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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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

National School Lunch Program and School Breakfast Program; Competitive Foods

February 1, 1989.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the National School Lunch Program and the School Breakfast Program regulations to include a definition of "soda water" as part of the "Categories of Foods of Minimal Nutritional Value." The Food and Drug Administration (FDA) has repealed the soda water standard of identity to which this list of categories makes reference. No issues will be affected by this revision since this rule effects no change in current policy. This rule merely replaces a reference to the repealed FDA Standard with the relevant language of the Standard.

EFFECTIVE DATE: February 7, 1989.

FOR FURTHER INFORMATION CONTACT: Cynthia Ford, Chief, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Room 607, 3101 Park Center Drive, Alexandria, Virginia 22302, or by telephone at (703) 756–3556.

SUPPLEMENTARY INFORMATION:

Classification

This final rule makes technical changes and corrections, and imposes no new requirements or changes in current policy. Therefore, the Department has determined, in accordance with 5 U.S.C. 553(b) and 553(d) that prior notice and comment are unnecessary, and that good cause exists for making the rule effective upon publication.

This final rule has been reviewed under Executive Order 12291 and has been classified nonmajor because it will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Since this final rule was not submitted for prior notice and comment, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 through 612).

These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.553 and 10.555. They are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials, and regulations implementing this order (7 CFR Part 3015, Subpart V, and final rule-related notice published in 48 FR 29114, June 24, 1983).

This final rule imposes no new reporting or recordkeeping requirements requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

In accordance with Section 10 of the Child Nutrition Act the sale of foods of minimal nutritional value is prohibited in the school food service areas during the breakfast and lunch periods as published in 7 CFR 210.11(b) and 220.12(a). "Food of Minimal Nutritional Value" means a food which provides less than five percent of the USRDA for each of eight specified nutrients per 100 calories and per serving. In the case of artificially sweetened foods, only the "per serving" measure applies. The eight nutrients to be assessed for this purpose are: protein, vitamin A, vitamin C, niacin, riboflavin, thiamin, calcium, and iron. Categories of Foods of Minimal Nutritional Value are listed and defined in 7 CFR, Part 210 Appendix B(a) (1)–(4) and Part 220, Appendix B (1)–(4). The category headed Soda Water (210 App. B(a)1 and 220 App. B(1)) uses the FDA Standard found at 21 CFR 165.175. Effective February 7, 1989, the FDA is repealing this standard of identity for soda water as published in the **Federal Register** of January 6, 1989 (54 FR 398). Therefore, this final rule amends the Categories of Foods of Minimal Nutritional Value by removing the reference to FDA's definition of soda water and adding relevant parts of the original definition to the program regulations.

List of Subjects

7 CFR Part 210

Food Assistance Programs, National School Lunch Program, Commodity School Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Food Assistance Programs, School Breakfast Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR Parts 210 and 220 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for Part 210 continues to read as follows:

Authority: The provisions of Part 210 issued under Sec. 2–12, 60 Stat. 230, as amended; 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751–1760, 1779.

2. Part 210, Appendix B, paragraph (a)(1) is revised to read as follows:

Appendix B—Categories of Foods of Minimal Nutritional Value

(a)* * *

(1) Soda Water—A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60° F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. No product shall be excluded from this definition because it contains artificial sweeteners or discrete

nutrients added to the food such as vitamins, minerals and protein.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for Part 220 continues to read as follows:

Authority: Secs. 4 and 10 of the Child Nutrition Act of 1966, 80 Stat. 886, 889 (42 U.S.C. 1773, 1779).

2. Part 220, Appendix B, paragraph (1) is revised to read as follows:

Appendix B—Categories of Foods of Minimal Nutritional Value

* * * * *

(1) Soda Water—A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60° F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. No product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals and protein.

* * * * *

Date: April 20, 1989.

G. Scott Dunn,

Acting Administrator.

[FR Doc. 89-10270 Filed 4-28-89; 8:45 am]

BILLING CODE 3410-30-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Ownership of Fixed Assets

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: This rule is a revision of § 701.36 of the National Credit Union Administration Rules and Regulations. It is a threshold rule, that is, it only becomes operative when Federal credit unions decide to invest in excess of 5 percent of shares and retained earnings in fixed assets. This revision primarily addresses the definitions area in that it clarifies the definitions of lease payments and investments in a partnership or corporation holding any fixed assets for the Federal credit union.

The rule retains provisions for prior NCUA approval of fixed asset commitments in excess of 5 percent, limitations on property purchased for expansion, prohibited transactions with designated insiders, and the maximum time limitations on NCUA acting on a credit union's request. There has been no change in the asset threshold that triggers the applicability of the regulation and, therefore, the scope of application of this regulation has not been expanded.

EFFECTIVE DATE: May 1, 1989.

ADDRESS: National Credit Union Administration Board, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, Office of Examination and Insurance or Timothy Hornbrook, Director, Department of Supervision, at the above address, or telephone: (202) 682-9640.

SUPPLEMENTARY INFORMATION: .

Background

Section 701.36 of the NCUA Rules and Regulations requires a Federal credit union with aggregate assets of $1 million or more to obtain prior approval of the NCUA when its total investment in fixed assets will exceed 5 percent of its shares and retained earnings. This rule requires submission of such reports and statements as may be required by the NCUA Regional Director in support of the request. In October 1988, as part of its regulatory review, the NCUA Board issued a proposed revision to the sections of the rule containing the definitions of terms, prohibited transactions, and deleting some obsolete material pertaining to fixed asset purchase commitments made prior to December 1984. In addition, the NCUA Board sought comments and recommendations concerning applicability of the existing regulation to corporate credit unions. The comment period on the proposal ended on January 23, 1989. (See 53 FR 42953, 10/25/88).

Comments

A total of twenty comment letters were received in response to the NCUA Board's proposed regulatory revision to Section 701.36. Fifteen of the twenty comments were from Federal credit unions and five were from credit union trade associations. The comments received are addressed in the following section-by-section analysis of the regulation.

Section-by-Section Analysis

Section 701.36(a)

This section states that a Federal credit union's investment in fixed assets shall be limited as described in this chapter. This section remains unchanged as proposed.

Section 701.36(b), Definitions

The following paragraphs of § 701.36 remain unchanged as proposed: (b)(1), (b)(2), (b)(3), (b)(5), (b)(6), (b)(7), and (b)(8). These sections set forth the definitions of premises, furniture, fixtures and equipment, fixed assets, abandoned premises, immediate family members, shares, and senior management officials.

Paragraph (b)(4) of this section, which defines investments in fixed assets, is comprised of five sections of which (i), (ii), and (v), addressing investment in real property for use as a premises, leasehold improvement, and investment in furniture, fixtures, and equipment remain unchanged as proposed.

The proposed changes to § 701.36(b)(4)(iii) received the largest number of comments. The majority of these comments supported the proposed clarification of this section. However, it was evident that there was a general misconception in that the commenters perceived this as a change instead of a clarification of the existing rule concerning the inclusion of capital and operating lease payments as fixed assets.

The preamble to the existing regulation issued on December 28, 1984 states, "It is the Agency's position that these (capital and operating lease payments) should be included in the computation for determining compliance with the 5 percent limitation * * *". (See 49 FR 50365.) The Agency has always considered both types of leases as fixed assets subject to this regulation.

Several commenters suggested the distinction between the types of leases, capital and operating, be made on the basis of Generally Accepted Accounting Practices (GAAP). GAAP establishes the proper accounting for leases, e.g., a capital lease has certain characteristics and must be considered a fixed asset while all leases (those not having the specified characteristics) are treated as operating leases and not recorded as fixed assets. While GAAP draws a distinction between these lease types, it only pertains to the proper method of accounting for leases and not whether or not these are to be considered as fixed assets under this rule. This determination rests with the NCUA Board.

This section, as defined by NCUA, states that aggregate lease payments pursuant to a lease agreement on fixed assets are covered by the rule. Many of the comments mentioned the use of leases in connection with data processing of credit union records. Using this example, a credit union has some

options: an outright purchase or a lease of the hardware and software (there may even be variations of these two options). All would agree that the purchase of hardware and software represent an obvious investment in fixed assets. In the second option, the use of the lease, usually long term, represents a substantial future commitment of credit union funds and it is used in lieu of purchasing the items. The use of the lease is actually the equivalent of the purchase. This is particularly evident when the cost to purchase is equal to or less than the lease payments. While we are aware that there are many other fees paid under a data processing lease, it is impossible to view these payments as independent since all are usually tied, directly or indirectly, to hardware and/or software use. It would be difficult, if not impossible, to segregate portions of these fees as non-fixed assets due to the dependence on the entire system to produce the product.

While the NCUA Board is mindful of the differences of opinion in this area, the purpose of the regulation is to provide some control on the potential risk of excess investment and/or commitment to invest substantial sums in fixed assets. Accordingly, the NCUA Board has determined not to change the existing regulation in this area. Clarification in this section is warranted and, therefore, the reference to capital and operating leases is added to the regulation.

The definition in § 701.36(b)(4)(iv) has been clarified by listing the inclusion of any entity described in § 701.27, Credit Union Service Organization (CUSO) as proposed. The wording previously used did include CUSOs since most, if not all, are partnerships or corporations. The CUSO's investment in fixed assets, as defined in this regulation, will be considered in the credit union's total of fixed assets for the purpose of applying this regulation. In the case of multiple owners, each owner will consider a prorated share of the CUSO's fixed assets as part of its own fixed assets. This proration will be in direct proportion to the credit union's ownership of the CUSO. The commenters were supportive of this clarification and, therefore, this section is amended to reflect this change.

Section 701.36(c), (d), and (e)

The following paragraphs of § 701.36 remain unchanged as proposed: (c)(1), (c)(2), (c)(3), and (c)(4). Paragraph (c)(5) of this section is deleted as proposed since it contains out-of-date material.

Section 701.36, paragraphs (d)(1) and (d)(2) remain unchanged as proposed.

Section 701.36, paragraph (e)(1), parts (i), (ii), and (iii) have been modified to eliminate the word official in (i) as proposed, and the word union from credit union committee in (ii) and (iii). Paragraphs (e)(2) and (e)(3) remain unchanged.

This regulation, as amended, continues to apply to corporate Federal credit unions. The majority of all commenters indicated that corporate Federal credit unions need to be covered by this rule or another rule. However, many did not believe that the use of 5 percent of shares and retained earnings is an appropriate measure due to the volatility of a corporate credit union's share base. Several commenters indicated that the limitation on corporate credit unions should be based on a percentage of reserves, a less volatile part of the corporate's balance sheet. While there was no definite consensus of opinion on how to establish this limitation, it is clear to the NCUA Board that some form of change regarding corporate credit unions is warranted.

Section 704 of the NCUA Rules and Regulations pertains to corporate credit unions. It does not presently contain a section on fixed assets. The NCUA Board believes that this is the appropriate section for any regulation of corporate credit unions in the area of the purchase of fixed assets. This regulation will be reviewed and the inclusion of a fixed asset limitation will be proposed as the NCUA Board deems appropriate. In the interim, Section 701.36 will continue to apply. However, each corporate's commitment of funds to fixed assets will be reviewed on the basis of safety and soundness concerns on a continuous basis.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the rule does not have a significant impact on a substantial number of small credit unions because it applies only to credit unions with assets of at least $1 million. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This rule makes no changes to collection requirements, therefore, it need not be sent to the Office of Management and Budget for approval.

Executive Order 12612

The rule does not affect state regulation of state-chartered credit unions.

List of Subjects in 12 CFR Part 701

Credit union, Fixed assets.

By the National Credit Union Administration Board on April 21, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR Part 701 as follows:

PART 701—[AMENDED]

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1796.

Section 701.31 is also authorized by 15 U.S.C. 1601, *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610.

2. Section 701.36 is revised as follows:

§ 701.36 FCU ownership of fixed assets.

(a) A federal credit union's ownership in fixed assets shall be limited as described in this chapter.

(b) *Definitions*—As used in this section:

(1) Premises includes any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

(2) Furniture, Fixtures, and Equipment includes all office furnishings, office machines, computer hardware and software, automated terminals, heating and cooling equipment.

(3) Fixed Assets means premises and furniture, fixtures and equipment as these terms are defined above.

(4) Investments in fixed assets means:

(i) Any investment in real property (improved or unimproved) which is being used or is intended to be used as premises;

(ii) Any leasehold improvement on premises;

(iii) The aggregate of all capital and operating lease payments pursuant to lease agreements for fixed assets;

(iv) Any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation, including any entity described in § 701.27, holding any fixed assets used by the Federal credit union and any loans to such partnership or corporation; or

(v) Any investment in furniture, fixtures and equipment.

(5) Abandoned premises means former Federal credit union premises from the date of relocation to new quarters, and property originally acquired for future expansion for which such use is no longer contemplated.

(6) Immediate family member means a spouse or other family members living in the same household.

(7) Shares mean all savings (regular shares, share drafts, share certificates, other savings) and retained earnings means regular reserve, reserve for contingencies, supplemental reserves, reserve for losses and undivided earnings.

(8) Senior management employee means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

(c) *Investment in fixed assets.* (1) No Federal credit union with $1,000,000 or more in assets, without the prior approval of the Administration, shall invest in fixed assets if the aggregate of all such investments exceeds 5 percent of shares and retained earnings.

(2) A Federal credit union shall submit such statement and reports as the NCUA regional director may require in support of any investment in fixed assets in excess of the limit specified above.

(3) If the Administration determines that the proposal will not adversely affect the credit union, an aggregate dollar amount or percentage of assets will be approved for investment in fixed assets. Once such a limit has been approved, and unless otherwise specified by the regional director, a Federal credit union may make future acquisitions of fixed assets, provided the aggregate of all such future investments in fixed assets does not exceed an additional 1 percent of the shares and retained earnings of the credit union over the amount approved.

(4) Federal credit unions shall submit their requests to the NCUA regional office having jurisdiction over the geographical area in which the credit union's main office is located. The regional office shall inform the requesting credit union, in writing, of the date the request was received. If the credit union does not receive notification of the action taken on its request within 45 calendar days of the request was received by the regional office, the credit union may proceed with its proposed investment in fixed assets.

(d) *Premises.* (1) When real property is acquired for future expansion, at least partial utilization should be accomplished within a reasonable period, which shall not exceed 3 years unless otherwise approved in writing by the Administration. After real property acquired for future expansion has been held for 1 year, a board resolution with definitive plans for utilization must be available for inspection by an NCUA examiner.

(2) A Federal credit union shall endeavor to dispose of "abandoned premises" at a price sufficient to reimburse the Federal credit union for its investment and costs of acquisition. Current documents must be maintained reflecting the Federal credit union's continuing and diligent efforts to dispose of "abandoned premises." After "abandoned premises" have been on the Federal credit union's books for 4 years, the property must be publicly advertised for sale. Disposition must occur through public or private sale within 5 years of abandonment, unless otherwise approved in writing by the Administration.

(e) *Prohibited transactions.* (1) With the exception of a short term informal lease agreement (maturity less than 1 year) no Federal credit union may acquire or lease premises without the prior written approval of the Administration from any of the following:

(i) A director, member of the credit committee or supervisory committee, or senior management employee of the Federal credit union, or immediate family member of any such individual.

(ii) A corporation in which any director, member of the credit committee or supervisory committee, official, or senior management employee, or immediate family members of any such individual, is an officer or director, or has a stock interest of 10 percent or more.

(iii) A partnership in which any director, member of the credit committee or supervisory committee, or senior management employee, or immediate family members of any such individual, is a general partner, or a limited partner with an interest of 10 percent or more.

(2) The prohibition contained in paragraph (e)(1) also applies to any employee not otherwise covered if the employee is directly involved in investments in fixed assets unless the board of directors determines that the employee's involvement does not present a conflict of interest.

(3) All transactions with business associates or family members not specifically prohibited by this subsection (e) must be conducted at arm's length and in the interest of the credit union.

[FR Doc. 89-10282 Filed 4-28-89; 8:45 am]
BILLING CODE 7535-01-M

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final amendment.

SUMMARY: This amendment revises existing § 701.20—Surety Bond and Insurance Coverage for Federal Credit Unions ("FCU's"). Section 701.20 sets forth the requirements for surety bond coverage for losses caused by credit union employees and officials and for general insurance coverage for losses caused by persons outside of the credit union (e.g., losses due to theft, vandalism). The amendment requires a provision in FCU bonds assuring that a surety notify the NCUA Board whenever bond coverage of a federally insured credit union is terminated in its entirety, or when it is terminated on an individual employee or official.

EFFECTIVE DATE: May 1, 1989.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Robert Fenner, General Counsel, or Allan Meltzer, Assistant General Counsel, at the above address, or telephone (202) 682-9630.

SUPPLEMENTARY INFORMATION: On October 13, 1988, the NCUA Board requested comment on a proposal to require that credit union bonds include a provision requiring that the NCUA be notified whenever: (1) Bond coverage on a federally insured credit union in its entirety is terminated; and (2) bond coverage on an employee, director, officer, supervisory or credit committee member is terminated. (*See* 53 FR 41610, October 24, 1988). In addition to requesting comment on the proposed change itself, the proposed rule invited comment on the following specific issues. First, should the regulation be made applicable to federally-insured, state-chartered credit unions? Second, what use should be made of the information received, i.e. should the information be used internally, be given to other government agencies, or be made available to the credit union community as a whole? Third, would dissemination of this information be considered a "Routine use" under the provisions of the Privacy Act?

A total of twenty-seven comments on various aspects of the proposal were received. Nineteen were from federal credit unions, one from a state-chartered, federally insured credit

union, three from credit union leagues, two from national credit union trade associations, one from a surety bond company, and one from a surety trade association.

Commenters were overwhelmingly in favor of the proposal. Twenty-two commenters favored this proposed change, three opposed it, one approved it with reservations, and two failed to explicitly state their position but took the opportunity to comment on various aspects of the proposal. Of nineteen FCU's commenting, 16 favored the change, one favored it with qualifications, one opposed it, and one essentially took no position but requested other changes in the surety bond regulation. One Federally insured, state chartered credit union commented and favored the change. Three leagues commented favorably. One trade association favored the change, and one opposed it. The surety trade association opposes the change.

Those commenters who support the change did so generally because they felt such notification would allow the NCUA to identify and prevent potential losses to the Insurance Fund, and that it might in some cases reduce a risk to the Fund.

Interestingly, no commenter mentioned another, perhaps more significant purpose of the proposal, which is to assure compliance with the statutory proscription against individuals without bond coverage serving as officers or employees.

Those few commenters opposing the amendment did so for a variety of reasons. Three commenters, one of them a credit union, felt that the "burden" of providing notification should fall upon the credit union itself, rather than the surety. However, as noted in the proposed rule, "in a small but significant number of cases involving termination as to an individual, the employee or official has been allowed to continue serving as before either because the officials were unaware that this continued service was contrary to the FCU Act and NCUA regulations, or because they believed such termination was wrongful." The suggested alternative of these commenters would not be helpful in these situations, and not aid in monitoring compliance with law.

One commenter suggested that the amendment would be an onerous burden upon sureties. Many credit unions commented, and the Board agrees, that the burden, if any, is substantially outweighed by the potential benefit to the Insurance Fund. Moreover, while it is not a regulatory requirement, contractual provisions already in use in credit union bonds require that the NCUA be notified when the bond of a federal credit union as a whole is terminated. Indeed, this termination is not effective until the NCUA receives such a notice. This current bond provision does not appear to have presented an onerous burden upon sureties, nor have there ever been any complaints about it or requests from sureties or credit unions that the provision be modified or deleted.

Commenters also addressed the three specific issues upon which comments were solicited. As noted in the proposed rule, because § 741.1 of the NCUA Rules and Regulations establishes the requirements of § 701.20 as minimum standards for all federally-insured credit unions, the proposed rule as written may be applicable in the case of state chartered, federally insured credit unions. Seventeen commenters specifically addressed this issue. Twelve favored leaving the proposed rule as-is, while five suggested that it be limited to federally chartered credit unions.

Those who support application to state-chartered credit unions generally felt that, if notification from surety in the case of federally chartered credit unions might have a beneficial impact upon the Insurance Fund, the same benefits would be derived from notification in the case of state chartered, federally insured credit unions. In addition, the Insurance Fund's interests as an insurer in such information is no less significant in the case of a state chartered credit union than in a federally chartered credit union.

Those who opposed the provision's possible application to state chartered credit unions did so for two basic reasons. First, they thought that, whether or not to require such notification in the case of a state chartered credit union should be a matter left to the state supervisory authorities. The Board would note, however, that requiring notice to the state, as well as the requirement in the proposed rule, are not mutually exclusive. Each state is still free to require that surety bond forms require such notification or any other notification it deems warranted from a supervisory and regulatory standpoint.

Other commenters objected to the proposal's possible application to state chartered federally insured credit unions because they felt that determining in the case of a state chartered credit union which ones were federally insured would be an onerous paperwork burden, given the potential number of times such terminations occur in a year. The Board does not however believe this will be an onerous burden. Listings of federally insured credit unions are available to all sureties who require them. In addition, several commenters suggested that sureties concerned that they will not be able to determine which of their insured's are federally insured could require them, as part of the insuring process, to inform them of their insuring entity. Moreover, no penalty attaches to a surety who, while acting in good faith, neglects to provide the required notification.

There was little agreement among the commenters as to the appropriate use of the information gathered. Some believed it should only be used internally. Several believed it should be given to the other federal banking regulatory agencies. Some even thought that it should be made available to the general public and credit unions.

The Board notes that the primary purpose of the amendment is to protect the fund and to assure regulatory compliance. To this extent general, regular, and routine dissemination of the information outside the agency would not accomplish this task. Nevertheless, there may be occasions on a case by case basis where dissemination outside the agency would be warranted. The Board will address this "routine use" of the information in a future Notice of Publication of Systems of Records.

After careful consideration of the comments, the Board has determined that the final rule will remain as proposed with two minor changes. First, in order to allow a sufficient amount of time to make necessary changes in approved bond forms, the effective date has been changed to January 1, 1990. Second, the final amendment now explicitly states that notification from surety must be made to the "Secretary of the *NCUA* Board" rather than the "Secretary of the Board".

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board has determined and certified that the final rule will not have a significant economic impact on a substantial number of small credit unions (primarily those under $1 million in assets). The rule will not impose an additional burden upon credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This rule would impose two paperwork requirements. Bonding companies would need to add an additional provision in their bond forms, and, pursuant to this provision, each

bonding company would need to report terminations to the NCUA Board. It seems likely that these requirements will affect less than ten surety bond companies; therefore, the requirements of the Paperwork Reduction Act do not apply.

Executive Order 12612

While § 701.20 applies only to Federal credit unions, § 741.1 establishes the requirements of § 701.20 as minimum standards for all federally-insured credit unions. Thus, this rule may affect state-chartered, federally-insured credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined, however, that the proposed amendment will not have a substantial direct effect 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. Further, while the proposed amendment may affect state-chartered, federally-insured credit unions, it will not preempt provisions of state law or regulation.

List of Subjects in 12 CFR Part 701

Credit unions, Fidelity bond, Insurance coverage, Bond forms.

By the National Credit Union Administration Board on April 21, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulations as follows:

PART 701—[AMENDED]

1. The authority citations for Part 701 continue to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1767, 1782, 1784, 1787, 1789, and 1798.

2. Section 701.20(c) of the NCUA Rules and Regulations is revised to read as follows:

§ 701.20 [Amended]

* * * * *

(c) *Minimum coverage; approved forms.* Every Federal credit union will maintain bond and insurance coverage with a company holding a certificate of authority from the Secretary of the Treasury. Credit Union Blanket Bond Standard Form No. 23 of the Surety Association of America (revised to May, 1950) is considered the minimum coverage required and is approved. Credit Union Blanket Bond Forms 581 and 582 are also approved. Any other basic bond forms, and all riders and endorsements which limit the coverage provided by approved bond forms, must receive the prior written approval of the NCUA Board. Fidelity bonds must provide coverage for the fraud or dishonesty of all employees, directors, officers, and supervisory and credit committeee members. Notwithstanding the foregoing, effective January 1, 1990, all bonds must include a provision, in a form approved by the NCUA Board, requiring written notification by surety to the Board:

(1) When the bond of a credit union is terminated in its entirety; or

(2) When bond coverage is terminated, by issuance of a written notice, on an employee, director, officer, supervisory or credit committee member.

Said notification shall be sent to the Secretary of the NCUA Board or designee and shall include a brief statement of cause for termination.

[FR Doc. 89-10263 Filed 4-28-89; 8:45 am]

BILLING CODE 7535-01-M

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12 CFR Part 701

Treasury Tax and Loan Accounts; Federal Credit Unions Acting as Depositaries and Financial Agents of the Government

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final amendment.

SUMMARY: Pursuant to its regulatory review program, the NCUA Board issued proposed amendments to §§ 701.37-1 ("Treasury Tax and Loan Accounts") and 701.37-2 ("Federal Credit Unions Acting as Depositaries and Financial Agents of the Government") of its regulations. The amendments were intended to clarify and simplify these regulations. The Board is now finalizing the proposed amendments.

EFFECTIVE DATE: May 1, 1989.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Julie Tamuleviz, Staff Attorney, Office of General Counsel, at the above address or telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION: Pursuant to its regulatory review program, on October 24, 1988, the NCUA Board issued proposed amendments to §§ 701.37-1 ("Treasury Tax and Loan Accounts") and 701.37-2 ("Federal Credit Unions Acting as Depositaries and Financial Agents of the Government") of its Rules and Regulations with a ninety-day public comment period. (*See* 53 FR 41611.) These provisions of the regulations implement the authority of Federal credit unions to serve as depositaries and financial agents of the United States, subject to regulation by the United States Treasury Department. The proposed amendments consolidated and clarified these regulations. Comments were requested on the proposed amendments and any other suggested modifications to the regulations.

Five comment letters were received on the proposed amendments. Comments were received from two credit union trade associations, one credit union league, and two credit unions. The commenters all supported the proposed amendments to the regulations. No further modifications were suggested.

The Board is finalizing the proposed amendments. This final amendment is substantially similar to the proposal. No further explanation of the regulation is needed since background information as well as a complete section-by-section analysis is found in the Supplementary Information section of the proposed rule. Federal credit unions are reminded that the Department of Treasury regulates their activities as depositary and financial agents of the United States and as tax and loan depositaries. (*See* 31 CFR Parts 202, 203 and 214.) Federal credit unions should review Treasury's regulations for a full explanation of their responsibilities when serving in these capacities.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this amendment does not have a significant impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This amendment does not impose any paperwork requirements.

