-dioxyamphetamine into Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). This proposed action by the DEA Administrator is based on data gathered and reviewed by DEA. If finalized, this proposed action would impose the regulatory control mechanisms and criminal sanctions of Schedule I on the manufacture, distribution and possession of these two substances.

DATE: Comments must be submitted on or before November 14, 1988.

ADDRESS: Comments and objections should be submitted to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: On October 15, 1987, the Administrator of DEA issued a final rule in the **Federal Register** (52 FR 38225) temporarily placing the following substances into Schedule I of the CSA using the emergency scheduling provisions of the CSA (21 U.S.C. 811(b)):

(1) 3,4-methylenedioxy-N-ethylamphetamine.

(2) N-hydroxy-3,4-methylenedioxyamphetamine.

The final rule which became effective on October 15, 1987 was based on a finding by the Administrator that the emergency scheduling of the above-referenced substances was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) requires that the emergency scheduling of a substance expires at the end of one year from the effective date of the order. However, if proceedings to schedule a substance pursuant to 21 U.S.C. 811(a)(1) have been initiated and are pending, the temporary scheduling of a substance may be extended for up to six months. Under this provision, the temporary scheduling of 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylenedioxyamphetamine which would expire on October 15, 1988 may be extended to April 15, 1989. This extension is being ordered by the DEA Administrator in a separate action.

DEA has gathered and reviewed the available information regarding the actual abuse and relative potential of abuse for 3,4-methylenedioxy-N-ethylamphetamine and N-byhdroxy-3,4-methylenedioxyamphetamine. DEA, in conjunction with the National Institute of Drug Abuse (NIDA), has provided for the synthesis and biological testing of these two substances. By letter, the Administrator has submitted data which DEA has gathered regarding the two substances to the Assistant Secretary for Health, Department of Health and Human Services. In accordance with 21 U.S.C. 811(b), the DEA Administrator also requested a scientific and medical evaluation of the relevant information and a scheduling recommendation for 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylenedioxyamphetamine from the Assistant Secretary for Health.

Both 3,4-methylenedioxy-N-ethylamphetamine (N-ethyl MDA) and N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy MDA) are analogs of MDA and MDMA, Schedule I hallucinogens/stimulants, and as such are the type of substances which Congress intended to be considered for scheduling under the CSA. They are recent members of a series of methylenedioxyamphetamines produced in clandestine laboratories for distribution and abuse in the United States. The parent compound in this class, 3,4-methylenedioxyamphetamine (MDA) has been controlled in Schedule I of the CSA since its passage in 1970. More recently 3,4-methylenedioxymethamphetamine (MDMA), because of widespread abuse and studies showing that it is a neurotoxin in rodents, was placed into Schedule I pursuant to 21 U.S.C. 811(a)(1) and effective March 23, 1988.

N-ethyl MDA, also known as MDE or MDEA, is N-ethyl-alpha-methyl-3,4-(methylenedioxy)phenethylamine. It is usually found as the hydrochloride salt in powder, tablet or capsule forms. N-ethyl MDA is sold on the street as "Eve." N-hydroxy MDA, also known as N-OHMDA, is N-hydroxy-alpha-methyl-3,4-(methylenedioxy)phenethylamine. It is also usually found as the hydrochloride salt in powder, tablet or capsule forms. Both N-ethyl MDA and N-hydroxy MDA are structural analogs of MDA and MDMA.

N-ethyl MDA and N-hydroxy MDA behave as central nervous system stimulants in animals. Available scientific data show that these substances produce some pharmacological effects similar to those of MDA and MDMA. All four substances produce centrally mediated analgesic effects in the mouse as measured in several different tests. N-ethyl MDA (20 mg/kg) and N-hydroxy MDA (100 mg/kg) produce an increase in spontaneous locomotor activity in the mouse which is indicative of central nervous system stimulation. During the first three hours after administration, N-ethyl MDA increases spontaneous locomotor activity three times as much as MDA. Data from drug discrimination experiments show that even though N-ethyl MDA and N-hydroxy MDA are not recognized as either amphetamine or DOM by appropriately trained animals, they are recognized as MDMA in rats trained to discriminate MDMA from saline. MDMA is also recognized as N-ethyl MDA by rats trained to discriminate N-ethyl MDA from saline. Baboons trained to self-administer cocaine also self-administer N-ethyl MDA when it is substituted for cocaine. Similar reinforcing properties are observed for MDA, MDMA and other abusable central nervous system stimulants.