List of Subjects in 12 CFR Part 701

Credit unions; Treasury tax and loan accounts; Depositaries of public money and financial agents.

By the National Credit Union Administration Board on April 21, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA is amending its regulations as follows:

PART 701—[AMENDED]

1. That the authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and 1798.

Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1981 and 42 U.S.C. 3601–3610.

§§ 701.37–1 and 701.37–2 [Removed]

2. That §§ 701.37–1 and 701.37–2 be removed.

3. That new § 701.37 is added as follows:

§ 701.37 Treasury tax and loan depositaries; depositaries and financial agents of the Government.

(a) *Definitions.* (1) "Treasury Tax and Loan ("TT&L") Remittance Account" means a nondividend-paying account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain United States obligations under United States Treasury Department regulations.

(2) "TT&L Note Account" means an account subject to the right of immediate call, evidencing funds held by depositaries electing the note option under United States Treasury Department regulations.

(3) "Treasury General Account" means an account, established under United States Treasury Department regulations, in which a zero balance may be maintained and from which the entire balance may be withdrawn by the depositor immediately under all circumstances except closure of the credit union.

(4) "U.S. Treasury Time Deposit—Open Account" means a nondividend-bearing account, established under United States Treasury Department regulations, which generally may not be withdrawn until the expiration of 14 days after the date of the United States Treasury Department's written notice of intent to withdraw.

(b) Subject to regulation of the United States Treasury Department, a Federal credit union may serve as a Treasury tax and loan depositary, a depositary of Federal taxes, a depositary of public money, and a financial agent of the United States Government. In serving in these capacities, a Federal credit union may maintain the accounts defined in subsection (a), pledge collateral, and perform the services described under United States Treasury Department regulations for institutions acting in these capacities.

(c) Funds held in a TT&L Remittance Account, a TT&L Note Account, a Treasury General Account, and a U.S. Treasury Time Deposit—Open Account shall be considered deposits of public funds. Funds held in a TT&L Remittance Account and a TT&L Note Account shall be added together and insured up to a maximum of $100,000 in the aggregate. Funds held in a Treasury General Account and a U.S. Treasury Time Deposit—Open Account shall be added together and insured up to a maximum of $100,000 in the aggregate.

(d) Funds held in a TT&L Remittance Account, a TT&L Note Account, a Treasury General Account, and U.S. Treasury Time Deposit—Open Account are not subject to the 60-day notice requirement of Article III, section 5(a) of the Federal Credit Union Bylaws.

[FR Doc. 89–10265 Filed 4–28–89; 8:45 am]
BILLING CODE 7535–01–M

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12 CFR Parts 701 and 703

Loans to Members and Lines of Credit to Members; Investment and Deposit Activities

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final amendment.

SUMMARY: On May 31, 1988, NCUA published an interim final amendment to Parts 701 and 703 of its regulations permitting a Federal credit union to purchase put options to reduce risk of loss from interest rate increases on real estate loans being produced for sale on the secondary market. The interim final amendment was made effective immediately. A 90-day comment period was provided. NCUA has reviewed the comments received and has now made the amendment final. The final amendment is substantially similar to the interim final amendment.

EFFECTIVE DATE: May 1, 1989.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Edward P. Dupcak, Office of Examination and Insurance, at the above address, or telephone (202) 682–9640; or Julie Tamuleviz, Office of Generai Counsel, at the above address, or telephone (202) 682–9630.

SUPPLEMENTARY INFORMATION: On May 31, 1988, NCUA published an interim final amendment to Parts 701 and 703 of its regulations (12 CFR Parts 701 and 703) permitting a Federal credit union ("FCU") to purchase put options to reduce risk of loss from interest rate increases on real estate loans being produced for sale on the secondary market. (*See* 53 FR 19748). The interim final rule was made effective immediately, permitting FCU's to take advantage of this new tool during the peak of the real estate lending season. Public comment on the rule was requested, and a 90-day public comment period was provided.

Seven comment letters on the interim final rule were received. Comments were received from five FCU's; one credit union trade association; and one banking trade association. Six of the commenters were generally in favor of the rule. One FCU opposed it on the basis that options are too complex for most FCU's.

Sections 701.21(i) (2) and (3) of the interim final amendment require an FCU to obtain prior NCUA Regional Office permission to purchase put options and submit monthly reports on its put option activity to the Regional Office. These requirements were included to enable NCUA to monitor FCU's use of the new authority while the interim amendment was in place and thereby prevent risk to the National Credit Union Share Insurance Fund. It was anticipated that the requirements would be dropped in the final rule, provided FCU experience with the new authority during the period of the interim amendment was positive. Four of the commenters supported the deletion of these requirements.

NCUA's Regional Offices have been surveyed to determine the extent of FCU use of put options. The survey revealed that FCU utilization of the option authority has been extremely limited. The NCUA Board believes that at this time there is not sufficient FCU experience with these transactions to eliminate the prior approval and reporting requirements. These requirements are therefore retained in the final amendment. A provision has been added, however, allowing NCUA Regional Directors to waive the monthly reporting requirement on a case-by-case basis for those FCU's with a proven record of responsible use of the put option authority. Further, the requirements may be reviewed at a later date when a greater base of experience has been obtained.

One commenter stated that FCU's should be permitted to purchase put options from other than primary dealers. The interim final amendment provides that put options may only be purchased through a contract market designated by the Commodity Futures Trading Commission or through a primary dealer in Government securities. The term "primary dealer in Government securities" is defined in the interim final amendment. Given the current limited use of the put option authority, the Board sees no reason to extend the authority at this time. Put options are currently readily available through primary dealers.

The Board is adopting the interim final amendment as a final amendment which is substantially similar to the interim amendment. The only change is to § 701.21(i)(3)(i) which will allow NCUA Regional Directors to waive the monthly reporting requirements on a case-by-case basis.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board hereby certifies that this final amendment will not have a significant impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The Paperwork Reduction Act is not applicable since it is expected that less than 10 FCU's will be affected by the final amendment.

Executive Order 12612

This amendment does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to Federal credit unions.

List of Subjects

12 CFR Part 701

Credit unions, Financial options contracts.

12 CFR Part 703

Credit unions, Investments.

By the National Credit Union Administration Board on April 21, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulations as follows:

PART 701—[AMENDED]

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and 1798.

Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1981 and 42 U.S.C. 3601–3610.

2. Section 701.21 is amended by revising paragraph (i):

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(i) *Put option purchases in managing increased interest-rate risk for real estate loans produced for sale on the secondary market*—(1) *Definitions.* For purposes of this § 701.21(i):

(i) "Financial options contract" means an agreement to make or take delivery of a standardized financial instrument upon demand by the holder of the contract at any time prior to the expiration date specified in the agreement, under terms and conditions established either by:

(A) A contract market designated for trading such contracts by the Commodity Futures Trading Commission, or

(B) By a Federal credit union and a primary dealer in Government securities that are counterparties in an over-the-counter transaction.

(ii) "FHLMC security" means obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454 and 1455).

(iii) "FNMA security" means an obligation, participation, or any instrument of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association.

(iv) "GNMA security" means an obligation, participation, or any instrument of or issued by, or fully guaranteed as to principal and interest by, the Government National Mortgage Association.

(v) "Long position" means the holding of a financial options contract with the option to make or take delivery of a financial instrument.

(vi) "Primary dealer in Government securities" means:

(A) A member of the Association of Primary Dealers in United States Government Securities; or

(B) Any parent, subsidiary, or affiliated entity of such primary dealer where the member guarantees (to the satisfaction of the FCU's board of directors) over-the-counter sales of financial options contracts by the parent, subsidiary, or affiliated entity to a Federal credit union.

(vii) "Put" means a financial options contract which entitles the holder to sell, entirely at the holder's option, a specified quantity of a security at a specified price at any time until the stated expiration date of the contract.

(2) *Permitted options transactions.* A Federal credit union may, to manage risk of loss through a decrease in value of its commitments to originate real estate loans at specified interest rates, enter into long put positions on GNMA, FNMA, and FHLMC securities:

(i) If the real estate loans are to be sold on the secondary market within ninety (90) days of closing;

(ii) If the positions are entered into:

(A) Through a contract market designated by the Commodity Futures Trading Commission for trading such contracts, or

(B) With a primary dealer in Government securities;

(iii) If the positions are entered into pursuant to written policies and procedures which are approved by the Federal credit union's board of directors, and include, at a minimum:

(A) The Federal credit union's strategy in using financial options contracts and its analysis of how the strategy will reduce sensitivity to changes in price or interest rates in its commitments to originate real estate loans at specified interest rates;

(B) A list of brokers or other intermediaries through which positions may be entered into;

(C) Quantitative limits (e.g., position and stop loss limits) on the use of financial options contracts;

(D) Identification of the persons involved in financial options contract transactions, including a description of these persons' qualifications, duties, and limits of authority, and description of the procedures for segregating these persons' duties,

(E) A requirement for written reports for review by the Federal credit union's board of directors at its monthly meetings, or by a committee appointed by the board on a monthly basis, of:

(1) The type, amount, expiration date, correlation, cost of, and current or projected income or loss from each position closed since the last board review, each position currently open and current gains or losses from such positions, and each position planned to be entered into prior to the next board review;

(2) Compliance with limits established on the policies and procedures; and

(3) The extent to which the positions described contributed to reduction of sensitivity to changes in prices or interest rates in the Federal credit union's commitments to originate real estate loans at a specified interest rate; and

(iv) If the Federal credit union has received written permission from the appropriate NCUA Regional Director to engage in financial options contracts transactions in accordance with this § 701.21(i) and its policies and procedures as written.

(3) *Recordkeeping and reporting.* (i) The reports described in § 701.21(i)(2)(iii)(E) for each month must be submitted to the appropriate NCUA Regional Office by the end of the following month. This monthly reporting

requirement may be waived by the appropriate NCUA Regional Director on a case-by-case basis for those Federal credit unions with a proven record of responsible use of permitted financial options contracts.

(ii) The records described in § 701.21(i)(2)(iii)(E) must be retained for two years from the date the financial options contracts are closed.

(4) *Accounting.* A Federal credit union must account for financial options contracts transactions:

(i) In accordance with standards established by the NCUA Board in the Accounting Manual for Federal Credit Unions, available from NCUA, Administrative Office, 1776 G St. NW., Washington, DC 20456, or such other instruction as may be deemed appropriate; or

(ii) To the extent not inconsistent with NCUA Board instruction, in accordance with generally accepted accounting standards or principles.

PART 703—[AMENDED]

3. The authority citation for Part 703 is revised to read as follows:

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15), 1766(a), and 1789(a)(11).

4. The amendment to § 703.1 published at 53 FR 19752 is adopted as final without change.

5. The amendment to § 703.4(a) published at 53 FR 19752 is adopted as final without change.

[FR Doc. 89-10266 Filed 4-28-89; 8:45 am]
BILLING CODE 7535-01-M

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12 CFR Parts 701, 790, 792, and 796

Organization and Operations of Federal Credit Unions; Description of NCUA, Requests for Agency Action; Requests for Information Under the Freedom of Information Act and Privacy Act and by Subpoena, Security Procedures for Classified Information; Employee Responsibility and Conduct

AGENCY: National Credit Union Administration ("NCUA").

ACTION: Final rule.

SUMMARY: The NCUA Board, in accordance with its policy to review existing regulations every three years, reviewed Part 790 of the NCUA Rules and Regulations ("Description of Office, Disclosure of Official Records, Availability of Information"). A proposed revision and restructuring of Part 790 into Parts 790 and 792 was issued by the NCUA Board on October 13, 1988 (*see* 53 FR 42955, 10/25/88). The NCUA Board has now adopted the proposed revision in final form with minor modifications described below. Part 790 describes NCUA's organization and addresses public requests for action by NCUA. Part 792 addresses requests for information under the Freedom of Information Act, the Privacy Act, and by subpoena and contains information concerning securities procedures to protect classified national security information. The regulations concerning employee responsibility and conduct which were previously found in Part 792 have been redesignated as Part 796.

EFFECTIVE DATE: May 1, 1989.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Assistant General Counsel, at the above address, or telephone (202) 682-9630.

SUPPLEMENTARY INFORMATION: The NCUA Board has restructured and revised Part 790 of its Rules and Regulations. It had been several years since Part 790 was last revised. The revision presents the information in a more logical order and updates the information found in the rule.

The Board issued a proposed rule on October 13, 1988, with a ninety-day public comment period. (*See* 53 FR 42955, 10/25/88.) Only two public comment letters were received, one from a Federal credit union and one from a national credit union trade association. Both commenters fully supported the proposed revisions. The Board has adopted the proposed revision in final form with only minor modifications.

The information found in old Part 790 has been divided into Parts 790 and 792. Part 790 is now entitled "Description of NCUA; Requests for Agency Action" and contains information concerning NCUA organization and public requests for action by NCUA. Section 701.5 ("Other Applications") was previously proposed to be removed from the NCUA Regulations. (*See* 52 FR 47014, 12/11/87.) In the proposed revision to Part 790, it was suggested that some of the information found in Section 701.5 be retained in the regulations, but that it fit more appropriately in Part 790. The Board proposed that the information in § 701.5 be removed and that the necessary information be placed in § 790.3—Requests for Agency Action. The Board has retained this change in the final rule.

Part 792 is now entitled "Requests for Information Under the Freedom of Information Act and Privacy Act, and by Subpoena; Security Procedures for Classified Information." The title is self-explanatory. The regulation entitled "Employee Responsibility and Conduct" was previously found at Part 792. It has been redesignated as Part 796, as proposed.

This final revision contains only minor modifications from the proposal. A detailed section-by-section analysis was set forth in the Supplementary Information section of the proposal. Only the modifications made to the proposal are explained below.

Section 790.2 is entitled "Central and Regional Office Organization." It sets forth the organization of NCUA and describes all of the offices within the Agency. Section 790.2(b)(4) of the proposal described the Office of the Internal Auditor. In October of 1988, the Congress passed the 1988 Amendments to the 1978 Inspector General Act. These amendments required the NCUA to establish an Office of Inspector General by mid-April, 1989. The NCUA Board established an Office of Inspector General and has abolished the Office of Internal Auditor. A description of the Office of Inspector General has been substituted for the description of the Office of Internal Auditor in § 790.2(b)(4). In addition, the reference to the Internal Auditor in the description of the Office of the Executive Director found in § 790.2(b)(2) has been deleted since, according to the 1988 Amendments to the Inspector General Act, the Inspector General must report directly to the NCUA Board.

Technical corrections to two proposed sections have been made. First, § 790.2(c)(1) sets forth a chart containing the addresses of each of the six NCUA Regional Offices and the states and territories within the jurisdiction of each of the Regional Offices. Corrections have been made to the addresses for Regions IV and V. Second, a reference in proposed § 792.41 to § 792.42 has been changed to § 792.3. This was a typographical error in the proposal. Other typographical errors found in the proposed rules have been corrected.

The remainder of the final revision is identical to the proposal.

Regulatory Procedures

Since this final rule imposes requirements on the NCUA rather than on credit unions, submitters or requesters of information, the Regulatory Flexibility Act, the Paperwork Reduction Act and Executive Order 12612 ("Federalism") are inapplicable.

List of Subjects

12 CFR Part 790

Credit unions, Description, Organization.

12 CFR Part 792

Credit unions, Applications, Freedom of information, Fees, Waivers, Subpoenas, Privacy, National security procedures.

By the National Credit Union Administration Board on April 21, 1989.

Becky Baker,

Secretary, NCUA Board.

Accordingly, NCUA is amending its regulations as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

§ 701.5 [Removed]

1. Section 701.5 is removed.

2. Part 790 is revised to read as follows:

PART 790—DESCRIPTION OF NCUA; REQUESTS FOR AGENCY ACTION

790.1 Scope.
790.2 Central and regional office organization.
790.3 Requests for agency action.

Authority: 12 U.S.C. 1766, 12 U.S.C. 1789, 12 U.S.C. 1795f, 5 U.S.C. 552.

§ 790.1 Scope.

This part contains a description of NCUA's organization and the procedures for public requests for action by the Agency. Part 790 pertains to the practices of the National Credit Union Administration only and does not apply to credit union operations.

§ 790.2 Central and regional office organization.

(a) *General organization.* NCUA is composed of the NCUA Board with a Central Office in Washington, DC, six Regional Offices, and the NCUA Central Liquidity Facility.

(b) *Central Office.* The Central Office address is NCUA, 1776 G Street NW., Washington, DC 20456.

(1) *The NCUA Board.* NCUA is managed by its Board. The Board consists of three members appointed by the President, with the advice and consent of the Senate, for six-year terms. One Board member is designated by the President to be Chairman of the Board. A second member is designated by the Board to be Vice-Chairman. The Board also serves as the Board of Directors of the Central Liquidity Facility.

(2) *Secretary of the Board.* The Secretary of the Board is responsible for the secretarial functions of the National Credit Union Administration Board. The Secretary's responsibilities include preparing of agendas for meetings of the Board, preparing and maintaining the minutes for all official actions taken by the Board, and executing all documents adopted by the Board or under its direction. The Secretary also serves as the Secretary of the Central Liquidity Facility.

(3). *Office of the Executive Director.* The Executive Director translates NCUA Board policy decisions into workable programs, delegates responsibility for these programs to appropriate staff members, and coordinates the activities of the senior executive staff, which includes: The General Counsel; Chief Economist; the Regional Directors; and the Office Directors for Public and Congressional Affairs, for Examination and Insurance, and for Information Systems. Because of the nature of the attorney/client relationship between the Board and General Counsel, the General Counsel may be directed by the Board not to disclose discussions and/or assignments with anyone, including the Executive Director. The Executive Director is otherwise to be privy to all matters within senior executive staff's responsibility. The Executive Director is also responsible for managing the Personnel Office, the Controller's Office, and the Administrative Office.

(4) *Office of Examination and Insurance.* The Director of the Office of Examination and Insurance: Formulates standards and procedures for examination and supervision of the community of federally-insured credit unions, and reports to the Board on the performance of the examination program; administers the National Credit Union Share Insurance Fund, and reports on its condition and performance, including the premiums invested, income earned, and assistance provided; serves as the Agency's expert on accounting principles and standards, on auditing standards, and on investments for credit unions, and represents NCUA at meetings with the AICPA, FFIEC and GAO; and collects data and provides statistical and economical reports and research papers on market trends affecting credit unions.

(5) *Office of General Counsel.* The General Counsel has overall responsibility for all legal matters affecting NCUA and for liaison with the Department of Justice. The General Counsel represents NCUA in all litigation and administrative hearings when such direct representation is permitted by law and, in other instances, assists the attorneys responsible for the conduct of such litigation. The General Counsel also provides NCUA with legal advice and opinions on all matters of law, and the public with interpretations of the Federal Credit Union Act, the NCUA Rules and Regulations, and other NCUA Board directives. The General Counsel has responsibility for the drafting, reviewing, and publication of all items which appear in the **Federal Register**, including rules, regulations, and notices required by law.

(6) *Office of the Inspector General.* The Inspector General is responsible for scheduling and conducting independent audits and investigations of all NCUA programs and functions to promote efficiency, uncover waste, fraud, abuse, and noncompliance with statutory and other requirements. The Inspector General also reviews legislation and regulations for their economic impact and prevention of fraud and abuse. The Inspector General reports directly to the NCUA Board and provides semiannual reports to Congress of its activities.

(7) *Office of the Chief Economist.* The Chief Economist is responsible for developing and conducting research projects in support of NCUA programs, and for preparing periodic reports on research activities for the information and use of agency staff, credit union officials, state credit union supervisory authorities, and other governmental and private groups.

(8) *Office of Public and Congressional Affairs.* The Director of the Office of Public and Congressional Affairs is responsible for maintaining NCUA's relationship with the public and the media; for liaison with the U.S. Congress, and with other Executive Branch agencies concerning legislative matters; and for the analysis and development of legislative proposals and public affairs programs.

(9) *Office of Information Systems.* The Director of the Office of Information Systems has responsibility for managing and operating NCUA's electronic data processing operations and for meeting the Agency's needs for automated systems and computing. The Director appraises and reviews analytical and statistical reporting systems for which the Office is responsible, and reports to the Board whether such systems meet Agency needs.

(10) *Controller's Office.* The Controller, as NCUA's chief financial officer, is in charge of budgetary, accounting and financial matters for the Agency. The Controller is responsible for submitting annual budget and staffing requests for approval by the

NCUA Board, and, as required, by the Office of Management and Budget; for collecting from federally-insured credit unions the capitalization deposits required as a condition of deposit insurance, and, as determined by the Board, for collecting from Federal credit unions annual operating fees; for processing payroll, travel, and commercial account disbursements; and for preparing internal financial reports.

(11) *Personnel Office.* The Personnel Office is responsible for comprehensive personnel management, including developing programs for recruitment and placement, position classifications and management, employee-management relations, employee incentives and awards, and employee development and training.

(12) *Office of Administration.* The Director of the Office of Administration is responsible for managing the Agency's resources and providing NCUA's executive offices and Regional Directors with administrative services generally, including: Agency security; information resources management; contracting and procurement; contract management; management of equipment and supplies; acquisition, layout and management of office space, records management; printing and graphics; and warehousing and distribution. The Director is also responsible, in conjunction with the Office of General Counsel, in carrying out the Agency's responsibilities under the Freedom of Information Act, the Privacy Act, and the Paperwork Reduction Act, and in directing Agency responses to reporting requirements.

(c) *Regional offices.* (1) NCUA's programs are conducted through six regional offices:

Region No.	Area within region	Office address
I	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands.	9 Washington Square, Washington Avenue Extension, Albany, NY 12205.
II	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia	1776 G Street, NW., Suite 800, Washington, DC 20006.
III	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee.	7000 Central Parkway, Suite 1600, Atlanta, GA 30328.
IV	Illinois, Indiana, Michigan, Missouri, Ohio, Wisconsin	300 Park Blvd., Suite 155, Itasca, IL 60143.
V	Arizona, Colorado, Iowa, Kansas, Minnesota, Nebraska, New Mexico, North Dakota, South Dakota, Oklahoma, Texas, Utah, Wyoming.	4807 Spicewood Spring Road, Suite 5200, Austin, TX 78759.
VI	Alaska, American Samoa, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Washington.	2300 Clayton Road, Suite 1350, Concord, CA 94520.

(2) A Regional Director is in charge of each Regional Office. The Regional Director manages NCUA's programs in the Region assigned in accordance with established policies. This person's duties include: Directing chartering, insurance, examination, and supervision programs to promote and assure safety and soundness; managing regional resources to meet program objectives in the most economical and practical manner; and maintaining good public relations with public, private, and governmental organizations, Federal credit union officials, credit union organizations, and other groups which have an interest in credit union matters in the assigned Region. The Director maintains liaison and cooperation with other regional offices of Federal departments and agencies, state agencies, city and county officials, and other governmental units that affect credit unions. The Regional Director is aided by a Deputy Regional Director and an Associate Regional Director. Staff working in the Regional Office, with the exception of the Special Actions staff, report to the Deputy Regional Director. Each Region is divided into examiner districts, each assigned to a Supervisory Examiner; groups of examiners are directed by a Supervisory Examiner, each of whom in turn reports directly to the Associate Regional Director. Special Actions staff also report to the Associate Regional Director.

(d) *NCUA Central Liquidity Facility ("CLF")*—(1) *General Organization.* The CLF was created to improve general financial stability by providing funds to meet the liquidity needs of credit unions. It is a mixed ownership Government corporation under the Government Corporation Control Act (31 U.S.C. 9101 *et seq.*). The CLF's corporate headquarters is located at 1776 G Street, NW., Washington, DC 20456. NCUA's Central and Regional Offices provide services and information to the CLF on a cost reimbursable basis; depending upon need, employees of CLF may be assigned to the Regional Offices. The CLF is also assisted in its operations by corporate credit unions designated as "Agent Members," which provide CLF services to other credit unions lacking direct access to the CLF.

(2) *Board of Directors.* The CLF is managed by the NCUA Board, which acts as the CLF Board of Directors. The Chairman of the NCUA Board is the Chairman of the CLF Board of Directors. The CLF Board is assisted in managing the CLF by these officers, who are appointed by and are responsible to the CLF Board: President, Vice President for Credit, Vice President for Finance, Secretary, and Treasurer.

(3) *President.* The President is the chief executive officer of the CLF and works under the general supervision of the CLF Board. The President provides overall executive direction and guidance and is responsible for the ongoing management of the CLF. The President manages the CLF staff and their activities in the Central Office and the Regions; provides general supervision to the other officers of the CLF; and initiates and maintains working relationships with the credit union community, other Federal and state government authorities, and the banking and investment communities.

(4) *Vice President for Credit.* The Vice President for Credit is responsible for planning, implementing, and directing programs related to the CLF's lending policies, procedures and regulations. The Vice President for Credit has responsibility for directing CLF lending to regular members, agent members and agent group representatives, and for monitoring lending activities throughout the CLF to assure conformity with policies, procedures and regulations. The Vice President for Credit must also develop and maintain a working relationship with state supervisors, state insurance authorities, and Federal financial agencies.

(5) *Vice President for Finance.* The Vice President for Finance is responsible for planning, implementing, and directing borrowing and investment programs to finance CLF operations. The Vice President for Finance has responsibility for directing CLF borrowing from the Federal Financing Bank and other sources; for the CLF's investment of funds in the U.S. Government and agency securities; and for developing and maintaining working relationships with the investment and

banking communities and Federal financial agencies.

(6) *Treasurer.* The Treasurer develops and manages the CLF's operational systems to monitor and report the use of the CLF's funds. The Treasurer establishes accounting policies and procedures for the CLF, and maintains working relationships with Agent members, state supervisors, state insurance corporations, and Federal financial agencies.

(7) *Secretary.* The Secretary of the NCUA Board serves as the Secretary of the CLF. The Secretary has responsibility for preparing the Board's agenda, giving all required notices, and keeping the minutes of the Board.

§ 790.3 Requests for agency action.

Except as otherwise provided by NCUA regulation, all applications, requests, and submittals for Agency action shall be in writing and addressed to the appropriate Office described in § 790.2. This will usually be one of the Regional Offices. In instances where the appropriate Office cannot be determined, requests should be sent to the Office of Public and Congressional Affairs.

PART 796—[REDESIGNATED FROM PART 792]

3. Part 792 of the NCUA Regulations, entitled "NCUA Employee Responsibility and Conduct," is redesignated as Part 796 of the NCUA Regulations.

4. Part 792 of the NCUA Regulations is added to read as follows:

PART 792—REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT AND PRIVACY ACT, AND BY SUBPOENA; SECURITY PROCEDURES FOR CLASSIFIED INFORMATION

Subpart A—The Freedom of Information Act

Sec.

792.1 Scope.
792.2 Information made available to the public and requests for such information.
792.3 Unpublished, confidential and privileged information.
792.4 Release of exempt records.
792.5 Fees for document search, review, and duplication; waiver and reduction of fees.
792.6 Agency determination.
792.7 Confidential commercial information.

Subpart B—The Privacy Act

792.20 Scope.
792.21 Definitions.
792.22 Procedures for requests pertaining to individual records in a system of records.
792.23 Times, places, and requirements for identification of individuals making requests and identification of records requested.
792.24 Notice of existence of records, access decisions and disclosure of requested information; time limits.
792.25 Special procedures: Information furnished by other agencies; medical records.
792.26 Requests for correction or amendment to record; administrative review of requests.
792.27 Appeal of initial determination.
792.28 Disclosure of record to person other than the individual to whom it pertains.
792.29 Accounting for disclosures.
792.30 Requests for accounting for disclosures.
792.31 Collection of information from individuals; information forms.
792.32 Contracting for the operation of a system of records.
792.33 Fees.
792.34 Exemptions.
792.35 Security of systems of records.
792.36 Use and collection of Social Security numbers.
792.37 Training and employee standards of conduct with regard to privacy.

Subpart C—Subpoenas

792.40 Service.
792.41 Advice to person served.
792.42 Appearance by person served.

Subpart D—Security Procedures for Classified Information

792.50 Program.
792.51 Procedures.

Authority: 12 U.S.C. 1766, 12 U.S.C. 178, 12 U.S.C. 1795f 5 U.S.C. 552, 5 U.S.C. 552a, Executive Orders 12600 and 12356.

Subpart A—The Freedom of Information Act

§ 792.1 Scope.

This subpart sets forth the procedures for processing requests for information under the Freedom of Information Act ("FOIA") (5 U.S.C. 552).

§ 792.2 Information made available to the public and requests for such information.

(a) Except to the extent that the matters set forth herein relate to or contain information which is exempted from public disclosure under the FOIA as amended (5 U.S.C. 552) or are promptly published and copies are for sale, NCUA shall make available for public inspection and copying, upon request made in accordance with the provisions of § 792.2(g):

(1) The final opinions, including concurring and dissenting opinions, and orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by NCUA and are not published in the **Federal Register**; and

(3) Administrative staff manuals and instructions to staff affecting a member of the public.

(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, NCUA may delete identifying details when an opinion, statement of policy, interpretation, or staff manual or instruction is made available or published. In each case, the justification for the deletion shall be fully explained in writing.

(c) NCUA also maintains current indices providing identifying information for the public for any matter referred to in paragraph (a) of this section issued, adopted, or promulgated after July 4, 1967. Manuals relating to general and technical information and booklets published by NCUA are listed on the "NCUA Publications List," which indicates those items available from the Agency. The Directory of Credit Unions, published by NCUA, is also available. A list of statements of policy, NCUA Instructions, Bulletins, Letters to Credit Unions and certain internal manuals are maintained on a "Directives Control Index." NCUA has determined that publication of the indices is unnecessary and impractical, but copies of indices will be provided on request at their duplication cost and are available for public inspection and copying. The listing of any material in any index is for the convenience of possible users of the materials and does not constitute a determination that all of the items listed will be disclosed or are subject to disclosure.

(d) The materials referred to in paragraph (a) of this section may be relied on, used, or cited as precedent by NCUA against a party, provided:

(1) The materials have been indexed and either made available or published; or

(2) The party has actual and timely notice of the materials' contents.

(e) Except with respect to records made available under this section or published in the **Federal Register**, or to the extend that records relate to or contain information which is exempt from public disclosure under the FOIA, NCUA, upon a request which reasonably describes records and is made in accordance with § 792.2(g), will make such records available to any person who agrees to pay the direct costs specified in § 792.5. A "reasonable description" is one which is sufficient to enable a professional employee of NCUA, who is familiar with the subject area of the request, to locate the record with a reasonable amount of effort.

(f) *Information centers.* The Central Office and the Regional Offices are

designated as Information Centers for the NCUA. The Freedom of Information Officer of the Administrative Office is responsible for the operation of the Information Center maintained at the Central Office. The Regional Directors are responsible for the operation of the Information Centers in their Regional Offices.

(g) Methods of request—(1) *Indices.* Requests for indices should be made to NCUA, Administrative Office, 1776 G Street, NW., Washington, DC 20456. The indices indicate how to obtain the documents listed therein.

(2) *All other records.* Requests for all other records made under § 792.3(e) should be addressed to the appropriate Regional Director. When the location of requested records is not know, or it is known that such records are located in the Central Office, the request should be addressed to the Freedom of Information Officer of the Administrative Office at the address noted in § 792.2(g)(i).

(3) *Improper address.* Failure to properly address a request may defer the effective date of receipt by NCUA for commencement of the time limitation stated in § 792.6(a)(i), to take account of the time reasonably required to forward the request to the appropriate office or employee.

§ 792.3 Unpublished, confidential and privileged information.

(a) All records of NCUA or any officer, employee, or agent thereof, are confidential, privileged and not subject to disclosure, except as otherwise provided in this Part, if such records are:

(1) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to an Executive Order.

(2) Records related solely to NCUA internal personnel rules and practices. This exemption applies to internal rules or instructions which must be kept confidential in order to assure effective performance of the functions and activities for which NCUA is responsible and which do not materially affect members of the public. This exemption also applies to manuals and instructions to the extent that release of the information contained therein would permit circumvention of laws or regulations.

(3) Specifically exempted from disclosure by statute, where the statute either makes nondisclosure mandatory or establishes particular criteria for withholding information.

(4) Records which contain trade secrets and commercial or financial information which relate to the business, personal or financial affairs of any person or organization, are furnished to NCUA, and are confidential or privileged. This exemption includes, but is not limited to, various types of confidential sales and cost statistics, trade secrets, and names of key customers and personnel. Assurances of confidentiality given by staff are not binding on NCUA.

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with NCUA. This exemption preserves the existing freedom of NCUA officials and employees to engage in full and frank written or taped communications with each other and with officials and employees of other agencies. It includes, but is not limited to, inter-agency and intra-agency reports, memoranda, letters, correspondence, work papers, and minutes of meetings, as well as staff papers prepared for use within NCUA or in concert with other governmental agencies.

(6) Personnel, medical, and similar files (including financial files), the disclosure of which without written permission would constitute a clearly unwarranted invasion of personal privacy. Files exempt from disclosure include, but are not limited to:

(i) The personnel records of the NCUA;

(ii) The personnel records voluntarily submitted by private parties in response to NCUA's requests for proposals; and

(iii) Files containing reports, records or other material pertaining to individual cases in which disciplinary or other administrative action has been or may be taken.

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation on or by an agency conducting a lawful national security intelligence investigation, information furnished by the confidential source;

(v) Would disclose techniques and procedures for law enforcement investigation or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual. This includes, but is not limited to, information relating to enforcement proceedings upon which NCUA has acted or will act in the future.

(8) Contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of NCUA or any agency responsible for the regulation or supervision of financial institutions. This includes all information, whether in formal or informal report form, the disclosure of which would harm the financial security of credit unions or would interfere with the relationship between NCUA and credit unions.

§ 792.4 Release of exempt records.

(a) *Prohibition against disclosure.* Except as provided in § 792.4(b), no officer, employee, or agent of NCUA or of any federally-insured credit union shall disclose or permit the disclosure of any exempt records of the Agency to any person other than those NCUA or credit union officers, employees, or agents properly entitled to such information for the performance of their official duties.

(b) *Disclosure authorized.* Exempt NCUA records may be disclosed only in accordance with the following conditions and requirements:

(1) *Exempt records—Disclosure to credit unions, financial institutions and state and Federal agencies.* The NCUA Board or any person designated by it in writing, in its sole discretion, may make available to certain governmental agencies and insured financial institutions copies of reports of examination and other documents, papers or information for their use, when necessary, in the performance of their official duties or functions. All reports, documents and papers made available pursuant to this paragraph shall remain the property of NCUA. No person, agency or employee shall disclose the reports or exempt records without NCUA's express written authorization.

(2) *Exempt records—Disclosure to investigatory agencies.* The NCUA Board, or any person designated by it in writing, in its discretion and in

appropriate circumstances, may disclose to proper Federal or state authorities copies of exempt records pertaining to irregularities discovered in credit unions which may constitute either unsafe or unsound practices or violations of Federal or state civil or criminal law.

(3) *Exempt records—Disclosure to third parties.* The NCUA Board, or any person designated by it in writing, may disclose copies of exempt records to any third party where requested to do so in writing. The request shall: (i) Specify the record or records to which access is requested; and (ii) give the reasons for the request. Any NCUA employee authorized to disclose exempt NCUA records to third parties may disclose the records only upon determining that good cause exists for the disclosure. The designated NCUA official shall impose such terms and conditions as are deemed necessary to protect the confidential nature of the record, the financial integrity of any credit union or other organization or person to which the records relate, and the legitimate privacy interests of any individual named in such records.

§ 792.5 Fees for document search, review, and duplication; waiver and reduction of fees.

(a) *Definitions.* (1) "Direct costs" means those expenditures which NCUA actually incurs in searching for, duplicating and reviewing documents to respond to a FOIA request.

(2) "Search" means all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(3) "Duplication" means the process of making a copy of a document needed to respond to a FOIA request.

(4) "Review" means:

(i) The process of examining documents located in response to a request that is for a commercial use (*see* § 792.5(a)(5)) to determine whether any portion of a document located is permitted to be withheld; and

(ii) The process of preparing such documents for disclosure.

(5) "Commercial use request" means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(6) "Educational institution" means a preschool, an elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education operating a program or programs of scholarly research.

(7) "Noncommercial scientific institution" means an institution:

(i) That is not operated on a "commercial" basis as that term is used in § 792.5(a)(5); and

(ii) That is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(8) "Representative of the news media" means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. Included within the meaning of "public" is the credit union community. The term "news" means information that is about current events or that would be of current interest to the public.

(b) *Fees to be charged.* NCUA will charge fees that recoup the full allowable direct costs it incurs. NCUA may contract with the private sector to locate, reproduce and/or disseminate records. Fees are subject to change as costs increase. In no case will NCUA contract out responsibilities which the FOIA requires it alone to discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees.

(1) Manual searches and review—NCUA will charge fees at the following rates for manual searches for and review of records:

(i) If search/review is done by clerical staff, the hourly rate for GS–5, step 1, plus 16 percent of that rate to cover benefits;

(ii) If search/review is done by professional staff, the hourly rate for GS–13, step 1, plus 16 percent of that rate to cover benefits.

(2) Computer searches—NCUA will charge fees at the hourly rate for GS–13, step 1, plus 16 percent of that rate to cover benefits, plus the hourly cost of operating the computer for computer searches for records.

(3) Duplication of records—

(i) The per-page fee for paper copy reproduction of a document is $.25;

(ii) The fee for documents generated by computer is the hourly fee for the computer operator, plus the cost of materials (computer paper, tapes, labels, etc.);

(iii) If any other method of duplication is used, NCUA will charge the actual direct cost of duplicating the documents.

(4) Fees to exceed $25—If NCUA estimates that duplication and/or search fees are likely to exceed $25, it will notify the requester of the estimated amount of fees, unless the requester has indicated in advance willingness to pay fees as high as those anticipated. The requester will then have the opportunity to confer with NCUA personnel to reformulate the request to meet the person's needs at a lower cost.

(5) Other services—Complying with requests for special services is entirely at the discretion of NCUA. NCUA will recover the full costs of providing such services to the extent it elects to provide them.

(6) Restriction on assessing fees—NCUA will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself.

(7) Waiving or reducing fees—NCUA shall waive or reduce fees under this section whenever disclosure of information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and is not primarily in the commercial interest of the requester.

(i) NCUA will make a determination of whether the public interest requirement above is met based on the following factors:

(A) The subject of the request: Whether the subject of the requested records concerns the operations or activities of the government;

(B) The informative value of the information to be disclosed: Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(C) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to public understanding;

(D) The significance of the contribution to the public understanding: Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(ii) If the public interest requirement is met, NCUA will make a determination on the commercial interest requirement based upon the following factors:

(A) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and if so

(B) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large in comparison with the public interest in disclosure, that

disclosure is primarily in the commercial interest of the requester.

(iii) If the required public interest exists and the requester's commercial interest is not primary in comparison, NCUA will waive or reduce fees.

(c) *Categories of requesters.* (1) Commercial use requesters—NCUA will assess commercial use requesters' fees which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial use requesters are not entitled to two hours of free search time or 100 free pages of reproduction of documents.

(2) Education institution, noncommercial scientific institution, and requesters who are representatives of the news media—NCUA shall provide documents to requesters in this category for the cost of reproduction alone, excluding fees for the first 100 pages.

(3) All other requesters—NCUA shall charge requesters not included in either of the categories above fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without a fee.

(d) *Interest on unpaid fees.* NCUA may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the bill was sent. Interest will be at the rate prescribed in section 3717 of Title 31 U.S.C., and will accrue from the date of the billing.

(e) *Fees for unsuccessful search and review.* NCUA may assess fees for time spent searching and reviewing, even if it fails to locate the records or if records located are determined to be exempt from disclosure.

(f) *Aggregating requests.* A requester may not file multiple requests, each seeking portions of a document or documents, solely in order to avoid payment of fees. If this is done, NCUA may aggregate any such requests and charge accordingly.

(g) *Advance payment of fees.* NCUA will require a requester to give an assurance of payment or an advance payment only when:

(1) NCUA estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. NCUA will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requester with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion. NCUA may require the requester to pay the full amount owed, plus any applicable interest as provided in § 792.5(d) or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before NCUA begins to process a new request or a pending request from that requester.

(3) When NCUA acts under § 792.5(g) (1) or (2), the administrative time limits prescribed in § 792.6(a) will begin only after NCUA has received the fee payments described.

§ 792.6 Agency determination.

(a) Upon any request for records published in the **Federal Register**, or made available under § 792.2, NCUA will:

(1) Determine within 10 working days (excepting Saturdays, Sundays and legal public holidays) after the receipt of any such request whether, or the extent to which, to comply with such request; and will upon such determination notify the person making the request that any adverse determination is not a final agency act, and that such person may appeal any adverse determination to the Office of General Counsel;

(2) Make a determination with respect to any appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. An appeal must be in writing and filed within 30 days from receipt of the initial determination (in cases of denials of an entire request), or from receipt of any records being made available pursuant to the initial determination (in cases of partial denials). If, on appeal, the denial of the request for records is in whole or in part upheld, the Office of General Counsel will notify the person making such request of the provisions for judicial review of that determination under the FOIA. In those cases where a request or appeal is not addressed to the proper official, the time limitations stated above will be computed from the receipt of the request or appeal by the proper official.

(b) In unusual circumstances as specified herein, the time limits prescribed in either paragraph (a) (1) or (2) of this section may be extended by written notice to the person making such request, setting forth the reaons for such extension and the date on which a determination is expected to be dispatched. No such notice will specify a date that would result in an extension for more than 10 working days. "unusual circumstances" means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the Agency having substantial subject-matter interest therein.

(c)(1) The appropriate Regional Director, the Freedom of Information Officer, or, in their absence, their designee, is responsible for making the initial determination on whether to grant or deny a request for information. This official may refer a request to a professional NCUA employee who is familiar with the subject area of the request. Other members of the NCUA's staff may aid the official by providing information, advice, recommending a decision, or implementing a decision, but no NCUA employee other than an authorized official may make the initial determination. Referral of a request by the official to an employee will not affect the time limitation imposed in paragraph (a)(1) of this section unless the request involves an unusual circumstance as provided in paragraph (b) of this section.

(2) The General Counsel is the official responsible for determining all appeals from initial determinations. In case of this person's absence, the appropriate officer acting in General Counsel's stead shall make the appellate determination, unless such officer was responsible for the initial determination, in which case the Vice-Chairman of the NCUA Board will make the appellate determination.

(3) All appeals should be addressed to the General Counsel in the Central Office and should be clearly identified as such on the envelope and in the letter of appeal by using the indicator "FOIA–APPEAL." Failure to address an appeal properly may delay commencement of the time limitation stated in paragraph (a)(2) of this section, to take account of the time reasonably required to forward the appeal to the Office of General Counsel.

(d) Any person making a request to NCUA for records published in the **Federal Register**, or made available under § 792.2 shall be deemed to have exhausted administrative remedies with respect to such request if NCUA fails to

comply with the applicable time limit provisions of this section. On complaint filed in the appropriate U.S. District Court, if the Government can show exceptional circumstances exist and that NCUA is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the Agency additional time to complete its review of the records. Upon any NCUA determination to comply with a request for records, the records will be made promptly available. Any notification of denial of any request for records under this section will set forth the names and titles or positions of each person responsible for the denial.

(e) In those cases where it is necessary to find and examine records before the legality or appropriateness of their disclosure can be determined, and where, after diligent effort, this has not been achieved within the required period, NCUA may advise the person making the request: that a determination to deny the request has been made because the records have not been found or examined; that this determination will be reconsidered when the search or examination is completed (and the time within which completion is expected); but that the person making the request may immediately file an administrative appeal.

§ 792.7 Confidential commercial information.

(a) Confidential commercial information provided to NCUA by a submitter shall be disclosed pursuant to a FOIA request in accordance with this section.

(b) *Definitions.* For purposes of this section:

(1) "Confidential commercial information"—means commercial or financial information provided to NCUA by a submitter that arguably is protected from disclosure under § 792.3(a)(4) because disclosure could reasonably be expected to cause substantial competitive harm.

(2) "Submitter"—means any person or entity who provides business information, directly or indirectly, to NCUA.

(c) Designation of business information—Submitters of business information shall use good faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions deemed to be protected from disclosure under § 792.3(a)(4). Such a designation shall expire ten years after the date of submission.

(d) Notice to submitters—NCUA shall provide a submitter with written notice of a FOIA request or administrative appeal encompassing designated business information when:

(1) The information has been designated in good faith by the submitter as confidential commercial information deemed protected from disclosure under § 792.3(a)(4); or

(2) NCUA has reason to believe that the information may be protected from disclosure under § 792.3(a)(4).

This notice will afford the submitter an opportunity to object to disclosure pursuant to paragraph (e) of this section. A copy of the notice shall also be provided to the FOIA requester.

(e) Opportunity to object to disclosure—Through the notice described in paragraph (d) of this section, NCUA shall afford a submitter a reasonable period of time within which to provide a detailed written statement of any objection to disclosure. Such statement shall describe why the information is confidential commercial information and should not be disclosed.

(f) Notice of intent to disclose—Whenever NCUA decides to disclose confidential commercial information over the objection of a submitter, it shall forward to the submitter and to the requester, within a reasonable number of days prior to the specified disclosure date, a written notice which shall include:

(1) A statement of the reasons for which the submitter's disclosure objection was not sustained;

(2) A description of the information to be disclosed; and

(3) A specified disclosure date.

(g) *Notice of lawsuit.* If a requester brings suit seeking to compel disclosure of confidential commercial information, NCUA shall promptly notify the submitter.

(h) *Exceptions to notice requirements.* The notice requirements of paragraph (d) of this section do not apply if:

(1) NCUA determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law; or

(4) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such case, NCUA shall provide the submitter with written notice of any final administrative decision to disclose the information within a reasonable number of days prior to a specified disclosure date.

Subpart B—The Privacy Act

§ 792.20 Scope.

This subpart governs requests made of NCUA under the Privacy Act (5 U.S.C. 552a). The regulation applies to all records maintained by NCUA which contain personal information about an individual and some means of identifying the individual, and which are contained in a system of records from which information may be retrieved by use of an identifying particular; sets forth procedures whereby individuals may seek and gain access to records concerning themselves and request amendments of those records; and sets forth requirements applicable to NCUA employees' maintaining, collecting, using, or disseminating such records.

§ 792.21 Definitions.

For purposes of this subpart:

(a) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) "Maintain" includes maintain, collect, use, or disseminate.

(c) "Record" means any item, collection, or grouping of information about an individual that is maintained by NCUA, and that contains the name, or an identifying number, symbol, or other identifying particular assigned to the individual.

(d) "System of records" means a group of any records under NCUA's control from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(e) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(f) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13 of the United States Code.

§ 792.22 Procedures for requests pertaining to individual records in a system of records.

(a) An individual seeking notification of whether a system of records contains a record pertaining to that individual, or an individual seeking access to information or records pertaining to that individual which are available under the Privacy Act shall present a request to the NCUA official identified in the access procedure section of the "Notice

of Systems of Records" published in the **Federal Register** which describes the system of records to which the individual's request relates. An individual who does not have access to the **Federal Register** and who is unable to determine the appropriate official to whom a request should be submitted may submit a request to the Director of the Administrative Office, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, in which case the request will then be referred to the appropriate NCUA official and the date of receipt of the request will be determined as the date of receipt by the official.

(b) In addition to meeting the identification requirements set forth in § 792.23, an individual seeking notification or access, either in person or by mail, shall describe the nature of the record sought, the approximate dates covered by the record, and the system in which it is thought to be included, as described in the "Notice of Systems of Records" published in the Federal Register.

§ 792.23 Times, places, and requirements for identification of individuals making requests and identification of records requested.

(a) The following standards are applicable to an individual submitting requests either in person or by mail under § 792.22:

(1) If not personally known to the NCUA official responding to the request, an individual seeking access to records about that individual in person shall establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and address (such as a driver's license or credit card);

(2) An individual seeking access to records about that individual by mail may establish identity by a signature, address, date of birth, employee identification number if any, and one other identifier such as a photocopy of driver's license or other document. If less than all of this requisite identifying information is provided, the NCUA official responding to the request may require further identifying information prior to any notification or responsive disclosure.

(3) An individual seeking access to records about that individual by mail or in person, who cannot provide the required documentation or identification, may provide a notarized statement affirming identity and recognition of the penalties for false statements pursuant to 18 U.S.C. 1001.

(b) The parent or guardian of a minor or a person judicially determined to be incompetent shall, in addition to establishing identity of the minor or other person as required in paragraph (a) of this section, furnish a copy of a birth certificate showing parentage or a court order establishing guardianship.

(c) An individual may request by telephone notification of the existence of and access to records about that individual and contained in a system of records. In such a case, the NCUA official responding to the request shall require, for the purpose of comparison and verification of identity, at least two items of identifying information (such as date of birth, home address, social security number) already possessed by the NCUA. If the requisite identifying information is not provided, or otherwise at the discretion of the responsible NCUA official, an individual may be required to submit the request by mail or in person in accordance with paragraph (a) of this section.

(d) An individual seeking to review records about that individual may be accompanied by another person of their own choosing. In such cases, the individual seeking access shall be required to furnish a written statement authorizing discussion of that individual's records in the accompanying person's presence.

(e) In addition to the requirements set forth in paragraphs (a), (b) and (c) of this section, the published "Notice of System of Records" for individual systems may include further requirements of identification where necessary to retrieve the individual records from the system.

§ 792.24 Notice of existence of records, access decisions and disclosure of requested information; time limits.

(a) The NCUA official identified in the record access procedure section of the "Notice of Systems of Records" and identified in accordance with § 792.22(a), by an individual seeking notification of, or access to, a record, shall be responsible: (1) For determining whether access is available under the Privacy Act; (2) for notifying the requesting individual of that determination; and (3) for providing access to information determined to be available. In the case of an individual access request made in person, information determined to be available shall be provided by allowing a personal review of the record or portion of a record containing the information requested and determined to be available, and the individual shall be allowed to have a copy of all or any portion of available information made in a form comprehensible to him. In the case of an individual access request made by mail, information determined to be available shall be provided by mail, unless the individual has requested otherwise.

(b) The following time limits shall be applicable to the required determinations, notification and provisions of access set forth in paragraph (a) of this section:

(1) A request concerning a single system of records which does not require consultation with or requisition of records from another agency shall be responded to within 10 working days after receipt of the request;

(2) A request requiring requisition of records from or consultation with another agency shall be responded to within 10 working days after such requisition or resolution of the required consultation. Such required requisition or consultation shall be initiated within 10 working days after receipt of the request;

(3) If a request under paragraphs (b) (1) or (2) of this section presents unusual difficulties in determining whether the records involved are exempt from disclosure, the Director of the Administrative Office may, upon written request of the official responsible for action upon the record request, extend the time period established by these regulations for an additional 15 working days.

(c) Nothing in this section shall be construed to allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding, or any information exempted from the access provisions of the Privacy Act.

§ 792.25 Special procedures: Information furnished by other agencies; medical records.

(a) When a request for records or information from NCUA includes information furnished by other Federal agencies, the NCUA official responsible for action on the request shall consult with the appropriate agency prior to making a decision to disclose or refuse access to the record, but the decision whether to disclose the record shall be made in the first instance by the NCUA official.

(b) When an individual requests medical records concerning that individual, the NCUA official responsible for action on the request may advise the individual that the records will be provided only to a physician designated in writing by the

individual. Upon receipt of the designation and upon proper verification of identity, the NCUA official shall permit the physician to review the records or to receive copies of the records by mail. The determination of which records should be made available directly to the individual and which records should not be disclosed directly because of possible harm to the individual shall be made by the NCUA official responsible for action on the request.

§ 792.26 Requests for correction or amendment to a record; administrative review of requests.

(a) An individual may request amendment of a record concerning that individual by addressing a request, either in person or by mail, to the NCUA official identified in the "contesting record procedures" section of the "Notice of Systems of Records" published in the **Federal Register** and describing the system of records which contains the record sought to be amended. The request must indicate the particular record involved, the nature of the correction sought, and the justification for the correction or amendment. Requests made by mail should be addressed to the responsible NCUA official at the address specified in the "Notice of Systems of Records" describing the system of records which contains the contested record. An individual who does not have access to the NCUA's "Notice of Systems of Records," and to whom the appropriate address is otherwise unavailable may submit a request to the Director of the Administrative Office, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, in which case the request will then be referred to the appropriate NCUA official. The date of receipt of the request will be determined as of the date of receipt by that official.