In man, N-ethyl MDA at oral doses of 140–200 mgs and N-hydroxy MDA at oral doses of 80–120 mgs produce psychotomimetic effects. The scientific literature indicates that MDA, MDMA, N-ethyl-MDA and N-hydroxy MDA produce a very similar spectrum of psychopharmacological effects in humans. They produce a change in consciousness, an increase in acoustic, visual and tactile sensory perceptions, mood changes and a drive-increasing effect. Effects appear about 30 minutes after ingestion and last for several hours.

N-ethyl MDA and N-hydroxy MDA have been identified by forensic laboratories in drug evidence submissions from many sections of the country. N-ethyl MDA was found infrequently in drug evidence from 1978 to 1982. With the control of MDMA in Schedule I of the CSA, N-ethyl MDA has been identified with increasing frequency by forensic laboratories. At the same time, N-hydroxy MDA began to show up in forensic drug evidence.

Much of the activity with these substances has occurred in the southwestern and midwestern states. MDA analogs have been openly promoted as safe and legal through fliers. N-ethyl MDA has been sold as "Eve" in bars and shops in Texas. DEA has identified several clandestine laboratories which have produced or are capable of producing N-ethyl and N-hydroxy MDA.

The use of MDA and its analogs has been associated with adverse effects on the public health and safety. They are known to cause psychotomimetic effects in man. DAWN (Drug Abuse Warning Network) has reported emergency room mentions of MDA, MDMA and N-ethyl MDA. Two deaths in Texas have been associated with the use of N-ethyl MDA; it was not possible, however, to determine whether N-ethyl MDA directly contributed to the deaths. With the exception of psychotomimetic effects produced in human subjects under controlled experimental conditions, there have been no specific reports of adverse effects, injuries or deaths associated with the use of N-hydroxy MDA. Considering, however, that N-hydroxy MDA has a similar structure and pharmacology to that of MDA and MDMA, it seems likely that adverse effects similar to those produced by MDA and MDMA will also be produced by N-hydroxy MDA. Another concern arising from the use of N-ethyl MDA and N-hydroxy MDA is their possible neuro-toxicity. It has been well documented that MDA and MDMA destroy specific nerve terminals and, in some cases, nerve cells in the brains of laboratory animals. Recently reported studies have provided evidence that N-ethyl MDA also produces neurotoxic effects resembling those of MDA and MDMA. The question of whether N-hydroxy MDA causes neurotoxicity has not been examined.

The above data show that the clandestine production, distribution and use of analogs of MDA, currently in the form of N-ethyl MDA and N-hydroxy MDA, pose a serious hazard to the public safety. DEA is unaware of any commercial manufacturer or supplier of N-ethyl MDA or N-hydroxy or of any recognized therapeutic use of either of these substances.

The DEA Administrator, based on the information gathered and reviewed by his staff and after consideration of the factors in 21 U.S.C. 811(c), believes that sufficient data exists to propose and to support that 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylenedioxyamphetamine be placed into Schedule I of the CSA pursuant to 21 U.S.C. 811(a). The specific findings required pursuant to 21 U.S.C. 811 and 812 for a substance to be placed into Schedule I are as follows:

(1) The drug or other substance has a high potential for abuse.

(2) The drug or other substance has no currently accepted medical use in treatment in the United States.