(b) Within 10 working days of receipt of the request, the appropriate NCUA official shall advise the individual that the request has been received. The appropriate NCUA official shall then promptly (under normal circumstances, not later than 30 working days after receipt of the request) advise the individual that the record is to be amended or corrected, or inform the individual of rejection of the request to amend the record, the reason for the rejection, and the procedures established by § 792.27 for the individual to request a review of that rejection.

§ 792.27 Appeal of initial determination.

(a) A rejection, in whole or in part, of a request to amend or correct a record may be appealed to the General Counsel within 30 working days of receipt of notice of the rejection. Appeals shall be in writing, and shall set forth the specific item of information sought to be corrected and the documentation justifying the correction. Appeals shall be addressed to the Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456. Appeals shall be decided within 30 working days of receipt unless the General Counsel, for good cause, extends such period for an additional 30 working days.

(b) Within the time limits set forth in paragraph (a) of this section, the General Counsel shall either advise the individual of a decision to amend or correct the record, or advise the individual of a determination that an amendment or correction is not warranted on the facts, in which case the individual shall be advised of the right to provide for the record a "Statement of Disagreement" and of the right to further appeal pursuant to the Privacy Act. For records under the jurisdiction of the Office of Personnel Management, appeals will be made pursuant to that agency's regulations.

(c) A statement of disagreement may be furnished by the individual. The statement must be sent, within 30 days of the date of receipt of the notice of General Counsel refusal to authorize correction, to the General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456. Upon receipt of a statement of disagreement in accordance with this section, the General Counsel shall take steps to ensure that the statement is included in the system of records containing the disputed item and that the original item is so marked to indicate that there is a statement of dispute and where, within the system of records, that statement may be found.

(d) When a record has been amended or corrected or a statement of disagreement has been furnished, the system manger for the system of records containing the record shall, within 30 days thereof, advise all prior recipients of information to which the amendment or statement of disagreement relates whose identity can be determined by an accounting made as required by the Privacy Act of 1974 or any other accounting previously made, of the amendment or statement of disagreement. When a statement of disagreement has been furnished, the system manager shall also provide any subsequent recipient of a disclosure containing information to which the statement relates with a copy of the statement and note the disputed portion of the information disclosed. A concise statement of the reasons for not making the requested amendment may also be provided if deemed appropriate.

(e) If access is denied because of an exemption, the individual shall be notified of the right to appeal that determination to the General Counsel within 180 days after receipt of the determination. Such an appeal shall be determined within 30 days.

§ 792.28 Disclosure of record to person other than the individual to whom it pertains.

No record or item of information concerning an individual which is contained in a system of records maintained by NCUA shall be disclosed by any means of communication to any person, or to another agency, without the prior written consent of the individual to whom the record or item of information pertains, unless the disclosure would be—

(a) To an employee of the NCUA who has need for the record in the performance of duty;

(b) Required by the Freedom of Information Act;

(c) For a routine use as described in the "Notice of Systems of Records," published in the **Federal Register**, which describes the system of records in which the record or item of information is contained;

(d) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the United States Code;

(e) To a recipient who has provided the NCUA with advance adequate written assurance that the record or item will be used soley as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(f) To the National Archives and Records Administration as a record or item which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(g) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to NCUA specifying the particular portion desired

and the law enforcement activity for which the record or item is sought;

(h) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon such disclosure, notification is transmitted to the last known address of such individual;

(i) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

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

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

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

§ 792.29 Accounting for disclosures.

(a) Each system manager identified in the "Notice of Systems of Records" as published in the **Federal Register** for each system of records maintained by the NCUA, shall establish a system of accounting for all disclosures of information or records concerning individuals and contained in the system of records, made outside NCUA. Accounting procedures may be established in the least expensive and most convenient form that will permit the system manager to advise individuals, promptly upon request, of the persons or agencies to which records concerning them have been disclosed.

(b) Accounting records, at a minimum, shall include the information disclosed, the name and address of the person or agency to whom disclosure was made, and the date of disclosure. When records are transferred to the National Archives and Records Administration for storage in records centers, the accounting pertaining to those records shall be transferred with the records themselves.

(c) Any accounting made under this section shall be retained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

§ 792.30 Requests for accounting for disclosures.

At the time of the request for access or correction or at any other time, an individual may request an accounting of disclosures made of the individual's record outside the NCUA. Request for accounting shall be directed to the system manager. Any available accounting, whether kept in accordance with the requirements of the Privacy Act or under procedures established prior to September 27, 1975, shall be made available to the individual, except that an accounting need not be made available if it relates to:

(a) A disclosure made pursuant to the Freedom of Information Act (5 U.S.C. 552);

(b) A disclosure made within the NCUA;

(c) A disclosure made to a law enforcement agency pursuant to 5 U.S.C. 552a(b)(7);

(d) A disclosure which has been exempted from the provisions of 5 U.S.C. 552a(c)(3) pursuant to 5 U.S.C. 552a (j) or (k).

§ 790.31 Collection of information from individuals; information forms.

(a) The system manager, as identified in the "Notice of Systems of Records" published in the **Federal Register** for each system of records maintained by the Administration, shall be responsible for reviewing all forms developed and used to collect information from or about individuals for incorporation into the system of records.

(b) The purpose of the review shall be to eliminate any requirement for information that is not relevant and necessary to carry out an NCUA function and to accomplish the following objectives:

(1) To ensure that no information concerning religion, political beliefs or activities, association memberships (other than those required for a professional license), or the exercise of other First Amendment rights is required to be disclosed unless such requirement of disclosure is expressly authorized by statute or is pertinent to and within the scope of any authorized law enforcement activity;

(2) To ensure that the form or accompanying statement makes clear to the individual which information by law must be disclosed and the authority for that requirement, and which information is voluntary;

(3) To ensure that the form or accompanying statement makes clear the principal purpose or purposes for which the information is being collected, and states concisely the routine uses that will be made of the information;

(4) To ensure that the form or accompanying statement clearly indicates to the individual the existing rights, benefits or privileges not to provide all or part of the requested information; and

(5) To ensure that any form requesting disclosure of a social security number, or an accompanying statement, clearly advises the individual of the statute or regulation requiring disclosure of the number, or clearly advises the individual that disclosure is voluntary and that no consequence will flow from a refusal to disclose it, and the uses that will be made of the number whether disclosed mandatorily or voluntarily.

(c) Any form which does not meet the objectives specified in the Privacy Act and this section shall be revised to conform thereto.

§ 792.32 Contracting for the operation of a system of records.

(a) No NCUA component shall contract for the operation of a system of records by or on behalf of the Agency without the express approval of the NCUA Board.

(b) Any contract which is approved shall continue to ensure compliance with the requirements of the Privacy Act. The contracting component shall have the responsibility for ensuring that the contractor complies with the contract requirements relating to the Privacy Act.

§ 792.33 Fees.

(a) Fees pursuant to 5 U.S.C. 552a(f)(5) shall be assessed for actual copies of records provided to individuals on the following basis, unless the NCUA official determining access waives the fee because of the inability of the individual to pay or the cost of collecting the fee exceeds the fee:

(1) For actual copies of documents, 25 cents per page; and

(2) For copying information, if any, maintained in nondocument form, the direct cost to NCUA may be assessed.

(b) If it is determined that access fees chargeable under this Section will amount to more than $25, and the individual has not indicated in advance willingness to pay fees as high as are anticipated, the individual shall be notified of the amount of the anticipated fees before copies are made, and the individual's access request shall not be considered to have been received until receipt by NCUA of written agreement to pay.

§ 792.34 Exemptions.

(a) NCUA maintains three systems of records which are exempted from some of the provisions of the Privacy Act. In paragraph (b) of this section, those systems of records are identified by System Name and System Number, as stated in the NCUA's "Notice of Systems of Records," published in the **Federal Register**. The provisions from which each system is exempted and the reasons therefor are also set forth.

(b)(1) System NCUA–1, entitled "Employee Security Investigations Containing Adverse Information," consists of adverse information about NCUA employees which has been obtained as a result of routine Office of Personnel Management Security Investigations. To the extent that NCUA maintains records in this system pursuant to Office of Personnel Management guidelines which require or may require retrieval of information by use of individual identifiers, those records are encompassed by and included in the Office of Personnel Management Government-Wide System of Records Number 4, entitled "Personnel Investigations Records," and thus are subject to the applicable specific exemptions promulgated by the Office of Personnel Management. Additionally, in order to ensure the protection of properly confidential sources, particularly as to those records which are not maintained pursuant to such Office of Personnel Management requirements, the records in these systems of records are exempted, pursuant to section k(5) of the Privacy Act (5 U.S.C. 552a(k)(5)), from section (d) of the Act (5 U.S.C. 552a(d)). To the extent that disclosure of a record would reveal the identity of a confidential source, NCUA need not grant access to that record by its subject. Information which would reveal a confidential source shall, however, whenever possible, be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(2) System NCUA–4, entitled "Investigative Reports Involving Possible Felonies and/or Violations of the Federal Credit Union Act," consists of a limited number of records about individuals suspected or involvement in felonies or infractions under the Federal Credit Union Act or criminal statutes. These records are maintained in an overall context of general investigative information concerning crimes against credit unions. To the extent that individually identifiable information is maintained, however, for purposes of protecting the security of any investigations by appropriate law enforcement authorities and promoting the successful prosecution of all actual criminal activity, the records in this system are exempted, pursuant to section k(2) of the Privacy Act (5 U.S.C. 552a(k)(2)), from sections (c)(3), and (d)). NCUA need not make an accounting of previous disclosures of a record in this system of records available to its subject, the NCUA need not grant access to any records in this system of records by their subject. Further, whenever individuals request records about themselves and maintained in this system of records, the NCUA shall, to the extent necessary to realize the above-stated purposes, neither confirm nor deny the existence of the records but shall advise the individuals only that no records available to them pursuant to the Privacy Act of 1974 have been identified. However, should review of the record reveal that the information contained therein has been used or is being used to deny the individuals any right, privilege or benefit for which they are eligible or to which they would otherwise be entitled under Federal law, the individuals shall be advised of the existence of the information and shall be provided the information, except to the extent disclosure would identify a confidential source. Information which would identify a confidential source shall, if possible, be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(c) For purposes of this Section, a "confidential source" means a source who furnished information to the Government under an express promise that the identity of the source would remain confidential, or, prior to September 27, 1976, under an implied promise that the identity of the source would be held in confidence.

§ 792.35 Security of systems of records.

(a) Each system manager, with the approval of the head of that Office, shall establish administrative and physical controls to insure the protection of a system of records from unauthorized access or disclosure and from physical damage or destruction. The controls instituted shall be proportional to the degree of sensitivity of the records, but at a minimum must insure: that records are enclosed in a manner to protect them from public view; that the area in which the records are stored is supervised during all business hours to prevent unauthorized personnel from entering the area or obtaining access to the records; and that the records are inaccessible during nonbusiness hours.

(b) Each system manager, with the approval of the head of that Office, shall adopt access restriction to insure that only those individuals within the agency who have a need to have access to the records for the performance of duty have access. Procedures shall also be adopted to prevent accidental access to or dissemination of records.

§ 792.36 Use and collection of Social Security numbers.

The head of each NCUA Office shall take such measures as are necessary to ensure that employees authorized to collect information from individuals are advised that individuals may not be required without statutory or regulatory authorization to furnish Social Security numbers, and that individuals who are requested to provide Social Security numbers voluntarily must be advised that furnishing the number is not required and that no penalty or denial of benefits will flow from the refusal to provide it.

§ 792.37 Training and employee standards of conduct with regard to privacy.

(a) The Director of the Administrative Office, with advice from the General Counsel, shall be responsible for training NCUA employees in the obligations imposed by the Privacy Act and this Subpart.

(b) The head of each NCUA Office shall be responsible for assuring that employees subject to that person's supervision are advised of the provisions of the Privacy Act, including the criminal penalties and civil liabilities provided therein, and that such employees are made aware of their responsibilities to protect the security of personal information, to assure its accuracy, relevance, timeliness, and completeness, to avoid unauthorized disclosure either orally or in writing, and to insure that no information system concerning individuals, no matter how small or specialized, is maintained without public notice.

(c) With respect to each system of records maintained by NCUA, Agency employees shall:

(1) Collect no information of a personal nature from individuals unless authorized to collect it to achieve a function or carry out an NCUA responsibility;

(2) Collect from individuals only that information which is necessary to NCUA functions or responsibilities;

(3) Collect information, wherever possible, directly from the individual to whom it relates;

(4) Inform individuals from whom information is collected of the authority for collection, the purposes thereof, the routine uses that will be made of the information, and the effects, both legal and practical of not furnishing the information;

(5) Not collect, maintain, use, or disseminate information concerning an individual's religious or political beliefs or activities or his membership in associations or organizations, unless:

(i) The individual has volunteered such information for his own benefit;

(ii) The information is expressly authorized by statute to be collected, maintained, used, or disseminated; or

(iii) Activities involved are pertinent to and within the scope of an authorized investigation or adjudication.

(6) Advise their supervisors of the existence or contemplated development of any record system which retrieves information about individuals by individual identifier.

(7) Maintain an accounting, in the prescribed form, of all dissemination of personal information outside NCUA, whether made orally or in writing;

(8) Disseminate no information concerning individuals outside NCUA except when authorized by 5 U.S.C. 552a or pursuant to a routine use as set forth in the "routine use" section of the "Notice of Systems of Records" published in the Federal Register.

(9) Maintain and process information concerning individuals with care in order to ensure that no inadvertent disclosure of the information is made either within or outside NCUA; and

(10) Call to the attention of the proper NCUA authorities any information in a system maintained by NCUA which is not authorized to be maintained under the provisions of the Privacy Act, including information on First Amendment activities, information that is inaccurate, irrelevant or so incomplete as to risk unfairness to the individuals concerned.

(c) Heads of offices within NCUA shall, at least annually, review the record systems subject to their supervision to ensure compliance with the provisions of the Privacy Act.

Subpart C—Subpoenas

§ 792.40 Service.

Any subpoena or other legal process requesting Agency records shall be served upon the General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456, or upon the Regional Director of the NCUA Region where the legal action from which the legal process issued is pending.

§ 792.41 Advice to person served.

(a) If any NCUA officer, employee or agent is served with a subpoena, court order or other legal process requiring that person's attendance as a witness concerning written information or the production of documents that may not be disclosed under § 792.3, that person should promptly inform the Office of General Counsel of such service and of all relevant facts, including the nature of the documents and information sought in the subpoena and any facts and circumstances which may be of assistance to the Office of General Counsel in determining whether such documents or information should be produced.

(b) If any third party who is not an NCUA officer, employee or agent is served with a subpoena, court order or other legal process requiring that party to produce such records or to testify with respect to the requested records, such party should notify the Office of General Counsel in accordance with the procedures set forth in § 792.41(a).

§ 792.42 Appearance by person served.

Except by authorization of the Office of General Counsel to disclose the requested information, any NCUA officer, employee or agent (and any third party having custody of exempt records of the Administration) who is required to respond to the subpoena or other legal process shall attend at the time and place specified and shall respectfully decline to produce the documents and records or to disclose the information called for, basing his refusal upon this paragraph.

Subpart D—Security Procedures for Classified Information

§ 792.50 Program.

(a) The Director of the Administrative Office ("Director") is designated as the person responsible for implementation and oversight of NCUA's program for maintaining the security of confidential information regarding national defense and foreign relations. The Director receives questions, suggestions and complaints regarding all elements of this program. The Director is solely responsible for changes to the program and assures that the program is consistent with legal requirements.

(b) The Director is the Agency's official contact for declassification requests regardless of the point of origin of such requests. The Director is also responsible for assuring that requests submitted under the Freedom of Information Act are handled in accordance with that Act and other applicable law.

§ 792.51 Procedures.

(a) *Mandatory review.* All declassification requests made by a member of the public, by a government employee or by an agency shall be handled by the Director or the Director's designee. Under no circumstances shall the Director refuse to confirm the existence or nonexistence of a document under the Freedom of Information Act or the mandatory review provisions of other applicable law, unless the fact of its existence or nonexistence would itself be classifiable under applicable law. Although NCUA has no authority to classify or declassify information, it occasionally handles information classified by another agency. The Director shall refer all declassification requests to the agency that originally classified the information. The Director or the Director's designee shall notify the requesting person or agency that the request has been referred to the originating agency and that all further inquiries and appeals must be made directly to the other agency.

(b) *Handling and safeguarding national security information.* All information classified "Top Secret," "Secret," and "Confidential" shall be delivered to the Director or the Director's designee immediately upon receipt. The Director shall advise those who may come into possession of such information of the name of the current designee. If the Director is unavailable, the designee shall lock the documents, unopened, in the combination safe located in the Administrative Office. If the Director or the designee is unavailable to receive such documents, the documents shall be delivered to the Director of the Personnel Office who shall lock them, unopened, in the combination safe in the Personnel Office. Under no circumstances shall classified materials that cannot be delivered to the Director be stored other than in the two designated safes.

(c) *Storage.* All classified documents shall be stored in the combination safe located in the Director's Office, except as provided in paragraph (b) of this section. The combination shall be known only to the Director and the Director's designee holding the proper security clearance.

(d) *Employee education.* The Director shall send a memo to every NCUA employee who:

(1) Has a security clearance and

(2) May handle classified materials.

This memo shall describe NCUA procedures for handling, reproducing and storing classified documents. The Director shall require each such employee to review Executive Order 12356.

(e) *Agency terminology.* The National Credit Union Administration's Central Office shall use the terms "Top Secret," "Secret" or "Confidential" only in relation to materials classified for national security purposes.

[FR Doc. 89-10267 Filed 4-28-89; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ANE-03; Amdt. 39-6181]

Airworthiness Directives; Pratt & Whitney (PW) JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, and -20 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires incorporation of a strut insert assembly into the Number 4 and Number 7 diffuser case struts in accordance with the Accomplishment Instructions of PW Service Bulletin (SB) 5730. The strut insert assembly is needed to reinforce the strut wall and prevent hot air from entering the Number 3 bearing compartment in the event of a strut wall failure. This AD is needed to prevent Number 3 bearing compartment fire and a subsequent nacelle fire.

DATES: *Effective:* May 30, 1989.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 30, 1989.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable SB may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include a new AD which requires incorporation of a strut insert assembly into Number 4 and Number 7 diffuser case struts, on certain PW JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, and -20 turbofan engines, was published in the **Federal Register** on September 19, 1988 (53 FR 36343).

The proposal was prompted by failures of either the diffuser case strut Number 4 or Number 7. A total of 16 failures in service have occurred. Five of these failures were of sufficient severity to cause a Number 3 bearing compartment fire. The present design strut can develop low cycle fatigue cracks, due to thermal and mechanical loads, which can lead to loss of structural strength necessary to sustain the load from the differential pressure across the strut wall. If cracks are not detected, the strut wall may collapse and allow 15th stage compressor air to enter the bearing compartment. This condition may cause a Number 3 bearing compartment fire and a subsequent nacelle fire.

Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant data and comments received. Two comments were received.

One commenter requested that (1) the incorporation requirement of "K" flange separation be dropped due to time constraints and availability of parts, and (2) the AD deadline be extended by 10 months.

The FAA disagrees. A review of parts availability indicates adequate replacement part supply and incorporation of the insert assemblies at "K" flange separation, which sufficiently exposes the struts, is in itself a minimal additional burden on the operators. This program was based on incorporation at "K" flange separation with a program completion deadline of August 31, 1991, therefore, deleting that requirement would result in an adverse effect on safety.

The proposal to extend the compliance deadline by 10 months is not acceptable to the FAA because it will result in an adverse effect on safety.

The FAA would consider an extension to the compliance deadline provided it is associated with an alternative program that would provide an equivalent level of safety.

The other commenter supported the AD as proposed. Accordingly, the proposal is adopted without change.

Since this condition is likely to exist or develop on other engines of the same type design, this amendment requires incorporation of a strut insert assembly in both the Number 4 and Number 7 diffuser case struts in accordance with the Accomplishment Instructions of PW SB 5730, dated February 4, 1987, at the next shop visit after the effective date of this AD, but no later than August 31, 1991.

The regulations adopted 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 various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation involves approximately 1,050 JT9D engines at an approximate total cost of $382,000. It has also been determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the proposed rule affects only operators using McDonnell Douglas DC-10-40 and Boeing 747 series aircraft in which the JT9D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, and -20 turbofan engines.

Compliance is required as indicated, unless already accomplished.

To prevent a diffuser case Number 4 or Number 7 strut failure that can cause a Number 3 bearing compartment fire and subsequent nacelle fire, accomplish the following:

(a) Install strut insert assembly Part Number 804698–01 into both the Number 4 and Number 7 diffuser case struts, in accordance with the Accomplishment Instructions of PW Service Bulletin (SB) 5730, dated February 4, 1987, at the next engine shop visit after the effective date of this AD, but not later than August 31, 1991.

Note: For the purpose of this AD, engine shop visit is defined as maintenance entailing a separation of the high pressure compressor case and diffuser case "K" flange.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD may be accomplished.

(c) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternative method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

The diffuser case strut insert incorporation shall be done in accordance with PW SB 5730, dated February 4, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street NW., Room 8301, Washington, DC.

This amendment becomes effective on May 30, 1989.

Issued in Burlington, Massachusetts, on March 23, 1989.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 89–10316 Filed 4–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 88–ACE–24]

Designation of Transition Area; Tipton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a 700-foot transition area at Tipton, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Mathews Memorial Airport, Tipton, Iowa, utilizing the Cedar Rapids VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) from other aircraft operating under visual flight rules (VFR). This action changes the airport status from VFR to IFR.

EFFECTIVE DATE: 0901 u.t.c., September 21, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE–540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On January 25, 1989, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) so as to designate a transition area at Tipton, Iowa (54 FR 3612). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No responses were received as a result of the Notice of Proposed Rulemaking. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E, dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) adds a new transition area designation for Tipton, Iowa. To enhance airport usage, an instrument approach procedure is being developed for the Mathews Memorial Airport, Tipton, Iowa, utilizing the Cedar Rapids VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Tipton, Iowa, at or above 700 feet above the ground, within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under instrument flight rules from other aircraft operating under visual flight rules. This action changes the airport status from VFR to IFR.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Tipton, Iowa [New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Mathews Memorial Airport (41°45'52" N., 91°09'15" W.).

This amendment becomes effective at 0901 u.t.c. September 21, 1989.

Issued in Kansas City, Missouri, on April 18, 1989.

Clarence E. Newbern,

Manager, Air Traffic Division.

[FR Doc. 89–10317 Filed 4–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ASO–3]

Designation of Transition Area; Fulton, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Fulton, MS, Transition Area to provide additional airspace protection for Instrument Flight Rule Operations at the Fulton-Itawamba County Airport. This action will lower the base of controlled airspace from 1200' to 700' above the surface in the vicinity of the airport. A Standard Instrument Approach Procedure (SIAP) has been developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations. Concurrent with publication of the SIAP, the airport status will change from Visual Flight Rule (VFR) to Instrument Flight Rule (IFR).

EFFECTIVE DATE: 0901 u.t.c., October 19, 1989.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On February 15, 1989, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Fulton, MS, Transition Area (54 FR 6936). The floor of controlled airspace would be lowered from 1200' to 700' above the surface in the vicinity of the Fulton-Itawamba County Airport. This additional controlled airspace is required to provide airspace protection for aircraft executing a SIAP planned for the airport. Concurrent with publication of the SIAP, the airport status will change from VFR to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbok 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Fulton, MS, Transition Area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is no minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§71.181 [Amended]

2. Section 71.181 is amended as follows:

Fulton, MS [New]

That airspace extending upward from 700' above the surface within a 7-mile radius of the Fulton-Itawamba County Airport (Lat. 34°21'07" N., Long. 88°22'38" W.).

Issued in East Point, Georgia, on April 12, 1989.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89–10319 Filed 4–28–89; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 89–ASO–5]

Revision of Transition Area; Laurinburg, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Laurinburg, NC, transition area. Due to relocation of the Rocky Ford nondirectional radio beacon (NDB) and a planned instrument landing system (ILS) developed for Runway 5, the arrival area extension based on the Rocky Ford 226° bearing is no longer required and has been deleted. Also, this action corrects the description of the arrival area extension based on the Sandhills VHF omnidirectional range/tactical air navigation (VORTAC) and corrects the geographic position coordinates of the Laurinburg-Maxton Airport.

EFFECTIVE DATE: 0901 u.t.c., August 24, 1989.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On March 2, 1989, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Laurinburg, NC, transition area (54 FR 8762). The revision was deemed necessary to eliminate the arrival area extension based on the Rocky Ford 226° bearing, to revise the description of the arrival area extension based on the Sandhills VORTAC and to correct the geographic position coordinates of the Laurinburg-Maxton Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E dated January 3, 1989.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Laurinburg, NC, transition area by deleting the arrival area extension based on the Rocky Ford 226° bearing, revising the arrival area extension based on the Sandhills VORTAC and correcting the geographic position coordinates of the Laurinburg-Maxton Airport.

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Laurinburg-Maxton, NC [Revised]

That airspace extending upward from 700' above the surface within an 8.5-mile radius of the Laurinburg-Maxton Airport (Lat. 34°47'15" N., Long. 79°21'50" W.); within 3 miles each side of the Sandhills VORTAC 154° radial extending from the 8.5-mile radius area to 19 miles southeast of the VORTAC, excluding that area which coincides with the Mackall AAF, NC, transition area.

Issued in East Point, Georgia, on April 11, 1989.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89-10318 Filed 4-28-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 774, 779, and 799

[Docket No. 90497-9097]

Editorial Clarifications and Corrections to the EAR

AGENCY: Bureau of Export Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule makes several editorial clarifications and corrections to the Export Administration Regulations (EAR). These changes, which neither expand nor limit the provisions of the EAR, are as follows:

(a) Section 774.2 is revised to clarify that reexports under the permissive reexport provisions of § 774.2(a)(2) are subject to the same restrictions that apply to exports from the United States under General License GLV.

(b) In Supplement No. 3 to Part 779, paragraph (c) is revised to include specially designed software for manufacturing and testing equipment for optical fiber, optical cable and other cables controlled under ECCN 1353A. Supplement No. 1 to § 799.1 is amended by adding a note following the heading for ECCN 1353A to indicate that specially designed software is controlled under Supplement No. 3 to Part 779. These changes are intended to clarify that exports of such software are permitted under General License GTDR, where appropriate.

(c) Supplement No. 1 to § 799.1 (the Commodity Control List) is amended by revising the "*GLV $ Value Limit*" paragraph for ECCN 1425A to conform with the standard wording for such paragraphs used elsewhere in the Commodity Control List.

EFFECTIVE DATE: This rule is effective May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Willard Fisher, Regulations Branch, Bureau of Export Administration, Telephone: (202) 377-3856.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0002, 0694-0005, and 0694-0023. This rule will not affect the paperwork burden on the public.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 774, 779, and 799

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, Parts 774, 779, and 799 of the Export Administration Regulations (15 CFR Parts 768 through 799) are amended as follows:

1. The authority citation for 15 CFR Part 774 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. The authority citation for 15 CFR Parts 779 and 799 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 774—[AMENDED]

3. Section 774.2 is amended by revising paragraph (a)(2) to read as follows:

§ 774.2 Permissive reexports[2].

* * * * *

[2] See § 774.9 for effect on foreign laws.

(a) * * *

* * * * *

(2) Could be exported from the United States to the new country of destination under General License GLV;[4]

* * * * *

PART 779—[AMENDED]

4. Supplement No. 3 to Part 779 is amended by revising paragraph (c) of the "List of Software Subject to This Supplement to Part 779" to read as follows:

Supplement No. 3 to Part 779 Computer Software

* * * * *

List of Software Subject to this Supplement to Part 779

* * * * *

(c) "Specially designed software" for equipment, as follows:

(1) Manufacturing and testing equipment (for optical fiber, optical cable and other cables) controlled under ECCN 1353A;

(2) Navigation and direction finding equipment controlled under ECCN 1501A(b);

(3) Equipment controlled under ECCN 1501A(c);

(4) Equipment controlled under ECCN 1502A;

(5) Equipment controlled under ECCN 1510A;

(6) Equipment controlled under ECCN 1516A;

(7) Equipment controlled under ECCN 1519A;

(8) Equipment controlled under ECCN 1520A;

(9) Equipment controlled under ECCN 1529A;

(10) Equipment controlled under ECCN 1533A;

(11) Equipment controlled under ECCN 1567A;

* * * * *

PART 799—[AMENDED]

Supplement No. 1 to § 799.1—[Amended]

5. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1353A is amended by revising the heading and by adding a Note immediately following the heading to read as follows:

1353A Manufacturing and testing equipment for optical fiber, optical cable and other cables, and specially designed components therefor.

Note: For "specially designed software", see Supp. No. 3 to Part 779.

* * * * *

6. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), the "*GLV $ Value Limit*" paragraph for ECCN 1425A (Commodity Group 4) is revised to read "*GLV $ Value Limit*: $0 for all destinations."

Dated: April 24, 1989.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 89-10260 Filed 4-28-89; 8:45 am]

BILLING CODE 3510-DT-M

[4] The permissive reexport provisions set forth above relating to the reexport of commodities within the established GLV dollar-value limits do not apply to exports, reexports, or distributions made under the Aircraft and Vessel Repair Station Procedure.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: This rule amends the Commission's procedural rules in two respects. First, the Commission amends its rule regarding petitions for interlocutory review of rulings by the Commission's Administrative Law Judges and responses to such petitions. The Commission also amends its rule regarding petitions for discretionary review of a Judge's decision and statements in opposition to such petitions. The Commission will now require that all petitions for interlocutory or discretionary review by the Commission and responses thereto filed by employers who are corporations disclose any corporate parents, subsidiaries, or affiliates. This additional disclosure will assist the Commission members in identifying proceedings in which recusal or disqualification may be appropriate.

In addition, pursuant to 28 U.S.C. 2112(a)(2), which requires that agencies designate an officer to receive copies of petitions for appellate court review of agency orders, the Commission amends its Rules of Procedure to designate its Executive Secretary to be that officer.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 634-4015.

SUPPLEMENTARY INFORMATION: The Commission finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(A)), that these revisions relate solely to agency organization, procedures, or practices. Therefore they are not subject to the provisions of the Administrative Procedure Act requiring notice and opportunity for comment. These revisions are effective upon publication in the **Federal Register.**

I. Disclosure of Corporate Parents, Subsidiaries, or Affiliates

Ethics standards applicable to the members of the Commission preclude members from participating in cases in which they have a financial interest in a party to the proceeding. Normally, a Commission member will be able to identify a proceeding from which he should recuse himself because he has a financial interest in a named party. However, the need for recusal may not be readily apparent if a Commission member has a financial interest not in the named party itself but in a corporate parent, subsidiary, or affiliate of that party. Disclosure of the full organizational structure of a corporate party will greatly assist the Commission members in avoiding such conflicts of interest. So that the Commission can be certain that the necessary information has been disclosed, the amended rule also requires a corporate party that has no parents, subsidiaries, or affiliates to so state. In addition, the rule requires that a corporate party advise the Commission of any changes to its disclosure statement.

In view of the importance of disclosure, the Commission may in its discretion refuse to accept a petition or response that fails to comply with the disclosure requirements.

II. Commission Designation of Executive Secretary and Office of the Executive Secretary Pursuant to Pub. L. 100-236

Public Law 100-236, 101 Stat. 1731-32 (1988), codified as 28 U.S.C. 2112(a), requires in subsection (a)(2) that each government agency designate an office and officer to receive copies of petitions for review of agency orders from the persons instituting the review proceedings in a court of appeals. The statute provides that if proceedings are instituted in two or more courts of appeal to review the same agency order, and the agency receives copies of those filings within ten days of the agency order, the Judicial Panel on Multidistrict Litigation will determine, by random selection, the court of appeals in which to consolidate the petitions. In accordance with the statute the Commission designates the Executive Secretary, and the Office of the

Executive Secretary, of the Commission as the officer and office to receive, pursuant to 28 U.S.C. 2112(a)(1), copies of petitions for review of Commission orders.

List of Subjects in 29 CFR Part 2200

Hearing and appeal procedures, Administrative practice and procedure, Ex parte communications, Lawyers.

Text of Amendment

Title 29, Chapter XX, Part 2200 of the Code of Federal Regulations is amended as follows:

PART 2200—[AMENDED]

1. The authority citation for Part 2200 is revised to read as follows:

Authority: 29 U.S.C. 661(g). Sec. 2200.96 is also issued under 28 U.S.C. 2112(a).

2. Section 2200.73 is amended by revising paragraph (b) to read as follows:

§ 2200.73 Interlocutory review.

* * * * *

(b) *Petition for interlocutory review.* Within five days following the receipt of a Judge's ruling from which review is sought, a party may file a petition for interlocutory review with the Commission. Responses to the petition, if any, shall be filed within five days following service of the petition. A copy of the petition and responses shall be filed with the Judge. The petition is denied unless granted within 30 days of the date of receipt by the Commission's Executive Secretary. A corporate party that files a petition for interlocutory review or a response to such a petition under this section shall also comply with the provisions of § 2200.91(h) requiring a declaration of corporate parents, subsidiaries, and affiliates or, if applicable, a statement that there are no corporate parents, subsidiaries, or affiliates. In its discretion the Commission may refuse to accept for filing a petition or response that fails to comply with this disclosure requirement. A corporate party filing the declaration required by this paragraph shall have a continuing duty to advise the Executive Secretary of any changes to its declaration until the Commission either denies the petition for interlocutory appeal or issues its decision on the merits of the appeal.

3. Section 2200.91 is amended by redesignating paragraph (h) as paragraph (i) and adding a new paragraph (h) to read as follows:

§ 2200.91 Discretionary review; Petitions for discretionary review; Statements in opposition to petitions.

* * * * *

(h) *Corporatye parents, subsidiaries, and affiliates; disclosure*—(1) *General.* Any petition for review or cross-petition for review filed under this section by a corporation, or any statement in opposition to a petition for review filed under paragraph (g) of this section by a corporation, shall be accompanied by a declaration listing all parents, subsidiaries, and affiliates of that corporation or stating that the corporation has no parents, subsidiaries, or affiliates, whichever is applicable.

(2) *Failure to disclose.* The Commission in its discretion may refuse to accept for filing a petition for review or statement in opposition that fails to include the disclosure declaration required by this paragraph.

(3) *Continuing duty to disclose.* A party subject to the disclosure requirement of this paragraph has a continuing duty to notify the Executive Secretary of any change in the information on the disclosure declaration until the Commission either issues a final order disposing of the proceeding or remands the proceeding to the Judge.

4. A new § 2200.96 is added to read as follows:

§ 2200.96 Commission receipt pursuant to 28 U.S.C. 2112(a)(1) of copies of petitions for judicial review of Commission orders when petitions for review are filed in two or more courts of appeals with respect to the same order.

The Commission officer and office designated to receive, pursuant to 28 U.S.C. 2112(a)(1), copies of petitions for review of Commission orders, from the persons instituting the review proceedings in a court of appeals, are the Executive Secretary and the Office of the Executive Secretary at the Commission's office, 1825 K Street NW., Washington, DC 20006. Five copies of the petition shall be submitted pursuant to this section. Each copy shall state that it is being submitted to the Commission pursuant to 28 U.S.C. 2112 by the persons or person who filed the petition in the court of appeals and shall be stamped by the court with the date of filing.

Note: 28 U.S.C. 2112(a) contains certain applicable requirements.

Date: April 26, 1989.

E. Ross Buckley,

Chairman.

Date: April 25, 1989.

Linda L. Arey,

Commissioner.

[FR Doc. 10329 Filed 4-28-89; 8:45 am]

BILLING CODE 7600-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

Katmai National Park and Preserve, AK

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is modifying the fishing regulations for the Brooks River in Katmai National Park and Preserve. These regulations allow a bag limit of one fish per day. In addition, a minor change is made to existing regulation dates for an open bait season on that portion of the Naknek River within the park to remain consistent with changing State of Alaska (State) regulations. These regulations are necessary to continue safely accommodating use of the popular Brooks River fishery by anglers, while maintaining a healthy fishery for bear populations which feed there. Current bag limits of 5 salmon and 2 trout—the two species for which the river is popular—encourage many anglers to keep fish in their immediate possession or in the nearby area while seeking to fill these catch limits. By providing less opportunity for anglers to retain large bag limits of fish in the area, there will be less chance of bear/human conflicts caused by bears associating humans with food. The effect of the regulations will be to reduce the potential for conflicts between bears and humans in the area, while protecting the natural fish resources available to bears along the Brooks River. This is a primary goal of park management, as stated in the park's General Management Plan (GMP).

EFFECTIVE DATE: May 31, 1989.

FOR FURTHER INFORMATION CONTACT: Stephen Hurd, Chief Ranger, Katmai National Park and Preserve, P.O. Box 7, King Salmon, AK 99613, Telephone (907) 246-3305.

SUPPLEMENTARY INFORMATION:

Background

This regulation addresses a specific management problem involving bear and human interactions along the popular Brooks River. It is not a response to any known depletion in fish populations or fisheries habitat impairment. It also corrects a conflict between State and Federal laws and regulations regarding bait fishing along those portions of the Naknek River within the park.

In the summer of 1987, the National Park Service submitted a proposal to the

State Board of Fisheries for a change in the State fishing regulations. Current State regulations affecting the Brooks River fishery allow for a bag and possession limit of 5 salmon and 2 rainbow trout during the summer fishing season. The National Park Service proposal had the same objectives as this rulemaking, but differed by being applicable to all rivers within the park and preserve, and by changing bag limits for salmon only. It also did not address changes to bait fishing regulations for the Naknek River. The Board failed to approve this proposal, based in part on a determination from the Department of Fish and Game that the fishery was healthy and that the proposed action addressed other management considerations not in the purview of the Board. The Board also expressed concern about the large area covered by the proposal and some confusion about the objectives. It was recognized by the Department of Fish and Game at the Board meeting that the National Park Service had the authority to promulgate regulations to address the problem:

> Mr. Chairman, this is a proposal put in by the park service that encompasses a fairly large chunk of real estate * * * most of which has fairly limited angling pressure. Salmon stocks, particularly in the Naknek drainage, appear to be healthy and staff [Department of Fish and Game] see no biological reason to further limit the sport bag limits there. They're presently five a day, five in possession in much of that area. The park service has the authority to do this if they need to * * * (transcript from taped proceedings of State Fish Board meeting, December 17, 1987; Anchorage, Alaska).

Consequently, the bag limit provision of this rulemaking is a modified version of the earlier submission to the State and is specific to the Brooks River.

The Brooks River and its surrounding aquatic resources are major habitats for a diversity of fish and wildlife species. Rainbow trout and salmon are the most abundant fish species in Brooks River. Arctic grayling and Arctic char, as well as other species, are also present. This source of high-protein food is of critical importance to bear populations during their short feeding season before hibernation.

Because of this diverse ecosystem, the Brooks River is well-known and popular among both park anglers and visitors interested in being able to view the Alaska brown bear in its natural habitat. Park managers in Katmai have always been conscious of and concerned about the management of this important area. The Alaska National Interest Lands Conservation Act (Pub. L. 96–487) (ANILCA), which added further acreage to the area, mandated that the new park is

> to be managed for the following purposes, among others: To protect habitats for, and populations of, fish and wildlife including * * * high concentrations of brown/grizzly bears * * * and * * * to maintain unimpaired the water habitat for significant salmon populations * * * (section 202(2) of ANILCA; 16 U.S.C. 410hh–1(2)).

Congress also determined that Katmai should be managed to protect "recreational features". Sport fishing is permitted within national park areas in Alaska (section 1314 of ANILCA; 16 U.S.C. 3202; 36 CFR 2.3, 13.21). Providing for the use of the Brooks River by recreational anglers and natural predator activities of the area's brown bears poses both a resource management problem affecting the bears and a safety concern for humans.

The General Management Plan (GMP) for the park, prepared pursuant to section 1301 of ANILCA (16 U.S.C. 3191), addresses specific management responsibilities and objectives regarding Brooks River. The plan notes that:

> Visitors have traditionally come to the Brooks Camp developed area to fish, visit the Valley of Ten Thousand Smokes, and watch Alaska brown bears in their natural environment. This development and the associated activities intrude on prime bear habitat. The result has been potentially dangerous conflicts between bears and humans in this area. The issue is impacts on bears while still providing for visitor activities in this portion of the park.

The objectives of the bear management plan for Katmai, as stated in the GMP, are:

> * * * to retain a naturally regulated population of brown bears in the park and to preclude the food-reinforced attraction of bears to people and thereby minimize confrontations between bears and people. The plan calls for * * * minimizing human impacts on bear behavior and patterns of habitat use * * *.

With the Brooks River being such an important habitat for bear populations and the nearby Brooks Camp being the major overnight visitor use area in the park, these objectives are of specific and immediate importance to this area.

Sport fishing along the Brooks River, as well as elsewhere within the park, is regulated by appropriate National Park Service regulations in 36 CFR 2.3, 13.21, and 13.66 and by applicable State of Alaska fishing regulations. Current State regulations affecting the Brooks River fishery allow for a bag and possession limit of 5 salmon and 2 rainbow trout during the summer fishing season. Park policy requires that any fish kept is to be immediately taken to a nearby fish cleaning house away from the river to be cleaned and stored. This policy reduces the chance of bears obtaining fish caught by people, thereby learning to associate the easy acquisition of fish with human fishermen and disrupting the bear's natural feeding cycle.

However, an increasing number of anglers, some who travel into the Brooks River area specifically to fish for the maximum legal take, often do not take their fish directly to the cleaning house, and instead cache fish they have caught along the shore—a practice that cannot be prevented by any but the most aggressive and costly law enforcement measures. Bears are then attracted to this food source, encouraging dangerous bear/human interactions.

This rulemaking amends 36 CFR 13.66, which is specific to Katmai National Park and Preserve, by establishing a total daily bag limit of one fish, regardless of species, on the Brooks River. A minor amendment to 36 CFR 13.66(a)(1) removes the dates during which bait fishing is allowed along the Naknek River to conform with changing State regulations.

Effects of Rulemaking

These changes have the effect of eliminating the opportunity for anglers to store their catch along the river banks, which tempts bears to feed on the fish, and will help to maintain a healthy fishery for the bears. The immediate effect will be to cause those anglers who fish the Brooks River mainly to acquire food to procure their fish elsewhere. Numerous other areas rich in fish resources are available in the nearby vicinity for these anglers. Sport fishing for enjoyment will not be restricted, and one fish can still be retained if desired. Human safety and the protection of natural bear populations, both in the short and long term, should be greatly improved. Long term effects will be a continued healthy fishery resource, a lessening of the chances for bear/human confrontations, and an improvement in the natural feeding habitat for bears. By removing dates from the National Park Service regulation for bait fishing, the Naknek River bait fishing season will conform with any changes in State law for bait fishing.

Options Considered

Other management options based on stated management objectives in the GMP were also considered in development of this rulemaking. These options include closing all or portions of the area to human use, restricting the Brooks River to catch-and-release angling only, or eliminating angling

along the river during certain time periods or seasons. The rulemaking is in accordance with stated overall management objectives and is less restrictive than other options.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. The proposed rulemaking was published in the **Federal Register**, Vol. 53, No. 152, Monday, August 8, 1988. Written comments on the proposed rulemaking were accepted for a 60 day period, through October 7, 1988. In addition, two public hearings, one in Anchorage and one in King Salmon, Alaska, were held during the comment period.

Six written comments were received during the comment period. Two letters received were from lodge/air taxi owners and operators who suggested the proposed rulemaking did not restrict the sport fishing enough and suggested that Brooks River and others in the park and preserve should be made catch and release only fisheries. The Alaska Field Office of the Sierra Club wrote a letter supporting the one fish limit. An individual from Dutch Harbor, Alaska supported the one fish limit. The Wildlife Legislative Fund of America wrote that they were opposed to the bag limit restriction because:

> The State of Alaska operates a brown bear river program which is reputedly the best in the world in the McNeil River State Game Sanctuary not far from the locale of your proposed regulatory change. It is my understanding that this program operates very well without the type of restriction you propose.

This comment was not applicable to the situation and illustrated confusion on the part of the author, i.e., McNeil River sanctuary does not allow any fishing and restricts the number of people allowed to visit the area, who must acquire a permit and be guided at all times.

The State of Alaska, Department of Fish and Game wrote objecting to the proposed rulemaking stating they were:

> * * * concerned that your new regulation will be ineffective in significantly reducing or eliminating occurrence of human-bear interactions at the Brooks River. This may place unnecessary restriction on sport fishing activities without commensurate benefit.

During the summer of 1988, with a temporary restriction which implemented a one fish bag limit for the Brooks River, park personnel noted a significant reduction in the number of bear/human interactions over fish from the previous summer season. Based on only a single season of observation, the National Park Service believes a notable decrease in the potential number of bear/human interactions can be achieved with the bag limit reduction as proposed.

Four comments were made during the two public hearings. Two commentors were very much in favor of the proposed rulemaking citing its necessity due to safety concerns while still continuing to allow sport fishing to occur in the area. One commentor, representing the Alaska Sport Fishing Association, was opposed to the rulemaking because it would reduce the opportunities for sport fishermen to retain their catch when there was no shortage of fish in the river. The fourth commentor suggested zoning the river so people fishing in that portion of the river near the fish cleaning house could retain a total of 5 fish and those fishing upstream (beyond an identifiable land form), some distance away from the fish cleaning house, would have a bag limit of one fish, as proposed. For enforcement reasons, the National Park Service does not see this option as a practical alternative.

Upon further analysis of the proposed rule, and after one season with a similar temporary restriction in effect, the National Park Service has chosen to modify the proposed rule for clarification purposes. The modification deletes the second sentence of § 13.66(b)(3) and adds the following:

> No person may retain more than one fish per day caught on Brooks River, on the waters between the posted signs 200 yards from the outlet of Brooks Lake, or on the water between the posted signs 200 yards from the mouth of Brooks River on Naknek Lake.

The second sentence is being deleted anticipating that the State may chose in the future to restrict the bag limit to zero or make the river a catch and release fishery for certain species. Based upon the past summer experience, the National Park Service has found it necessary to define the area within which the bag limit will apply, thus the new wording found in § 13.66(b)(3).

Drafting Information

The primary authors of these regulations are: Tony Sisto, Park Ranger; and, Lou Waller, Chief Division of Subsistence, Alaska Regional Office, National Park Service, Anchorage.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope. No person will be prohibited from fishing on the Brooks River under applicable regulations. The National Park Service has determined that this rulemaking will not have a significant effect on the quality of the human environment, health, and safety because it is not expected to:

(a) Change public angling habits to the extent of adversely affecting the aquatic or other natural ecosystem;
(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;
(c) Conflict with adjacent ownerships or land uses; or
(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 13

Aircraft, Alaska, National Parks, Reporting and recordkeeping requirements, Traffic regulations.

In consideration of the foregoing, 36 CFR Chapter 1 is amended as follows:

PART 13—[AMENDED]

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

> **Authority:** 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; sec. 13.65(b) also issued under 16 U.S.C. 1361, 1531.

2. By revising § 13.66 to read as follows:

§ 13.66 Katmai National Park and Preserve.

(a) [Reserved]

(b) *Fishing.* Fishing is allowed in accordance with § 13.21 of this chapter, but only with artificial lures and with the following additional exceptions:

(1) Bait, as defined by State law, may be used only on the Naknek River during times and dates established by the Alaska Department of Fish and Game,

and only from markers located just above Trefon's cabin downstream to the park boundary.

(2) Flyfishing only is allowed on the Brooks River between Brooks Lake and the posted signs near Brooks Camp.

(3) No person may retain more than one fish per day caught on Brooks River, on the waters between the posted signs 200 yards from the outlet of Brooks lake, or on the water between the posted signs 200 yards from the mouth of the Brooks River on Naknek Lake.

Becky L. Norton Dunlop,

Assistant Secretary for Fish and Wildlife Parks.

Date: April 12, 1989.

[FR Doc. 89-10416 Filed 4-28-89; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3553-2]

Approval and Promulgation of Implementation Plan; State of Arkansas; Revisions of the Arkansas Air Pollution Control Regulations for Particulate Matter (PM_{10})

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This Federal Register notice approves the revisions to the Arkansas State Implementation Plan (SIP) by (1) adopting National Ambient Air Quality Standards (NAAQS) for all pollutants as in effect on July 31, 1987, (2) adding new particulate matter definitions, (3) revising the Prevention of Significant Deterioration of Air Quality (PSD) SIP regulations by readoption of the Federal regulations as in effect on July 31, 1987, and (4) revising subsection f(ix) of "Section 4. Permits". The State of Arkansas submitted these revisions in response to the EPA's promulgation of the particulate matter (PM_{10}) NAAQS and related regulations on July 1, 1987. These revisions enable the State to implement and enforce the NAAQS for all pollutants including PM_{10}, and modify the affected State regulations for meeting the regulatory requirements of particulate matter in terms of the PM_{10}. This SIP revision is approved under the statutory requirements of sections 110 and 160–169 of the Clean Air Act as amended August 1977.

Today's notice is published to advise the public that EPA is approving the Arkansas SIP revision for the subjects mentioned above. The rationale for this approval is contained in this notice.

DATE: This action will be effective on June 30, 1989, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least twenty-four hours before the visiting day.

SIP New Source Section; Air Programs Branch; Air, Pesticides and Toxics Division. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 655–7214.

Division of Air Pollution Control, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, P.O. Box 9583, Little Rock, Arkansas 72209, Telephone: (501) 562–7444.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E.; SIP New Source Section, Air Programs Branch, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone (214) 655–7214.

SUPPLEMENTARY INFORMATION: The 1977 amendments to the Clean Air Act (sections 108 and 109) require that the Environmental Protection Agency (EPA) review and, where appropriate, revise the air quality criteria and ambient standards every five years, to ensure that the standards are based on the best scientific information. Pursuant to these requirements, the EPA reviewed the criteria and air quality standards for particulate matter and promulgated substantial revisions to the then-existing standards on July 1, 1987 (52 FR 24634). The July 1, 1987, particulate matter rules replaced the former standards for total suspended particulate matter (TSP) with a new indicator that includes only those particles that are (10) micrometers or smaller in diameter (PM_{10}). The new 24-hour primary (health-based) standards limits PM_{10} to 150 micrograms per cubic meter of air (as compared to 260 micrograms per cubic meter for TSP). In addition to the 24-hour standard, a new PM_{10} annual standard is set at 50 micrograms per cubic meter (as compared to 75 micrograms per cubic meter for TSP). The promulgation of the PM_{10} rules resulted in several other regulatory revisions which are the subject of this notice.

The States have primary responsibility for implementing the National Ambient Air Quality Standards (NAAQS). Under section 110 of the Act, each State must develop and submit to the EPA a plan that provides for attainment and maintenance of each NAAQS as expeditiously as practicable within certain time limits. Furthermore, each State is required to adopt and submit a SIP to the EPA within nine months after the promulgation or revision of a primary NAAQS.

For effective implementation of the PM_{10} program within the constraints of the available resources, the EPA established a priority ranking which allowed focusing the efforts to those areas that showed significantly high potential for not meeting the PM_{10} standards. Using the then-existing TSP data, the EPA developed an analytical procedure that classified all of the counties of the nation into three groups based on their probability of not attaining the new PM_{10} standards. The primary characteristics of each group was identified as: Group I included areas with a high probability of not attaining the standards, Group II contained areas where the existing air quality data were not sufficient to determine if they were attaining the standards, and Group III carried areas where there was a high probability of attaining the standards without additional controls. The public notice of this procedure and its results were published in the August 7, 1987, Federal Register (52 FR 29383). Under this scheme, the entire State of Arkansas is classified as Group III area.

State Submission

On June 3, 1988, the Governor of Arkansas submitted several revisions to the Arkansas Air Pollution Control regulations, adopted by the Commission on Pollution Control and Ecology on March 25, 1988, as a SIP revision along with the State's other supporting documents for approval. These revisions were in response to the promulgation of the PM_{10} standards and related regulations by the EPA on July 1, 1987. The State's submittal contained (1) adoption of all NAAQS as in effect on July 31, 1987, including the PM_{10} standards, (2) adoption of the EPA definitions for particulate matter, (3) revisions to the PSD SIP regulations and readoption of the Federal PSD regulations as in effect on July 31, 1987, and (4) changing certain references to particulate matter in the SIP permit review regulations to refer to all pollutants for which the NAAQS exists [subsection f(ix) of "Section 4. Permits"].