(3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Before issuing a final rule in this matter, the DEA Administrator will take into consideration the scientific and medical evaluations and scheduling recommendations of the Secretary of the Department of Health and Human Services in accordance with 21 U.S.C. 811(b). The recommendations of the Secretary regarding scientific and medical matters are binding on the Administrator and if the Secretary recommends that a substance should not be controlled, the DEA Administrator will not control it. The Administrator will also consider relevant comments from other concerned parties.

Interested persons are invited to submit their comments, objections or requests for hearing in writing with regard to this proposal. Requests for a hearing should state with particularity the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the Administrator, Drug Enforcement Administraton, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

In the event that comments, objections or requests for a hearing raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for hearing.

Pursuant to Title 5, United States Code, section 605(b), the Administrator certifies that the proposed placement of 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylenedioxyamphetamine in Schedule I of the CSA will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). The substances proposed for control in this notice have no legitimate use or manufacturer in the United States. In accordance with the provisions of Title 21, United States Code, section 811(a), this proposal to place 3,4-methylenedioxy-N-ethylamphetamine and N-hydroxy-3,4-methylenedioxyamphetamine into Schedule I is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

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

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of DEA by Department of Justice Regulations (28 CFR 0.100), the Administrator hereby proposes that 21 CFR Part 1308 be amended as follows:

PART 1308—[AMENDED]

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

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

2. Section 1308.11 is amended by redesignating paragraphs (d)(8) through (d)(25) to (d)(10) throught (d)(27) and by adding new paragraphs (d)(8) and (d)(9) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA . . . 7404

(9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA . . . 7402

* * * * *

3. Section 1308.11 is amended by removing paragraphs (g)(3) and (g)(4) and redesignating existing paragraphs (g)(5) and (g)(6) as (g)(3) and (g)(4).

John C. Lawn,

Administrator, Drug Enforcement Administration.

Date: October 12, 1988.

[FR Doc. 88–23929 Filed 10–13–88; 9:51 am]

BILLING CODE 4410–09–M

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21 CFR Part 1308

Schedules of Controlled Substances; Proposal To Place 4-methylaminorex into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administrator of the Drug Enforcement Administration (DEA) proposes that 4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine (4-methylaminorex), a stimulant, be placed into Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). This proposed action by the DEA Administrator has been initiated following a review of the scientific and forensic data on 4-methylaminorex by DEA. An independent review of the medical and scientific data on 4-methylaminorex and a scheduling recommendation has been requested from the Assistant Secretary for Health, Department of Health and Human Services (DHHS). The scheduling of 4-methylaminorex in Schedule I, if finalized, would impose the regulatory controls and criminal sanctions of a Schedule I substance under the CSA on the manufacture, distribution and possession of 4-methylaminorex.

DATE: Written comments and objections must be received on or before November 14, 1988.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Washington, DC 20537.

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

SUPPLEMENTARY INFORMATION: On October 15, 1987, the Administrator of DEA issued a final rule in the **Federal Register** temporarily placing 4-methylaminorex into Schedule I of the CSA pursuant to the emergency scheduling provisions of 21 U.S.C. 811(h). This action was based on a finding by the Administrator of DEA that the emergency scheduling of 4-methylaminorex was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) provides that the emergency scheduling of a substance expires at the end of one year from the effective date of the order. However, if a rulemaking proceeding to schedule the substance has been initiated pursuant to section 201(a)(1) of the CSA (21 U.S.C. 811(a)(1)), the temporary scheduling of 4-methylaminorex may be extended for up to six months. Under this provision, the temporary scheduling of 4-methylaminorex which would expire on October 15, 1988 may be extended until April 15, 1989. This extension is being ordered by the Administrator of DEA in a separate notice.