The Arkansas Department of Pollution Control and Ecology (ADPCE) adopted the NAAQS and the Federal PSD regulations through incorporation by reference. The initial Arkansas PSD SIP

was approved by the EPA on January 4, 1982 (47 FR 2112). By choosing the reference adoption date as July 31, 1987, the ADPCE adopted not only the revisions to 40 CFR 52.21 promulgated on July 1, 1987, but also the revisions promulgated between June 25, 1982 and July 31, 1987, including promulgation of the new source review visibility requirements, the revisions to the EPA's *Guideline on Air Quality Models*, and the November 7, 1986, restructuring of 40 CFR Part 51. The NAAQS and particulate matter definitions are added to the existing State regulations under "Section 3. Definitions", as subsection (z) through (ff), and other sections of the SIP approved regulations are modified to reflect the PM_{10} provisions. These revisions are identical and consistent with the EPA requirements.

All areas in the State of Arkansas are currently designated as attainment for the TSP standards (also for all other pollutants) and it is reasonable to assume that the State's existing regulations will continue to maintain and protect the PM_{10} standards in the State. For this reason, ADPCE, Division of Air Pollution Control, has no generic nonattainment area regulations. However, the ADPCE has begun to monitor for PM_{10} and has submitted a PM_{10} monitoring network plan which has been approved by the EPA. Should the monitored PM_{10} data show any exceedances leading to a violation of the standards, by the methods specified in 40 CFR Part 50, Appendix K, the State will have to submit nonattainment regulatory controls, control strategies, and implementation plan for attaining and maintaining the PM_{10} standard in the State.

The promulgation of the PM_{10} standards impacted 40 CFR Part 51, Subpart H—Prevention of Air Pollution Emergency Episodes. The Arkansas SIP does not have any regulation requring air pollution emergency episode plans for any area. The appropriate PM_{10} provisions will be met when the ADPCE submits a complete regulatory revisions to include an air pollution emergency episode plan in its SIP.

Final Action

The EPA has reviewed the State's submittal and determined that the State regulations and procedures adequately meet the requirements of the PM_{10} standards and related Federal regulations promulgated by the EPA on July 1, 1987. Therefore, the EPA is approving all of the revisions submitted by the Governor of Arkansas on June 3, 1988, as a revision to the Arkansas SIP.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of publication unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on June 30, 1989.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 30, 1989. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Incorporation by reference of the Arkansas State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982. This rulemaking is issued under the authority of sections 110, 160–169, and 301 of the Clean Air Act, 42 U.S.C. 7410, 7423, and 7601.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Incorporation by reference, Particulate matter, Carbon monoxide, Hydrocarbons.

Date: March 30, 1989.

Robert E. Layton, Jr.,

Regional Administrator.

PART 52—[AMENDED]

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart E—Arkansas

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.170 is amended by adding paragraph (c)(27) to read as follows:

§ 52.170 Identification of plan.

* * * * *

(c) * * *

(27) Revisions to the Arkansas State Implementation Plan for (1) the National Ambient Air Quality Standards and particulate matter definitions (subsections (z) through (ff) of "Section 3. Definitions"). (2) Prevention of Significant Deterioration of Air Quality and its Supplement, and (3) subsection f(ix) of "Section 4. Permits", as adopted on March 25, 1988, by the Arkansas Commission on Pollution Control and Ecology, were submitted by the Governor on June 3, 1988.

(i) Incorporation by reference. (A) Regulations of the Arkansas Plan of Implementation for Air Pollution Control "Section 3. Definitions", subsections (z) through (ff), as promulgated on March 25, 1988.

(B) Prevention of Significant Deterioration Supplement Arkansas Plan of Implementation For Air Pollution Control, as amended on March 25, 1988.

(C) Regulations of the Arkansas Plan for Implementation for Air Pollution Control "Section 4. Permits", subsection f(ix), as promulgated on March 25, 1988.

(ii) Other material—None.

3. Section 52.181 is revised to read as follows:

§ 52.181 Significant deterioration of air quality.

(a) The plan submitted by the Arkansas Department of Pollution Control and Ecology that incorporates by reference 40 CFR 52.21 and including State's supplemental document are approved as meeting the requirements of Part C, Clean Air Act for preventing significant deterioration of air quality

(b) The requirements of sections 160. through 165 of the Clean Air Act are not met for Federally designated Indian lands. Therefore, the provisions of § 52.21 (b) through (w) are hereby incorporated by reference made a part of the applicable implementation plan and are applicable to sources located on land under the control of Indian governing bodies.

[FR Doc. 89–8507 Filed 4–28–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 60

[FRL–3564–5]

Delegation of New Source Performance Standards (NSPS) for the State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Maricopa County Department of Health Services (MCDHS). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: July 1, 1988.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, (A–2–3), State Implementation Plan Section, Air Programs Branch, Air and Toxics Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–7635 or FTS: 454–7635.

SUPPLEMENTARY INFORMATION: The MCDHS has requested authority for delegation of certain NSPS categories. Delegation of Authority was granted by a letter dated July 1, 1988, and is reproduced in its entirety as follows:

Mr. Robert W. Evans, Chief,
Bureau of Air Pollution Control, Maricopa County Department of Health Services, 1845 East Roosevelt Street, Phoenix, AZ 85006.

Dear Mr. Evans: In response to your request of April 29, 1988, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standards (NSPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60 Subpart
Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction or modification commenced after July 23, 1984.	Kb
Industrial surface coating; plastic parts for business machines.	TTT
New residential wood heaters	AAA

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the U.S. EPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,
Daniel W. McGovern,
Regional Administrator.

With respect to the areas under the jurisdiction of MCDHS, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the MCDHS at the address shown in the letter of delegation.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: March 31, 1989.

John Wise,
Acting Regional Administrator.

[FR Doc. 89–10394 Filed 4–28–89; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 60

[FRL–3564–4]

Delegation of New Source Performance Standards (NSPS) for the State of Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Hawaii State Department of Health (HSDH). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: Date of each letter.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen (A–2–3), State Implementation Plan Section, Air Programs Branch, Air and Toxics Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–7635 or FTS: 454–7635.

SUPPLEMENTARY INFORMATION: The HSDH has requested authority for delegation of certain NSPS categories. Delegation of authority was granted by letters dated December 9, 1987 and July 1 and November 7, 1988, and March 8, 1989 and are reproduced in their entirety as follows:

December 9, 1987

John C. Lewin, M.D.
Director of Health, Hawaii State Department of Health, Post Office Box 3378, Honolulu, HI 96801

Dear Dr. Lewin: In response to your request, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standards (NSPS) category in 40 CFR Part 60: Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels for which Construction, Reconstruction, or Modification Commenced After July 23, 1984. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

This delegation amends the NSPS/NESHAPS agreement between the U.S. EPA and the Hawaii Department of Health dated August 15, 1983 and the amendments dated October 25, 1984, December 18, 1984, March 18, 1985, September 30, 1986, January 27, 1987, and August 31, 1987. The agreement is amended by adding authority for Subpart Kb.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions fo 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the U.S. EPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,
Judith E. Ayres,
Regional Administrator.

July 1, 1988

John C. Lewin, M.D.
Director of Health, Hawaii State Department of Health, P.O. Box 3378, Honolulu, Hawaii 96801

Dear Dr. Lewin: In response to your request of April 4, 1988, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

This delegation amends the NSPS/NESHAPS Agreement between the U.S. Environmental Protection Agency and the Hawaii Department of Health dated August 15, 1983, and the amendments dated October 25, 1974, December 18, 1984, March 18, 1985, September 30, 1986, January 27, 1987, August 31, 1987, and December 9, 1987. The agreement is amended by adding authority for Subpart VV and renumbering the subparagraph under paragraph No. 1, "Permits." A copy of the amended agreement is enclosed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the U.S. EPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

Enclosure

November 7, 1988

John Lewin, M.D.

Director of Health, Hawaii Department of Health, P.O. Box 3378, Honolulu, HI 96801

Dear Dr. Lewin: In response to your request by phone conversation, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Standards of Performance for New Stationary Sources; Industrial Steam Generating Units. Standards of Performance limiting emissions of nitrogen oxides (NO_x) and particulate matter (PM) from fossil and nonfossil fuel-fired industrial, commercial, and institutional steam generating units were originally promulgated on November 25, 1986 (51 FR 42768). Subpart Db which was promulgated on December 16, 1987 (52 FR 47826) supplements the November 25, 1986 **Federal Register** to include requirements for sulfur dioxide (SO_2), NO_x, and PM. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

This delegation amends the NSPS/NESHAPS agreement between the U.S. EPA and the Hawaii Department of Health dated August 15, 1983 and the amendments dated October 25, 1984, December 18, 1984, March 18, 1985, September 30, 1986, January 27, 1987, August 31, 1987, December 9, 1987, and February 8, 1988. The agreement is amended by adding authority for Subpart Db, Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the U.S. EPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

March 8, 1989

John C. Lewin, M.D.

Director of Health, Hawaii State Department of Health, P.O. Box 3378, Honolulu, HI 96801

Dear Mr. Lewin: In response to your request of February 8, 1989, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standards (NSPS) category in 40 CFR Part 60: Subpart QQQ Standards of Performance for New Stationary Sources: VOC Emissions From Petroleum Refinery Wastewater Systems. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

This delegation amends the NSPS/NESHAPS Agreement between the U.S. Environmental Protection and the Hawaii Department of Health dated August 15, 1983, and the amendments dated October 25, 1974, December 18, 1984, March 18, 1985, September 30, 1986, January 27, 1987, August 31, 1987, and July 1, and November 7, 1988. The agreement is amended by adding authority for Subpart QQQ and renumbering the subparagraph under paragraph No. 1, "Permits." A copy of the amended agreement is enclosed.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the U.S. EPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Daniel W. McGovern,

Regional Administrator.

Enclosure

NSPS/NESHAPS Delegation Agreement

U.S. EPA and Hawaii Department of Health Services Permits

1. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NSPS. The categories of new or modified sources covered by this agreement are:

a. General Provisions, Subpart A.

b. Fossil-Fuel Fired Steam Generator, Subpart D.

c. Electric Utility Steam Generators, Subpart Da.

d. Industrial-Commercial-Institutional Steam Generating Units, Subpart Db.

e. Incinerators, Subpart E.

f. Portland Cement Plants, Subpart F.

g. Asphalt Concrete Plants, Subpart I.

h. Petroleum Refineries, Subpart J.

i. Storage Vessels for Petroleum Liquids Constructed after May 18, 1989, Subpart Ka.

j. Volatile Organic Liquid Storage Vessels for which Construction, Reconstruction, or Modification Commenced after July 23, 1984, Subpart Kb.

k. Sewage Treatment Plants, Subpart O.

l. Steel Plants: Electric Arc Furnace and Argon-Oxygen Decarburization Vessels Constructed after October 21, 1974 and on or before August 17, 1983, Subpart AA.

m. Steel Plants: Furnaces and Vessels Constructed after August 17, 1983, Subpart AAa.

n. Stationary Gas Turbines, Subpart GG.

o. Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry, Subpart VV.

p. Beverage Can Surface Coating Industry, Subpart WW.

q. Bulk Gasoline Terminals, Subpart XX.

r. Equipment Leaks of VOC in Petroleum Refineries, Subpart GGG.

s. Petroleum Dry Cleaners, Subpart JJJ.

t. Nonmetallic Mineral Processing Plants, Subpart OOO.

u. New Stationary Sources: VOC Emissions from Petroleum Refinery Wastewater Systems, Subpart QQQ.

2. After the effective date of this Agreement, Authority to Construct permits issued by HDOH shall include appropriate provisions to ensure compliance with applicable NESHAPS. The categories of sources covered by this Agreement are:

a. General Provisions, Subpart A.

b. Mercury, Subpart E.

c. Equipment Leaks (Fugitive Emission Sources) of Benzene, Subpart J.

d. Equipment Leaks (Fugitive Emission Sources), Subpart V.

With respect to the areas under the jurisdiction of HSDH, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the HSDH at the address shown in the letter of delegation.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Excecutive Order 12291.

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

This Notice is issued under the authority of section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: April 11, 1989.

John Wise,

Acting Regional Administrator.

[FR Doc. 10395 Filed 4-28-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 61

[FRL-3564-3]

Delegation of National Emission Standards for Hazardous Air Pollutants (NESHAPS) for the State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of delegation.

SUMMARY: The EPA hereby places the public on notice of its withdrawal of delegation of NESHAPS authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action was requested by the NDCNR. This action does not create any new regulatory requirements affecting the public. The effect of the withdrawal of delegation is to shift the primary program responsibility for the affected NESHAPS category from the State to EPA.

EFFECTIVE DATE: November 9, 1987.

ADDRESSES: Asbestos Coordinator, Compliance Section (A-3-3), Air Operations Branch, Air and Toxics Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, (A-2-3), State Implementation Plan Section, Air Programs Branch, Air and Toxics Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974-7635 or FTS: 454-7635.

SUPPLEMENTARY INFORMATION: The NDCNR has requested that authority for delegation be withdrawn for the NESHAPS category, Subpart M, Asbestos. Delegation of authority was withdrawn by a letter dated November 9, 1987, and is reproduced in its entirety as follows:

Lowell H. Shifley, Jr., P.E.,
Air Quality Officer, Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 201 South Fall Street, Carson City, Nevada 89710.

Dear. Mr. Shifley: In response to your request of September 18, 1987, we are withdrawing delegation of authority from your agency to implement and enforce the National Emission Standard for Hazardous Air Pollutants category in 40 CFR Part 61: Subpart M, Asbestos.

The withdrawal of delegation was effective September 30, 1987. A notice of this withdrawal will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,
Regional Administrator.

With respect to the areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the NESHAPS category, Subpart M, Asbestos, should be directed to the U.S. EPA at the address shown in the **ADDRESSES** section of this notice.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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

This Notice is issued under the authority of section 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Dated: April 11, 1989.

John Wise,
Acting Regional Administrator.

[FR Doc. 89-10396 Filed 4-28-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 81

[FRL-3563-8]

Designation of Areas for Air Quality Planning Purposes; Ohio

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

ACTION: Notice of final rulemaking.

SUMMARY: This notice takes action on the attainment status designation for eight counties in Ohio relative to the former total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS). For seven of the counties (Columbiana, Logan, Medina, Miami, Monroe, Sandusky and Scioto), USEPA is redesignating the counties to full attainment or reducing the size of the nonattainment area(s). For Jackson County, USEPA is retaining the present secondary nonattainment designation.

DATE: This final rulemaking becomes effective May 31, 1989.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

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

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

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6038.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (the Act). This section directed each State to submit, to the Administrator of USEPA, a list of the attainment status for all areas within the State. The Administrator was required to promulgate the State lists, with any necessary modifications. The Administrator published these lists in the **Federal Register** on March 3, 1978 (43 FR 8962), and made necessary amendments in the **Federal Register** on October 5, 1978 (43 FR 45993). These area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation.

One pollutant for which USEPA published area designations was particulate matter which was formerly measured in terms of total suspended particulate (TSP). The TSP designations were based upon violations of national ambient air quality standards (NAAQS) developed for particulate matter (measured in terms of TSP) by USEPA. The primary TSP NAAQS was violated when, in a year, either: (1) The geometric mean value of TSP concentrations exceeded 75 micrograms per cubic meter of air (75 $\mu g/m^3$) (the annual primary standard); or (2) the 24-hour concentration of TSP exceeded 260 $\mu g/m^3$ more than once (the 24-hour standard). The secondary TSP NAAQS was violated when, in a year, the 24-hour concentration exceeded 150 $\mu g/m^3$ more than once.

USEPA revised the particulate matter standard on July 1, 1987, (52 FR 24634) and eliminated the use of TSP as an indicator for the particulate matter ambient air quality standard. The revised standard is expressed in terms of particulate matter with nominal diameter of 10 micrometers or less (PM_{10}). However, USEPA will continue the process redesignations of areas from nonattainment to attainment or unclassifiable for TSP in keeping with past policy because various regulatory provisions such as new source review and prevention of significant deterioration are keyed to the attainment status of areas. The July 1, 1987, notice (p. 24682, column 1) further describes USEPA's transition policy regarding TSP redesignations.

USEPA's criteria for supportable redesignation requests, as they pertain to TSP, are discussed most recently in the following September 30, 1985, memorandum from Gerald Emison, Director, Office of Air Quality Planning and Standards (OAQPS), to the Regional Air Division Directors entitled "Total Suspended Particulate (TSP)

Redesignation." Please see the September 25, 1987, notice (52 FR 36055) on the 8 County proposed redesignations for a detailed description of the redesignation criteria.

On May 16, 1983, the State of Ohio submitted a request to revise the attainment status designation relative to the former TSP NAAQS for Columbiana, Jackson, Logan, Medina, Miami, Monroe and Scioto Counties, among others. Because of a lack of sufficient technical support data in this submittal, the State in various correspondence submitted additional data for these seven counties and amended the redesignation requests for Columbiana and Scioto counties. On April 23, 1985, the State submitted a TSP redesignation request for Sandusky County. On August 26, 1987, the State submitted additional information on the rural portions of Sandusky County. To meet the requirements of USEPA's July 8, 1985 (50 FR 27892) revised stack height regulations, in a December 3, 1985, letter, the State discussed the possible impact of tall stacks or other illegal dispersion techniques under Section 123 of the Act on the above 8 counties. Therefore, based upon the review of all the technical support data, USEPA, on September 25, 1987, (52 FR 36055) proposed to change the attainment status designations for Columbiana, Logan, Medina, Miami, Monroe, Sandusky and Scioto Counties. For Jackson County, USEPA, proposed to retain the secondary nonattainment designation because the State did not provide all the necessary technical support data.

Interested parties were given until October 26, 1987, to submit comments on the September 25, 1987, proposed redesignation. Public comments were received from the Ohio Environmental Protection Agency (OEPA), the Regional Air Pollution Control Agency (RAPCA), and New Boston Coke Corporation (New Boston Coke). This notice will be segmented into the following three sections: (I) USEPA's Proposed Action (includes present and requested designation), (II) Public Comments Received, and (III) USEPA's Final Action

I. USEPA's Proposed Action

A. Columbiana

1. *Present designation* (40 CFR 81.336)
   Primary Nonattainment—Cities of East Palestine, East Liverpool and Wellsville, plus the Townships of Fairfield, Unity, Elk Run, Middleton, Madison, St. Clair, Liverpool, and Yellow Creek.
   Attainment—Knox and West Townships.
   Secondary Nonattainment—Remainder of County.
2. *Requested designation* (November 27, 1984)
   Primary Nonattainment—Cities of East Liverpool and Wellsville, Townships of Yellow Creek and Liverpool.
   Secondary Nonattainment—Center Township and City of Lisbon.
   Attainment—Remainder of County.
3. *Proposed Action* (September 25, 1987)
   Primary Nonattainment—Cities of East Liverpool and Wellsville, townships of Yellow Creek and Liverpool.
   Secondary Nonattainment—Center Township including the City of Lisbon and Perry Township including the City of Salem.
   Attainment—Remainder of County.

B. Jackson

1. *Present designation* (40 CFR 81.336)
   Secondary Nonattainment—Entire County.
2. *Requested designation* (May 16, 1983)
   Attainment—Entire County.
3. *Proposed Action* (September 25, 1987)
   Retain the designation of Jackson County as secondary nonattainment for the entire county.

C. Logan

1. *Present designation* (40 CFR 81.336)
   Primary Nonattainment—Entire County
2. *Requested designation* (May 16, 1983)
   Full Attainment—Entire County.
3. *Proposed Action* (September 25, 1987)
   Same as the State requested.

D. Medina

1. *Present designation* (40 CFR 81.336)
   Secondary Nonattainment—Entire County.
2. *Requested designation* (May 16, 1983)
   Attainment—Entire County.
3. *Proposed Action* (September 25, 1987)
   Same as the State requested.

E. Miami

1. *Present designation* (40 CFR 81.336)
   Primary Nonattainment—City of Piqua.
   Secondary Nonattainment—That area in Miami County north of the line determined by Fenner Road from the Drake-Miami County Line, east to Pemberton Road, south to Horse Shoe Bend Road, east to Route 55, northeast through Troy to Troy-Urbana Road, northeast to Miami-Champaign County line and south of the line determined by Route 40 north from the Montgomery-Miami County line to Route 202, north to Route 571, east to Route 201, north to Route 41, east to the Miami-Clark County line and excluding the City of Piqua.
   Remainder of County—Attainment.
2. *Requested designation* (May 16, 1983)
   Secondary Nonattainment—City of Piqua.
   Attainment—Remainder of County.
3. *Proposed Action* (September 25, 1987)
   Same as the State requested.

F. Monroe

1. *Present designation* (40 CFR 81.336)
   Primary Nonattainment—City of Clarington, Townships of Salem and Switzerland.
   Secondary Nonattainment—Townships of Adams, Greene, Lee, Ohio, Sunbury.
   Attainment—Remainder of County.
2. *Requested designation* (May 16, 1983)
   Secondary Nonattainment—City of Clarington, Townships of Salem and Switzerland.
   Attainment—Remainder of County.
3. *Proposed Action* (September 25, 1987)
   Secondary Nonattainment—City of Clarington, Townships of Adams, Greene, Lee, Ohio, Salem, Sunbury and Switzerland.
   Attainment—Remainder of County.

G. Sandusky

1. *Present designation* (40 CFR 81.336)
   Primary Nonattainment—Entire County.
2. *Requested designation* (April 23, 1985)
   Secondary Nonattainment—Woodville, Madison, Sandusky, Jackson and Ballville Townships, including the Cities of Fremont, Gibsonburg and Woodville.
   Attainment—Remainder of County.
3. *Proposed Action* (September 25, 1987)
   Primary Nonattainment—Woodville Township including the City of Woodville.
   Secondary Nonattainment—Madison, Sandusky, Jackson and Ballville Townships including the Cities of Fremont and Gibsonburg.
   Attainment—Remainder of County.

H. Scioto

1. *Present designation* (40 CFR 81.336)
   Primary Nonattainment—Cities of Portsmouth, New Boston, South Webster, and Bloom Township.
   Secondary Nonattainment—Harrison Township, excluding primary nonattainment area.
   Attainment—Remainder of County.
2. *Requested designation* (May 16, 1983)
   Primary Nonattainment—Bloom Township and the City of South Webster.
   Attainment—Remainder of County.
3. *Proposed Action* (September 25, 1987)
   Primary Nonattainment—Those

portions of the Cities of Portsmouth and New Boston that surround New Boston Coke, extending 1 km to the west, north and east of the coke battery and bounded on the south by the Ohio River.—Bloom Township and the City of South Webster.

Remainder of County—Attainment.

USEPA notes that its proposed action differs from what the State requested for Columbiana, Jackson, Monroe, Sandusky and Scioto Counties because the State did not provide the necessary technical data to support its request. We refer you to the September 25, 1987, notice for a detailed discussion of the necessary data.

II. Public Comments Received

As stated above, public comments were received from OEPA, RAPCA and New Boston Coke. USEPA's review of these comments will be segmented into (A) General Comments, (B) Comments That Apply to Several Counties, and (C) Specific County Comments.

A. General Comments

Comment: OEPA has two general concerns regarding the notice of proposed rulemaking (NPR).

(1) Ohio believes the NPR provided an inadequate explanation of the delays in rulemaking.

(2) Ohio believes some of the deficiencies noted in the NPR were noted without previous knowledge of the State.

Response: (1) USEPA agrees that there have been delays in the proposed redesignations. For the most part these delays were due to dialogue between the USEPA and OEPA concerning what are sufficient documentation for approvable designation, i.e., evidence of implemented control strategies, assessment of the impact of the revised stack height regulations, and the time involved in OEPA submitting these data to USEPA. USEPA believes the NPR provided an adequate explanation for these delays.

(2) USEPA acknowledges that there were some deficiencies noted in the NPR that were not previously communicated to the State. The public comment period is an appropriate time to respond to these deficiencies.

Comment: New Boston Coke believes there is an absence of statutory authority for the processing of the proposed redesignations. This is due to the promulgation of the revised particulate standard (expressed in terms of particulate matter with nominal diameter of 10 micrometers of less (PM_{10})) which consequently eliminated the TSP NAAQS.

Response: USEPA acknowledges that with the promulgation of the PM_{10} standard, the TSP NAAQS no longer exists. TSP remains regulated under the Act and USEPA has statutory authority to continue processing TSP redesignations, however, because the statutory prevention of significant deterioration (PSD) increments for particulate matter are still expressed in terms of TSP. Thus, for TSP, the PSD requirements will continue to apply in any area which does not have a section 107 nonattainment designation for TSP. 52 FR 24683, col. 3.

In the July 1, 1987 preamble, USEPA also stated that it would continue to accept requests by the States to revise area designations from nonattainment to attainment or unclassifiable. It noted that "[t]he requests will continue to be reviewed during the transition period [prior to approval of the state's PM_{10} control strategy] for compliance with USEPA's redesignation policies as issued in memoranda from the Director of Air Quality Planning and Standards [on] April 21, 1983, and September 30, 1985." 52 FR 24682, col. 1. The Agency also encouraged States to request redesignation of TSP nonattainment areas to unclassifiable at the time they submit their PM_{10} control strategies to USEPA. Once USEPA has approved a control strategy as sufficient to attain and maintain the PM_{10} NAAQS, it will also approve such a redesignation. USEPA has not approved (nor has Ohio submitted) PM_{10} control strategies for the eight counties at issue. Area redesignations for TSP therefore must be reviewed during this transition period according to the policies in the redesignation memoranda discussed above.

B. Comments That Apply to Several Counties

1. Comment Regarding Permanence of Emission Reductions. In the NPR for Columbiana, Medina, Monroe, Sandusky, and Scioto Counties, USEPA requested that OEPA submit evidence that the cited source shutdowns were permanent. USEPA stated that the evidence must be in the form of documentation showing that if these sources were to start up, they would be treated as new sources under Ohio's PSD nonattainment new source review permitting requirements.

Comment: In response to USEPA's request for documentation, OEPA submitted copies of Ohio's Air Permit System file which lists facilities and sources which have operating permits.

Response: It is USEPA's position that the documentation provided by OEPA must meet two requirements: (1) it must show that source shutdowns are permanent, and (2) it must show that if the sources were to start up they would be treated as new sources under Ohio's permitting requirements.

1. *Source Shutdowns Are Permanent.* As documentation that source shutdowns are permanent the OEPA submitted copies of Ohio's Air Permit System file which lists facilities and sources which have operating permits. This listing documents: the revoked permit status of Ohio Edison East Palestine Power Plant (Columbiana County), Ohio Ferro Alloys Corporation (Monroe County), Empire Detroit Steel (Scioto County), and Harbison Walker (Scioto County). The permit status of the boilers at Ohio Match Company (Medina County) allows only the burning of gas or oil which documents the fuel switch from coal. Pfizer Corporation (Sandusky County) and some Empire Detroit sources (Scioto County) no longer appear in the Air Permit System file and this demonstrates that these sources have been removed.

USEPA has determined that Ohio's Air Permit System files, which document the permit removals, satisfy the requirement that the source shutdowns are permanent and occurred more than two years ago.

2. *If Sources Were to Start Up They Would Be Treated As New Sources.* As documentation that Ohio will consider permanently shutdown sources as new sources if they were to start up, USEPA is relying on two Federal programs: the PSD program (attainment areas) and the nonattainment new source permitting program.

In attainment areas, USEPA's PSD program was delegated to Ohio on May 1, 1980. USEPA's policy under this program includes the requirement that a source which has been shutdown would be considered a new source for PSD purposes upon reopening if the shutdown were permanent. USEPA has determined that, if the cited sources were to start up in an attainment area they would be treated as new sources.

USEPA notes that, under the PSD program, emission credits from a permanently shutdown source could be used to allow a major modification to "net" out of PSD review, but only if emission reductions are contemporaneous with the modification. Emission reductions are defined as contemporaneous if the prior source was permanently shutdown within five years before construction of the new source. The cited shutdowns noted in the NPR where PSD will be applicable all occurred more than five years ago. Thus,

through the delegation, Ohio must consider the shutdowns permanent and not contemporaneous.

In nonattainment areas, USEPA's nonattainment new source review is the controlling program. See Section 173 of the Act, 40 CFR 51.165, and Appendix S to 40 CFR Part 51. This program was adopted by OEPA and became effective on August 15, 1982. It prohibits using emission reductions from shutdown sources as offsets or for netting, if the State relied on the reduction in demonstrating attainment. In today's notice OEPA has relied upon emission reductions from Ohio-Ferro Alloys (Monroe County), Pfizer Corporation (Sandusky County), and Empire Detroit (Scioto County) to demonstrate attainment of the primary NAAQS (i.e., justify redesignation to primary attainment). Thus, a new source of major modification may not use the claimed reductions at these sources as offsets or for netting. In addition, all these shutdowns occurred more than five years ago and are, thus, not contemporaneous for netting purposes.

USEPA has determined that if the cited sources were to start up they would be treated as new sources.

3. *Comment Regarding Source Shutdowns That Have Occurred and Emission Reductions That Are Used Up.* USEPA notes that both the OEPA and New Boston Coke submitted comments regarding USEPA's position on source shutdowns and the applicability of emission reductions from the sources as they apply "only to Scioto County". Although it may have appeared in the structuring of the NPR that USEPA's position on shutdowns and emission reductions only applied to Scioto, it was meant to apply to all counties where shutdowns were discussed. Thus, even though the comments of OEPA and New Boston Coke apply only to Scioto County, USEPA's response will apply to *all* counties where source shutdowns have occurred.

Comment: Under its comments concerning Scioto County, OEPA claims that USEPA does not have the authority to arbitrarily confiscate emission reduction credits. New Boston Coke supported OEPA's comment and noted that there are no emission reduction credits which related to the New Boston Coke facility in Scioto County.

Response: OEPA and New Boston Coke apparently misinterpreted USEPA's comment concerning emission reduction credits. USEPA did not intend to refer to any officially banked emission reduction credits, commonly referred to as ERCs. ERCs have not been previously mentioned by OEPA and are not issues in these redesignations. Instead, USEPA was only referring to reductions in emissions due to the shutdown sources which OEPA had cited as resulting in the air quality improvement. USEPA notes in the NPR that

> the source shutdowns (both total and partial facility) identified in this notice were relied on by the State to explain the improvement in these areas and, thus, are an integral part of the State redesignation request. Since these shutdowns are a necessary condition for the redesignations, these emission reductions credits are hereby used up and cannot be applied again.

In taking this position, USEPA was not referring to any officially banked ERCs.

C. Comments That Apply to Specific Counties

1. *Columbiana.* USEPA's position in the NPR was to retain Perry Township as secondary nonattainment for TSP due to a lack of technical support data.

Comment: OEPA renews its request that Perry Township in Columbiana County be redesignated to attainment. OEPA claims that USEPA proposed to retain the secondary nonattainment designation without any documentation that Eljer Plumbingware is likely to increase emissions and that any increase in emissions would jeopardize the air quality standards. In addition, OEPA notes the Eljer Plumbingware will soon change their casting operations which will reduce emissions.

Response: Contrary to Ohio's opinion, USEPA is retaining the secondary nonattainment designation for Perry Township because the State failed to submit acceptable documentation. Monitoring data can be used to support redesignation of an area if, *inter alia*, maintenance of the NAAQS is shown. Maintenance of the NAAQS is shown by sources operating at their allowable emission limit or where it is unlikely that emissions will increase to allowable levels.

Current monitoring data indicates attainment of the TSP NAAQS. The primary source of TSP in Perry Township is Eljer Plumbingware, currently emitting 100 tons per year (TPY). When Eljer was emitting only 200–500 TPY (1976–1978), the monitor recorded violations of both the secondary and primary TSP NAAQS. However, current allowable emissions for Eljer exceed 1,000 TPY. Consequently, OEPA has not demonstrated that the NAAQS will be maintained in the future if Eljer increases TSP emissions to allowable levels. USEPA must be assured that either actual emissions will stay at the current level of 100 tons per year or lower, or that increases will not result in a violation.

The data submitted by the State did not demonstrate that it is highly unlikely that actual emissions at Eljer will increase to allowable emission levels under the SIP. This documentation is critical because if a source is allowed to increase from its current actual emissions up to its SIP allowed emissions, a violation of the NAAQS could result. USEPA stated in the NPR, and reiterates in this response, that an appropriate response from OEPA would have been the results of air quality modeling at allowable levels which demonstrate attainment. Then the question of increasing emissions at Eljer would be moot. Alternatively, it could have submitted as a revision to its SIP enforceable restrictions which limit Eljer Plumbingware to its current actual emissions.

In response to OEPA's comment that Eljer Plumbingware will soon change its casting operations, which will result in reduced emissions, USEPA cannot approve a redesignation at this time on the basis of a future occurrence.

2. *Jackson. Comment:* OEPA has two comments regarding USEPA's position to retain all of Jackson County as secondary nonattainment.

(1) OEPA strongly disagrees with USEPA's position to retain Jackson County as secondary nonattainment because it is a rural county. Further, OEPA indicates that it is unable to document significant point source reductions as the basis for improved air quality in the County because there are no major point sources.

(2) OEPA requests that USEPA hold a public hearing in Jackson County.

Response: (1) USEPA's criteria for what constitutes an acceptable redesignation are discussed in detail in the NPR. However, in response to OEPA's specific comment, USEPA would like to emphasize that the monitoring network must be adequate and the improvement in air quality must be the result of permanent and Federally enforceable emission reductions.

USEPA recognizes that Jackson County is rural with few major sources and that the ambient monitoring data at the one site (site 36310003F01) in the City of Jackson has shown attainment since 1978. However, a facility in southern Jackson County emitted over 300 TPY in 1985. Since no monitor was located near this facility, the monitoring network was inadequate to demonstrate attainment throughout the entire county. Therefore, USEPA cannot approve the request. In lieu of monitoring data, however, the State was informed that

air quality modeling (would could include a screening analysis) could be used to support the redesignation if it predicts attainment. The State did not submit any modeling for Jackson County.

A critical part of USEPA's redesignation policy, in addition to attainment of the NAAQS, is proof of maintenance of the NAAQS. This proof must be in the form of permanent and Federally enforceable emission reductions. Ohio has stated that the improvement in air quality in Jackson County was due to the control of fugitive emissions but did not submit any enforceable emission reduction as a revision to its SIP.

(2) Under the Clean Air Act, USEPA is not required to hold a public hearing in Jackson County as was requested by OEPA, nor does it normally do so. It is USEPA's position that the public was afforded the opportunity to comment during the public comment period which followed publication of the NPR.

3. *Miami.* As the State requested, and based upon USEPA's review, USEPA proposed to redesignate Miami County as follows:

Secondary nonattainment—City of Piqua. Attainment—Remainder of County.

Comment: OEPA requests that the City of Piqua be redesignated to attainment, thus making the county full attainment. To support its position OEPA cited current ambient data which shows attainment. RAPCA submitted the monitoring data which showed no violations of the NAAQS in fifteen recent consecutive quarters and also submitted recent emission tests which demonstrated compliance for the Piqua Municipal Power Plant boilers (Piqua Municipal Power is the major TSP source in Miami County). In addition, RAPCA requests that all of Miami County be redesignated to attainment.

Response: USEPA agrees, based upon the submitted data, that (1) no violation of the TSP NAAQS has been monitored during the last fifteen consecutive quarters, and (2) the emission tests demonstrate compliance for the Piqua Municipal Plant boilers. However, these data alone are not sufficient to warrant a redesignation from secondary nonattainment to attainment for the City of Piqua. As cited in criterion 3 of the Gerald A. Emison memorandum Ohio must submit recent allowable and actual emissions and operating rates that show "it is highly unlikely that emission rates will increase significantly at units operating below their allowable emission rates." To support its original request from primary nonattainment to secondary nonattainment for the City of Piqua, Ohio submitted fuel usage for Piqua Municipal Power from 1979–1982 which demonstrated constant fuel usage with decreasing emissions. However, as support for its most recent attainment designation Ohio did not provide documentation that Piqua operated at a similar rate for 1984–1986 (the attainment years) while decreasing emissions.

The periodic noncompliance at the Piqua Municipal Power Plant and the violation of the secondary TSP NAAQS in 1983 were the reasons for Ohio's original request to redesignate the City of Piqua from primary nonattainment to secondary nonattainment rather than to attainment. In their comments, both RAPCA and the OEPA failed to note why the periodic noncompliance at the Piqua Municipal Power Plant has been solved, and how compliance with the NAAQS will be maintained.

4. *Scioto Comment:* New Boston Coke Corporation requests the redesignation of Scioto County to attainment based on monitoring data alone because the original designation was based on monitoring data alone.

Response: USEPA's redesignation policy clearly states that an area should be redesignated only if the area is expected to attain and maintain the NAAQS. Monitoring data alone can be used if certain criteria are met. Among the criteria to show attainment of the NAAQS, monitors must be located at worst-case locations. The anticipated worst-case monitor in Scioto County would be located within 1 kilometer of New Boston's Coke Batteries. At the time that OEPA requested redesignation of Scioto County to attainment, no monitor was located in the worst-case location.

Also, to show maintenance of the NAAQS, sources must either be operating at their allowable emission limit or it must be shown that it is unlikely that emissions will increase to allowable levels. Up until 1985, a monitor was not sited in the worst-case location. In 1985, a monitor began operation near the coke battery. The monitoring data from this site do not support the redesignation to attainment.

Comment: New Boston Coke Corporation argues that modeling, performed in 1979 by OEPA and submitted to USEPA as support for its Part D SIP, should be accepted for this redesignation.

Response: The annual modeling performed by OEPA in 1979 as support for its Part D SIP was never approved by USEPA. In addition, since the submittal of that modeling, USEPA's modeling guidance has changed as more accurate and sophisticated models have become available. Thus, as noted in the NPR, OEPA's 1979 modeling is not technically adequate under current modeling guidelines.

Comment: New Boston Coke notes that USEPA did not discuss the new monitor which OEPA has operated within 1 km of the New Boston coke battery.

Response: New Boston Coke Corporation is correct in noting that USEPA did not discuss the new monitor that is operating within 1 km of the coke battery. The monitor was sited and placed in operation in response to USEPA's discussions with OEPA concerning the original May 16, 1983, redesignation request for Scioto County. At the time the NPR was originally written, the monitor had only been operating a short time and OEPA had not yet submitted the additional air quality data and siting information. Thus, this is the reason it was not discussed in the NPR.

In response to New Boston Coke's comment, USEPA reviewed the monitoring data submitted by New Boston Coke for the monitor located near the coke facility. These data were collected by the Portsmouth Local Air Agency (a representative for OEPA) and were for the period September 1985 to September 1987. For the eight quarter period the secondary TSP NAAQS was violated in 1986 (4 exceedances) and in 1987 (2 exceedances).

For the 1986 data, New Boston states that road construction near the monitor in July resulted in three of the exceedances. As justification for one of the exceedances, New Boston submitted construction diary forms from the Ohio Department of Transportation showing that pavement planning occurred on that day. USEPA guidance provides, for redesignation for SIP purposes, excluding NAAQS exceedances from exceptional events due to highway construction if a microscopic analysis of the filter indicates that 85 percent of the material on the filter was related to construction activities. (*Guidelines on the Identification and Use of Air Quality Data Affected by Exceptional Events,* EPA–450/4–86–007, July 1986.) Neither New Boston nor OEPA submitted filter analysis for any of the three exceedance days. In addition, construction logs for the other two exceedance days were not provided. Therefore, because USEPA does not have sufficient evidence to exclude the exceedances allegedly due to highway construction in 1986, USEPA considers the secondary TSP NAAQS violated in 1986. For the first 3 quarters of 1987 New Boston claims that the highest 24-hour

secondary exceedance was due to an abnormal equipment malfunction. USEPA does not consider operational malfunctions or upsets as exceptional events. Therefore, USEPA also considers the secondary TSP NAAQS to be violated in 1987.

USEPA notes that even though current monitoring data indicate violation of the secondary standard, rather than primary, USEPA must continue to retain the 2 km area around new Boston Coke as primary nonattainment. This is because the State had requested the area be redesignated to attainment, and, since the data did not support an attainment classification, USEPA must retain the area as originally designated.

III. USEPA's Final Action

Columbiana, Logan, Medina, Miami, Monroe, Sandusky and Scioto Counties. For these seven counties, USEPA's final action is the same as described above under section I., 3 Proposed Action. We refer you to section I. for the specific final designation. Please note that for Jackson County, USEPA is retaining the present secondary nonattainment designation.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit on or before June 30, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National park, Wilderness areas.

Dated: April 21, 1989.

William K. Reilly,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 the Code of Federal Regulations is amended as follows:

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

Authority: 42 U.S.C. 7401–7462.

2. In § 81.336 the TSP table is amended by revising the Columbiana, Jackson, Logan, Miami, Monroe, Sandusky and Scioto designations as follows:

§ 81.336 Ohio.

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Columbiana County:				
Cities of East Liverpool and Wellsville, Townships of Yellow Creek and Liverpool.	X			
Center Township including the City of Lisbon and Perry Township including the City of Salem.		X		
Remainder of the County				X
* * * * * * *				
Logan County				X
Medina County				X
Miami County:				
City of Piqua		X		
Remainder of the County				X
Monroe County:				
City of Clarington, Townships of Adams, Greene, Lee, Ohio, Salem, Sunbury and Switzerland.		X		
Remainder of the County				X
* * * * *				
Sandusky County:				
Woodville Township including the City of Woodville.	X			
Madison, Sandusky, Jackson and Ballville Townships including the Cities of Fremont and Gibsonburg.		X		
Remainder of the County				X
Scioto County:				
Those portions of the Cities of Portsmouth and New Boston that surround New Boston Coke, extending 1 km to the west, north, and east of the coke battery and bounded on the south by the Ohio River.	X			
Bloom Township and the City of South Webster	X			
Remainder of the County				X
* * * * * * *				

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[FR Doc. 89–10399 Filed 4–28–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[SW–FRL–3564–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denial

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is denying a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for specified wastes generated by Brush Wellman Corporation, Bedford, Ohio. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: May 1, 1989.

ADDRESS: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW., Room M2427, Washington, DC 20460, and is available for viewing

from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–89–BRFD–FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Terry Crist, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4782.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of This Rulemaking

Brush Wellman Corporation (BWC), formerly S.K. Wellman Corporation, located in Bedrord, Ohio, petitioned the Agency to exclude from hazardous waste control a specific waste it generates. After evaluating the petition, on September 28, 1988, EPA proposed to deny BWC's petition to exclude its waste from the lists of hazardous wastes. See 53 FR 37808.

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to deny an exclusion to Brush Wellman.

II. Disposition of Petition

Brush Wellman Corporation, Bedford, Ohio.

1. Proposed Denial

BWC petitioned the Agency for an exclusion of its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006. BWC petitioned to exclude its waste because it does not believe that the waste meets the criteria for which it was listed. BWC based its petition on the claim that the constituents of concern, although present in the waste, are in an essentially immobile form. Data submitted by BWC, however, fail to substantiate its claim that the listed and non-listed constituents of concern are present in an immobile form. See 53 FR 37808, September 28, 1988, for a more detailed explanation of why EPA proposed to deny BWC's petition for its wastewater treatment sludge.

2. Agency Response to Public Comments

The Agency received public comments on the proposed rule from one commenter. The commenter strongly supported the Agency's proposed decision to deny the petition, both on the grounds articulated by EPA and for a number of other reasons.

Although the commenter supported the Agency's proposed decision, the commenter expressed general concerns over EPA's use of the vertical and horizontal spread (VHS) model to evaluate delisting petitions for wastes stored in a surface impoundment. Since the Agency already has sufficient bases to deny Brush Wellman's petition, as detailed in the proposed rule, and the comments do not change the proposed decision, we did not assess whether the additional bases for denial, suggested by the commenter, should be included as part of our rationale for denying the petition. Furthermore, the issues raised by the commenter regarding the effectiveness of the VHS model, do not affect EPA's decision to deny this petition. In fact, the commenter raised similar issues on other proposed delisting rules. The Agency, therefore, did not address these comments in today's final rule.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the BWC's wastewater treatment sludge should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Brush Wellman Corporation, located in Bedford, Ohio, for its wastewater treatment sludge, described in its petition as EPA Hazardous Waste No. F006.

III. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, since this rule does not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage its waste as hazardous during the Agency's review of their petition. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The denial of this petition does not impose an economic burden on this facility since prior to submitting and during review of the petition, this facility should have continued to handle their waste as hazardous. The denial of their petition means that they are to continue managing their waste as hazardous in the manner in which they have been doing, economically and otherwise. There is no additional economic impact, therefore, due to today's rule. This rule is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

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

This amendment does not have a significant adverse economic impact on small entities. The facility included in this notice may be considered a small entity, however, this rule will only affect one facility in one industrial segment. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation does not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous Materials, Waste Treatment and Disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Date: April 20, 1989.

Jonathan Z. Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 89-10403 Filed 4-28-89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[SW-FRL-3564-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denial

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is denying a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for specified wastes generated by Weirton Steel Corporation, Weirton, West Virginia. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATE: May 1, 1989.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Room M2427, Washington, DC 20460, and is available for viewing from 9:00 a.m to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-89-WSFD-FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact Linda Cessar, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-9828.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

B. History of this Rulemaking

Weirton Steel Corporation (Weirton), located in Weirton, West Virginia, petitioned the Agency to exclude from hazardous waste control a specific waste it generates. After evaluating the petition, on September 28, 1988, EPA proposed to deny Weirton's petition to exclude its waste from the lists of hazardous wastes. See 53 FR 37803.

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to deny an exclusion to Weirton Steel.

II. Disposition of Petition

Weirton Steel Corporation, Weirton, West Virginia

1. Proposed Denial

Weirton petitioned the Agency for an exclusion of its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006. Weirton petitioned to exclude its waste because it does not believe that the waste meets the criteria for which it was listed. Weirton based its petition on the claim that the constituents of concern, although present in the waste, are in an essentially immobile form. Data submitted by Weirton, however, fail to substantiate its claim that the listed and non-listed constituents of concern are present in an immobile form. See 53 FR 37803, September 28, 1988, for a more detailed explanation of why EPA proposed to deny Weirton's petition for its wastewater treatment sludge.

2. Agency Response to Public Comments

The Agency received public comments on the proposed rule from one commenter. The commenter strongly supported the Agency's proposed decision to deny the petition, both on the grounds articulated by EPA and for a number of other reasons.

Although the commenter supported the Agency's proposed decision, the commenter expressed general concerns over EPA's use of the vertical and horizontal spread (VHS) model to evaluate delisting petitions for wastes stored in a surface impoundment. Since the Agency already had sufficient bases to deny Weirton's petition, as detailed in the proposed rule, and the comments do not change the proposed decision, we did not assess whether the additional bases for denial, suggested by the commenter, should be included as part of our rationale for denying the petition. Furthermore, the issues raised by the commenter regarding the effectiveness of the VHS model, do not affect EPA's decision to deny this petition. In fact, the commenter raised similar issues on other proposed delisting rules. The Agency did not, therefore, address these comments in today's rule.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the Weirton's wastewater treatment sludge should not be excluded from hazardous wastes control. The Agency, therefore, is denying a final exclusion to Weirton Steel Company, located in Weirton, West Virginia, for its wastewater treatment sludge, described in its petition as EPA Hazardous Wastes No. F006.

III. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, since this rule does not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage its waste as hazardous during the Agency's review of their petition. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The denial of this petition does not impose an economic burden on this facility since prior to submitting and during review of the petition, this facility should have continued to handle their waste as hazardous. The denial of their petition means that they are to continue managing their waste as hazardous in the manner in which they have been

doing, economically and otherwise. There is no additional economic impact, therefore, due to today's rule. This rule is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

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

This amendment does not have a significant adverse economic impact on small entities. The facility included in this notice may be considered a small entity, however, this rule will only affect one facility in one industrial segment. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation does not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Date: April 20, 1989.

Jonathan Z. Cannon,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 89–10402 Filed 4–28–89; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–50 and 105–68

Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants); Correction

AGENCY: General Services Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) which was published in the **Federal Register** on Tuesday, January 31, 1989 (54 FR 4962).

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad at 202–566–1224 (FTS 566–1224).

SUPPLEMENTARY INFORMATION: The action is necessary to make corrections in the Redesignation Table, and sections 105–68.313, 105–68.410, and 105–68.412 as follows:

1. Correction to be made in Redesignation Table, New section column, Subpart 101–50.3—Debarment; should read: "Subpart 105–68.3—Debarment"

2. Correction to be made in Redesignation Table, New section column, Subpart 101–50.4—Suspension; should read: "Subpart 105–68.4—Suspension"

3. Correction to be made in Redesignation Table, New section column, Subpart 101–50.5—Responsibilities of GSA, Agency and Participants; should read: "Subpart 105–68.5—Responsibilities of GSA, Agency and Participants"

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*); 40 U.S.C. 486(c).

April 20, 1989.

Ida M. Ustad,

Director, Office of GSA Acquisition, Policy and Regulations.

[FR Doc. 89–10304 Filed 4–28–89; 8:45 am]

BILLING CODE 6820–61–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–398; RM–65956]

Radio Broadcasting Services; Farwell, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 252C2 for Channel 252A at Farwell, Texas, and modifies the license of Station KLZK–FM to specify operation on the higher class co-channel, at the request of Dominion Communications, Inc. The community would receive its second wide coverage area FM service. The upgrade can be accomplished at the licensed site of Station KLZK–FM in compliance with § 73.207 of the Commission's Rules. The coordinates are 34–24–15 and 103–02–58. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 9, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–398, adopted April 10, 1989, and released April 25, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Texas, by

removing Channel 252A and adding Channel 252C2 at Farwell.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10418 Filed 4-28-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-313; RM-6375]

Radio Broadcasting Services; Eagle River, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 233C2 for Channel 232A at Eagle River, Wisconsin, and modifies the license of Station WRJO(FM) to specify operation on the higher powered channel, at the request of Nicolet Broadcasting Inc. Eagle River would receive its first wide coverage area FM service. A site restriction of 18.9 kilometers (11.7 miles) north of the city is required. The coordinates are 46-05-00 and 89-11-47. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 9, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-313, adopted April 10, 1989, and released April 25, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Wisconsin, by removing Channel 232A and adding Channel 233C2 at Eagle River.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10419 Filed 4-28-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[Federal Acquisition Circular 84-44]

Federal Acquisition Regulation (FAR); Miscellaneous Amendments; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments; correction.

SUMMARY: This document corrects FAR 31.205-6(j)(3)(i) in Federal Acquisition Circular (FAC) 84-44 published in the **Federal Register** on Wednesday, March 29, 1989 (54 FR 13022).

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755. Please cite FAC 84-44.

SUPPLEMENTARY INFORMATION: In FR Doc. 89-7370 beginning on page 13022, make the following correction on page 13024, first column, by revising the amendatory language of Item 6 to read, "section 31.205-6 is amended by revising the first sentence in paragraph (g)(2)(i); by revising the fourth sentence in paragraph (j)(2) and the first sentence of paragraph (j)(2)(i); by removing the introductory text of paragraph (j)(3)(i) and adding (j)(3)(i)(A) and (j)(3)(i)(B); by removing and reserving paragraph (j)(5); and by revising paragraph (j)(6)(i) to read as follows:" and in the second column by removing the three stars following (j)(3)(i).

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: April 21, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 89-10333 Filed 4-28-89; 8:45 am]

BILLING CODE 6820-JC-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[Docket Number 87-09; Notice 4PP]

Odometer Disclosure Requirements; Alaska

AGENCY: National Highway Traffic Safety Administration; DOT.

ACTION: Grant of petition for extension of time (Alaska).

SUMMARY: This in response to a petition for an extension of time filed by the Alaska Department of Public Safety (Alaska). Alaska cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Alaska an extension of time, until May 1990, to achieve compliance. Because Alaska has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Alaska's petition for an extension of time. Alaska has until May 1, 1990 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366-1834.