During the period of temporary control of 4-methylaminorex in Schedule I, DEA has continued to gather information regarding the abuse and abuse potential, the clandestine manufacture and the illicit distribution and trafficking of 4-methylaminorex. The Administrator of DEA has submitted this information by letter to the Assistant Secretary for Health, DHHS and has recommended that 4-methylaminorex be placed into Schedule I of the CSA. Enclosed with the letter was a document prepared by the DEA entitled "Scheduling Recommendation for 4-methylaminorex." The document contained a review of the factors which the CSA requires the Attorney General (delegated to the Administrator of DEA) to consider (21 U.S.C. 811(b)) and the summarized recommendations regarding the scheduling of 4-methylaminorex.

The factors considered by the Administrator of DEA with respect to 4-methylaminorex were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effects, if known;

(3) The state of current scientific knowledge regarding the drug (or other substance);

(4) Its history and current pattern of abuse;

(5) The scope, duration and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this title.

Briefly, the information gathered and reviewed by DEA shows that 4-methylaminorex: (1) Is a potent amphetamine-like compound; (2) produces the stimulant and anorexic effects of typical amphetamine-like substances; (3) is not approved for marketing by the Food and Drug Administration; (4) is manufactured in clandestine laboratories; (5) has been identified by forensic laboratories in submissions of evidence from Florida, California and Pennsylvania; (6) has been associated with at least two deaths; and (7) continues to pose a threat to the public safety.

Based on the information gathered and reviewed by DEA, the Administrator of DEA, pursuant to the provisions of 21 U.S.C 811(a) finds that:

(1) According to presently available information, 4-methylaminorex has a high potential for abuse;

(2) 4-methylaminorex has no currently accepted medical use in treatment in the United States; and

(3) There is a lack of accepted safety for use of 4-methylaminorex under medical supervision.

The above findings are consistent with the proposed placement of 4-methylaminorex into Schedule I of the CSA. Interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief. In the event that comments, objections or requests for a hearing received in response to this proposal raise one or more issues which warrant a hearing, the Administrator will publish in the **Federal Register** an order for a public hearing which will summarize the issues to be heard and set the time for the hearing that will not be less than 30 days after the date of the order. If no objections presenting grounds for a hearing on this proposal are received within the time limitation or if interested parties waive or are deemed to have waived their opportunity for a hearing or to participate in a hearing, the Administrator, after giving consideration to written comments and objections, will issue a final order pursuant to 21 CFR 1308.48 without a hearing. DEA's final decision concerning the scheduling of 4-methylaminorex will take into account the recommendation of the Assistant Secretary for Health (DHHS), its own review, and any information received in response to this proposal.

Pursuant to Title 5, United States Code, Section 605(b), the Administrator certifies that the scheduling of 4-methylaminorex will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This proposed drug control action relates to the control of a substance (4-methylaminorex) that has no legitimate use or manufacturer in the United States. In accordance with the provisions of Section 201(a) of the CSA (21 U.S.C. 811(a)), this proposed scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

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

Under the authority vested in the Attorney General by Section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Administrator of DEA by regulations of the Department of Justice (28 CFR 0.100), the Administrator hereby proposes to amend 21 CFR Part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

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

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

2. Paragraph (f) of § 1308.11 is amended by redesignating the existing paragraph (f)(2) as (f)(3) and adding a new paragraph (f)(2):

§ 1308.11 Schedule I.

* * * * *

(f) * * *

(f)(2) 4-methylaminorex (4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) . . . 1590.

* * * * *

3. Paragraph (g) of § 1308.11 is amended by removing paragraph (g)(3) and redesignating existing paragraph (g)(4) as (g)(3).

John C. Lawn,

Administrator, Drug Enforcement Administration.

Dated: October 12, 1988.

[FR Doc. 88–23930 Filed 10–13–88; 9:53 am]

BILLING CODE 4410-09-M

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H.R. 4998/Pub. L. 100-481

To amend the Food Stamp Act of 1977 to make technical corrections in the Family Independence Demonstration Project. (Oct. 11, 1988; 102 Stat. 2336; 1 page) Price: $1.00

S.J. Res. 317/Pub. L. 100-482

Commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen. (Oct. 11, 1988; 102 Stat. 2337; 2 pages) Price: $1.00