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition

should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Alaska's Petition

The Alaska Department of Public Safety (Alaska) submitted a petition for an extension of time. In support of its petition, Alaska states that because the State had nearly depleted its current supply of titles, the State directed its vendor to print a one-year supply of titles. The current title was revised in November 1988 and Alaska notes that this title was designed to meet the Federal regulatory requirements. The title is printed by a secure printing process and contains a space for the disclosure of the odometer reading. In addition, the State will note the odometer reading on the title at the time it issues the title. However, Alaska recognizes that the current title does not meet all the Federal requirements concerning disclosure. Therefore, Alaska explains that, until conforming titles are utilized, it will require a separate odometer disclosure statement, a disclosure on the title application, or additional information on the title itself. Finally, Alaska's current supply of title documents will not be depleted for approximately one year. For these reasons, Alaska requests that it be granted an extension of time until May 1990.

NHTSA's Response to the Petition

NHTSA finds that Alaska has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act, Alaska redesigned its title document and had a one-year supply printed by a secure process. This action was essential because the State had nearly depleted its supply of title documents. Recognizing that this title does not conform to the new Federal disclosure requirements, Alaska is planning to redesign its title to meet the new requirements. Alaska has submitted a sample of its current title and the State will be notified in a letter of the changes that are necessary to bring the title into compliance.

In light of Alaska's past and planned actions, and in order to allow Alaska to expend its current supply of titles documents, we grant Alaska's request for an extension of time until May 1, 1991, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10349 Filed 4-26-89; 2:15 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 400]

Odometer Disclosure Requirements; Colorado

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition of extension of time (Colorado).

SUMMARY: This is in response to a petition for an extension of time filed by the Colorado Department of Revenue, Motor Vehicle Administration, (Colorado). Colorado cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Colorado an extension of time, until January 1, 1990, to achieve compliance. Because Colorado has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Colorado's petition for an extension of time. Colorado has until January 1, 1990, to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve such compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Colorado's Petition

The Colorado Department of Revenue, Motor Vehicle Administration, (Colorado) submitted a petition for an extension of time. In support of its petition, Colorado states that it has revised its title documents in an attempt to meet the statutory and regulatory requirements. The new title incorporates several types of security features. These include high resolution printing, micro-line printing, pantograph void feature, erasure sensative background inks, and security paper. In addition, Colorado states that it believes the title includes the required disclosure on the reverse side of the title. Furthermore, Colorado states that it has reviewed its salvage receipts and reassignment forms and determined that they do not meet the new Federal requirements. (The reassignment forms include dealer and generic bills of sales and powers of attorney.) Colorado will redesign these documents and then award a contract to have them printed. Colorado notes that in order to revise the salvage receipts, it will need to change the current Colorado Rules and regulations. Colorado states that it will require a separate odometer disclosure statement for use with nonconforming title documents.

NHTSA's Response to the Petition

NHTSA finds that Colorado has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Colorado has attempted to redesign its title document to meet the Federal statutory and regulatory requirements. The title documents are now set forth by a secure printing process. However, the title does not appear to meet all the Federal regulatory disclosure requirements. Colorado will be advised by letter of the changes that are necessary. In addition, Colorado plans

to amend the current Colorado Rules and regulations to ensure that its salvage receipts meet the new requirements.

In light of Colorado's past and planned actions, we grant Colorado's request for an extension of time until January 1, 1990, to revise its laws and its titles to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10350 Filed 4-26-89; 2:15 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket No. 87-09; Notice 4MM]

Odometer Disclosure Requirements; District of Columbia

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (District of Columbia).

SUMMARY: This is in response to a petition for an extension of time filed by the District of Columbia Department of Public Works (District of Columbia). The District of Columbia cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant the District of Columbia an extension of time, until April 1990, to achieve compliance. Because the District of Columbia has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted the District of Columbia's petition for an extension of time. The District of Columbia has until April 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

District of Columbia's Petition

The District of Columbia Department of Public Works (District of Columbia) submitted a petition for an extension of time. In support of its petition, the District of Columbia states that it has reviewed its title documents and laws. Although the current title is set forth by a secure printing process and contains a space for a disclosure by a transferor, the District of Columbia states that the disclosure on the title does not meet all the regulatory requirements. The District of Columbia explains that it will draft legislation to bring its laws into compliance with the Federal odometer disclosure requirements and will submit this legislation when the legislative session begins on June 1989. In addition, the District of Columbia states that it is in the process of redesigning and reformatting its title, power of attorney forms, and dealer reassignment documents. The District of Columbia is also installing a new computer system that would permit the State to issue a title that includes an odometer reading and a notation as to whether or not the reading reflects the actual mileage or the mileage in excess of the designed mechanical limits of the odometer. This may be operational by July 1, 1989. However, the District of Columbia has a one year supply of nonconforming titles on hand which "represents a considerable financial investment". Until the current supply is depleted, the District of Columbia will require that a conforming odometer disclosure statement accompany the title document and will print the odometer reading and brand when its new system is operational. Because the current inventory of title documents will be depleted in approximately one year, the District of Columbia requests that it be granted an extension of time until April 1990.

NHTSA's Response to the Petition

NHTSA finds that the District of Columbia has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, the District of Columbia reviewed its titles, powers of attorney forms, and reassignment documents. The District of Columbia also reviewed its laws and drafted legislation to amend its laws into conformity with the Truth in Mileage Act of 1986 and NHTSA's final rule. In addition, District of Columbia has been redesigning and reformatting its titles, powers of attorney forms, and reassignment documents. A new computer system, which will help the District of Columbia to meet the new requirements, will be operational on July 1, 1989.

In light of the District of Columbia's past and planned actions, and in order to allow the District to expend its current supply of titles documents, we grant District of Columbia's request for an extension of time until April 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10351 Filed 4-26-89; 2:15 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket No. 87-09; Notice 4LL]

Odometer Disclosure Requirements; Nebraska

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (Nebraska).

SUMMARY: This is in response to a petition for an extension of time filed by the Nebraska Department of Motor Vehicles (Nebraska). Nebraska cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the

petition requests that NHTSA grant Nebraska an extension of time, until January 1, 1991, to achieve compliance. Because Nebraska has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Nebraska's petition for an extension of time. Nebraska has until January 1, 1991 to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Nebraska's Petition

The Nebraska Department of Motor Vehicles (Nebraska) submitted a petition for an extension of time. In support of its petition, Nebraska states that in 1987, Nebraska attempted to comply with the requirements of the Truth in Mileage Act by drafting and introducing legislation. This legislation was adopted with an effective date of January 1, 1989. Nebraska explains that new titles were designed, ordered, and delivered. These titles meet all the Federal disclosure requirements, with the exception of the requirement that they be set forth by a secure printing process. Nebraska states that the transferors will be required to complete the disclosure information on the title document. In addition, Nebraska states that enabling legislation has been drafted and that it will be introduced in the next Legislative Session, which convenes on January 3, 1990. This legislation will add definitions to the Nebraska statutes that are consistent with the definitions contained in the Federal regulations, authorize the State to include an odometer reading and brand on every title it issues, and exempt transferors of vehicles ten years old and older from issuing odometer disclosure statements. Nebraska plans to introduce a request for additional funds in conjunction with the legislative proposal. Nebraska states that it plans to provide training to ninety-three County Clerks who, by statute, are responsible for issuing titles. Nebraska will also assist the County Clerks in adapting their computer programs for the issuance of new titles. For these reasons, Nebraska requests that it be granted an extension of time until January 1, 1991.

NHTSA's Response to the Petition

NHTSA finds that Nebraska has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

After the enactment of the Truth in Mileage Act, Nebraska revised its title documents to include an odometer disclosure statement that it believes meets all the Federal disclosure requirements. Nebraska has included a sample title with its petition and will be notified by letter if changes are necessary. In addition, Nebraska has drafted legislation to amend its statutes to include definitions that are consistent with the Federal regulatory definitions, permit the State to issue titles that include an odometer reading and a brand as to whether or not the reading reflects the actual mileage or the mileage in excess of the designed mechanical limits of the odometer. Consistent with the Federal regulation, the legislation will also exempt transferors of vehicles ten years old and older from odometer disclosure requirements. Nebraska plans to introduce this legislation and a request for funding in the next Legislative Session, which convenes on January 3, 1990. Nebraska also plans to train its County Clerks to ensure that the title is properly completed.

In light of Nebraska's past and planned actions, we grant Nebraska's request for an extension of time until January 1, 1991, to revise its titles to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89–10353 Filed 4–26–89; 2:15 pm]

BILLING CODE 4910–59–M

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49 CFR Part 580

[Docket Number 87–09; Notice 4UU]

Odometer Disclosure Requirements; Nevada

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (Nevada).

SUMMARY: This is in response to a petition for an extension of time filed by the Nevada Department of Motor Vehicles and Public Safety (Nevada). Nevada cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Nevada an extension of time to achieve compliance. Because Nevada has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Nevada's petition for an extension of time. Nevada has until January 1, 1990 to revise its reassignment documents and until January 1, 1992 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making

reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Nevada's Petition

The Nevada Department of Motor Vehicles and Public Safety (Nevada) submitted a petition for an extension of time. In support of its petition, Nevada states that, since 1985, Nevada has printed the mileage on the face of the title at the time of issue. In addition, Nevada prohibits the same person from signing the odometer disclosure as both the transferor and transferee in the same transaction and exempts the same transferors exempted by the Federal regulation. However, Nevada states that it cannot meet all the Federal requirements. Nevada has reviewed its titles and reassignment documents and determined that they do not meet the Federal requirements. Nevada states that it plans to redesign and reprint these documents. Furthermore, Nevada believes a larger title is necessary to include all the disclosure information and that legislation may be necessary to purchase equipment that would handle a larger title. Nevada explains that it currently has a supply of titles that will last until January 1992 and a supply of reassignments documents that will last until January 1990. Nevada states that to destroy these documents would be a financial burden. For these reasons, Nevada requests that it be granted an extension of time until January 1992 to revise its title documents and January 1990 to revise its reassignment documents.

NHTSA's Response to the Petition

NHTSA finds that Nevada has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Nevada prints the mileage on the face of the title at the time of issuance. In addition, current Nevada policy prohibits a person from signing the disclosure as both the transferor and transferee in the same transaction. However, Nevada has reviewed its title and reassignment documents and determined that they do not meet the new Federal disclosure requirements. Nevada is working to redesign these documents and expects that legislation may be necessary to increase the size of the title to include all the required disclosure information.

In light of Nevada's past and planned actions, and in order to allow Nevada to expend its current supply of documents, we grant Nevada's request for an extension of time until January 1, 1990, to revise its reassignment documents and until January 1, 1992 to redesign its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10352 Filed 4-26-89; 2:15 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket No. 87-09; Notice 4QQ]

Odometer Disclosure Requirements; North Carolina

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (North Carolina).

SUMMARY: This is in response to a petition for an extension of time filed by the North Carolina Department of Transportation, Division of Motor Vehicles (North Carolina). North Carolina cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant North Carolina an extension of time, until March 1, 1990, to achieve compliance. Because North Carolina has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted North Carolina's petition for an extension of time. North Carolina has until March 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

North Carolina's Petition

The North Carolina Department of Transportation, Division of Motor Vehicles, (North Carolina), submitted a petition for an extension of time. In support of its petition, North Carolina states that it will seek amendments to existing State law with regard to the Federal disclosure requirements. In addition, North Carolina explains that, since July 1987, the State has endeavored to perfect a title document that is set forth by a secure process and has examined several versions of a secure document. North Carolina notes that it has also examined documents used to reassign the title, specifically the application for a duplicate title and the dealer reassignment forms. These forms are not currently set forth by a secure process. Because the Federal regulation requires that documents used to reassign title be set forth by a secure process, North Carolina plans to purchase, from a bank note printing company, title documents and reassignment forms that include the following security features: pantograph void feature, erasure sensitive background inks, and security paper. North Carolina has designed a separate odometer disclosure statement that will be used with all nonconforming title documents. Finally, North Carolina

asserts that destroying the existing supply of title documents could result in a loss of $47,000. For these reasons, North Carolina requests that it be granted an extension of time until March 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that North Carolina has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act, North Carolina, with the assistance of a bank note printing company, has examined its title document and reassignment forms. Because these documents are not printed by a secure printing process, as required by the Truth in Mileage Act and NHTSA's implementing regulation, North Carolina plans to incorporate security features into these documents. In addition, North Carolina has drafted and proposed legislation that would amend existing State law to conform with the new Federal disclosure requirements.

In light of North Carolina's past and planned actions, and in order to allow North Carolina to expend its current supply of titles documents, we grant North Carolina's request for an extension of time until March 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10354 Filed 4-26-89; 2:15 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket No. 87-09; Notice 4SS]

Odometer Disclosure Requirements; Oregon

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (Oregon).

SUMMARY: This is in response to a petition for an extension of time filed by the Oregon Department of Transportation, Motor Vehicles Division (Oregon). Oregon cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Oregon an extension of time, until October 1, 1991, to achieve compliance. Because Oregon has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Oregon's petition for an extension of time. Oregon has until October 1, 1991 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Oregon's Petition

The Oregon Department of Transportation, Motor Vehicles Division (Oregon) submitted a petition for an extension of time. In support of its petition, Oregon states that, currently, titles are not transferred without an odometer reading and certification. Furthermore, Oregon issues titles that indicate the odometer reading and a brand. However, Oregon recognizes that its practices and forms do not meet the new Federal regulatory requirements. Oregon states that it will seek amendments to existing State law. These amendments will include the exemption for transferors of vehicles ten years old and older as permitted by Federal law, since current law requires odometer readings on titles and registration renewals only for vehicles less than eight model years old. Oregon anticipates that these amendments will be submitted to the 1991 Legislature. In addition, Oregon explains that Oregon must revise and reprint several title documents. Changes to the title require legislative amendment. Oregon states that the legislative proposal to amend the title was proposed to the 1989 Legislature and that the State plans to reprint the titles after the legislation passes and after the current supply of titles are exhausted in early 1990. Oregon states that it will also replace other forms at that time. For these reasons, Oregon requests that it be granted an extension of time until October 1, 1991.

NHTSA's Response to the Petition

NHTSA finds that Oregon has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act, Oregon has examined its title document and reassignment forms. Oregon has determined that these documents must be amended and that the reassignment forms must be set forth by a secure process, as required by the Truth in Mileage Act and NHTSA's implementing regulation. In order to institute these changes, Oregon has drafted and proposed legislation that would amend existing State law. In addition, Oregon intends to propose would require odometer readings on titles for vehicles up to ten years old, as required by the Federal regulations. Current Oregon law does not require an odometer reading for vehicles eight years old or older. This legislation would be submitted to the 1991 Legislature and Oregon expects favorable action that would result in October 1991 implementation.

In light of Oregon's past and planned actions, and in order to allow Oregon to expend its current supply of titles documents, we grant Oregon's request for an extension of time until October 1, 1991, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Council for General Law.

[FR Doc. 89-10355 Filed 4-26-89; 2:15 pm]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket Number 87-09; Notice 4XX]

Odometer Disclosure Requirements; South Carolina

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of petition for extension of time (South Carolina).

SUMMARY: This is in response to a petition for an extension of time filed by the South Carolina Department of Highways and Public Transportation (South Carolina). South Carolina cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant South Carolina an extension of time, until July 1, 1990, to achieve compliance. Because South Carolina has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted South Carolina's petition for an extension of time. South Carolina has until July 1, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

South Carolina's Petition

The South Carolina Department of Highways and Public Transportation (South Carolina) submitted a petition for an extension of time. In support of its petition, South Carolina states that legislation was submitted to amend the South Carolina statutes to conform them to the new Federal requirements. A final vote is anticipated during the 1989 session. In addition, South Carolina reviewed its current title and determined that it does not meet all the Federal requirements. Therefore, South Carolina states that it has redesigned the disclosure and reassignment information on the reverse side of the title. Upon reordering, the title will be revised to meet the Federal requirements. South Carolina states that it anticipates some delay in distributing the forms and implementing their usage. Finally, South Carolina states that it has a six to nine month supply of titles on hand. South Carolina explains that "the loss incurred by discarding the unused supply would amount to approximately $14,000." For these reasons, South Carolina requests that it be granted an extension of time until July 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that South Carolina has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, South Carolina reviewed its title and redesigned it to meet the statutory and regulatory requirements. Legislation to amend the current State laws was drafted and introduced during the 1989 legislative session. A final vote on this legislation is expected during this session.

In light of South Carolina's past and planned actions, and in order to allow South Carolina to expend its current supply of titles documents, we grant South Carolina's request for an extension of time until July 1, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10356 Filed 4-26-89; 2:15 pm]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket Number 87-09; Notice 4NN]

Odometer Disclosure Requirements; South Dakota

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (South Dakota).

SUMMARY: This is in response to a petition for an extension of time filed by the South Dakota Department of Revenue (South Dakota). South Dakota cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant South Dakota an extension of time, until October 1, 1991, to achieve compliance. Because South Dakota has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted South Dakota's petition for an extension of time. South Dakota has until October 1, 1991 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall

ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

South Dakota's Petition

The South Dakota Department of Revenue (South Dakota) submitted a petition for an extension of time. In support of its petition, South Dakota states that in May 1988, because the State had nearly depleted its current supply of titles, the State directed its vendor to print a three-year supply of titles. South Dakota explains that due to the State's size and limited budget, a three year supply was necessary. South Dakota notes that its current title was designed to meet the Federal regulatory requirements, was printed by a secure printing process, including microline printing, erasure sensitive and fluorescent inks, and a void feature. However, South Dakota recognized that the current title does not meet all the Federal requirements concerning disclosure and redesigned its title. South Dakota states that it also redesigned its reassignment form to include the required odometer disclosure statement and plans to produce this document by a secure process when funding becomes available. With regard to the use of a power of attorney in connection with mileage disclosure, South Dakota states that it expects to print these forms, but needs to wait until it receives its new budget. For these reasons, South Dakota requests that it be granted an extension of time until October 1, 1991.

NHTSA's Response to the Petition

NHTSA finds that South Dakota has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act but before NHTSA issued the final rule of August 1988, South Dakota redesigned its title document and had a three year supply printed by a secure process. This action was essential because the State had nearly depleted its supply of title documents. Recognizing that this title does not conform to the new Federal disclosure requirements, South Dakota has redesigned its title and will be advised by letter whether the new title is acceptable. In addition, South Dakota has redesigned its reassignment form to include an odometer disclosure statement and plans to print these by a secure process when it receives a new budget. Finally South Dakota will be considering the issuance of a secure power of attorney form.

In light of South Dakota's past and planned actions, and in order to allow South Dakota to expend its current supply of titles documents, we grant South Dakota's request for an extension of time until October 1, 1991, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10357 Filed 4-26-89; 2:09 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket No. 87-09; Notice 4RR]

Odometer Disclosure Requirements; Tennessee.

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (Tennessee).

SUMMARY: This is in response to a petition for an extension of time filed by the Tennessee Department of Revenue, Motor Vehicle Division (Tennessee). Tennessee cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Tennessee an extension of time, until September 30, 1989, to achieve compliance. Because Tennessee has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Tennessee's petition for an extension of time. Tennessee has until September 30, 1989 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Tennessee's Petition

The Tennessee Department of Revenue, Motor Vehicle Division (Tennessee), submitted a petition for an extension of time. In support of its petition, Tennessee states that Tennessee had expected to be in compliance with the new Federal disclosure requirements on April 29, 1989. Tennessee reviewed its current title and, to allow more space for the additional information required by the Federal regulations, drafted legislation to eliminate the State requirement that the title be notarized. (A draft of the title has been submitted to NHTSA.) The bill to eliminate the requirement that the title be notarized was introduced but has not yet passed the legislature. Tennessee does not anticipate any opposition to this bill. Therefore, Tennessee expected to contract to purchase new title documents that would not contain a space for notarization. However, the contract to purchase forms expired. Although new specifications have been presented for bid, Tennessee states that its title documents will not be available on April 29, 1989. Finally, Tennessee has taken an inventory of its present stock of forms and determined that this supply will last until September 30, 1989. For these reasons, Tennessee requests that

it be granted an extension of time until that date.

NHTSA's Response to the Petition

NHTSA finds that Tennessee has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

To meet the requirements of the new Federal law and regulations, Tennessee reviewed its State laws and redesigned its title document. In order to include the required odometer disclosure information, Tennessee decided to delete the line on the title for the signature of the notary public. Because this signature is required by current Tennessee law, Tennessee has proposed legislation to eliminate the requirement that the title document be notarized. Tennessee has submitted the draft title which does not contain a line for the notary's signature. Tennessee will be advised by letter of the acceptability of this document.

In light of Tennessee's past and planned actions, and in order to allow Tennessee to expend its current supply of titles documents, we grant Tennessee's request for an extension of time until October 1, 1991, to revise its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10358 Filed 4-29-86; 2:09 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4TT]

Odometer Disclosure Requirements; Texas

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (Texas).

SUMMARY: This is in response to a petition for an extension of time filed by the Texas Department of Highways and Public Transportation, Division of Motor Vehicles (Texas). Texas cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Texas an extension of time, until April 29, 1990, to achieve compliance. Because Texas has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted the petition for an extension of time submitted by Texas. Texas has until April 29, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Texas's Petition

The Texas Department of Highways and Public Transportation, Division of Motor Vehicles (Texas) submitted a petition for an extension of time. In support of its petition, Texas states that it has recommended that the 71st Texas Legislature, currently in session, adopt amendments to the Texas statutes to comply with the Truth in Mileage Act. In addition, Texas explains that it has reviewed its title document and determined that it does not meet the Federal regulatory requirements. To include additional disclosure information, Texas plans to adopt a larger title document. A task force has been established to design and develop a conforming title. Texas estimates that approximately nine months are needed from the point of redesign to implementation. Texas has developed a separate odometer disclosure statement and anticipates that it will be available for use on April 29, 1989. In addition, Texas states that it will notify the public of the new disclosure requirements by designing a combination notice and supplemental disclosure statement form for use upon transfer of nonconforming titles. As soon as the form is available from the printers, it will be mailed to vehicle owners together with certificates of title and registration renewal notices. Finally, Texas states that it has a one-year supply of title documents and asserts that replacement with conforming titles prior to exhausting its current supply "will create a severe financial burden". For these reasons, Texas requests that it be granted an extension of time until March 1, 1990.

NHTSA's Response to the Petition

NHTSA finds that Texas had made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act, Texas examined its title document and, since it does not conform to the new Federal requirements, Texas established a task force to design and develop a conforming title document. Texas has also reviewed and is working to redesign other forms to comply with the Federal requirements. It has revised a separate odometer disclosure statement and plans to notify the public of the new requirements. In addition, Texas has drafted and submitted legislation to amend State law to conform with the new Federal disclosure requirements.

In light of Texas' past and planned actions, and in order to allow Texas to expend its current supply of titles documents, we grant Texas' request for an extension of time until April 29, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10359 Filed 4-26-89; 2:09 pm]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket No. 87-09; Notice 4VV]

Odometer Disclosure Requirements; Virginia

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (Virginia).

SUMMARY: This is in response to a petition for an extension of time filed by the Virginia Department of Motor Vehicles (Virginia). Virginia cannot conform its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant Virginia an extension of time, until February 1990, to achieve compliance. Because Virginia has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted Virginia's petition for an extension of time. Virginia has until February 1, 1990 to revise its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

Virginia's Petition

The Virginia Department of Motor Vehicles (Virginia) submitted a petition for an extension of time. In support of its petition, Virginia states that the extension is requested to revise and implement a fully conforming title. Although the current title is set forth by a secure process, Virginia states that it has reviewed the title and the title does not meet all the Federal disclosure requirements. Specifically, Virginia notes that the title lacks a space for the printed names of the buyer and seller. Virginia explains that it is still working to design a title that would allow a more effective, useful, and secure document for the recordation and conveyance of ownership. In addition, Virginia states that it is working to design a secure power of attorney form and secure reassignment documents. Virginia states that it plans to prepare and distribute informational bulletins to law enforcement agencies, lienholders and Virginia dealers. Finally, Virginia currently has on hand a three month supply of titles and a contractual obligation to take receipt of an additional supply. For these reasons, Virginia requests that it be granted an extension of time until February 1990.

NHTSA's Response to the Petition

NHTSA finds that Virginia has made reasonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the enactment of the Truth in Mileage Act and the issuance of the implementing Federal regulations, Virginia has reviewed its title and reassignment documents and power of attorney forms. Virginia has submitted sample documents and explains some of the changes that it anticipates. The State will be advised by letter of the acceptability of the documents and proposed changes. Virginia also plans to send informational bulletins to dealers, lienholders, and law enforcement to advise them of the new titles and forms.

In light of Virginia's past and planned actions, and in order to allow Virginia to expend its current supply of titles documents, we grant Virginia's request for an extension of time until February 1, 1990, to revise its title documents to meet the Federal criteria.

Authority: 115 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10360 Filed 4-26-89; 2:09 pm]

BILLING CODE 4910-59-M

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49 CFR Part 580

[Docket Number 87-09; Notice 4WW]

Odometer Disclosure Requirements; West Virginia

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for extension of time (West Virginia).

SUMMARY: This is in response to a petition for an extension of time filed by the West Virginia Division of Motor Vehicles (West Virginia). West Virginia cannot conform its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule implementing the Act by April 29, 1989, the effective date of the statutory and regulatory requirements. Therefore, the petition requests that NHTSA grant West Virginia an extension of time, until April 29, 1990, to achieve compliance. Because West Virginia has made an effort to meet the deadline, sets forth reasons why it has failed to do so, and has included a description of the steps to be taken while the extension is in effect, we have granted West Virginia's petition for an extension of time. West Virginia has until April 29, 1990 to revise its laws and its title documents to meet the requirements of the Truth in Mileage Act and the final rule.

FOR FURTHER INFORMATION CONTACT: Judith Kaleta, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION:

Background

Section 2(c) of the Truth in Mileage Act of 1986 authorizes the National Highway Traffic Safety Administration (NHTSA) to provide for an extension of time in the event that any State requires additional time beyond April 29, 1989, in revising its laws to meet the requirements of the Motor Vehicle Information and Cost Savings Act and the implementing regulations set forth in 49 CFR Part 580. It provides that, in granting an extension, NHTSA "shall ensure that the State is making reasonable efforts to achieve compliance."

To implement the Truth in Mileage Act and to make some needed changes in the Federal odometer laws, the agency published final rules which provide that a State may file a petition for an extension of time. The petition should discuss the efforts the State has taken to meet the deadline, the reasons why it needs additional time, the length of time desired for extension, and a description of the steps to be taken while the extension is in effect. 53 FR 29464 (1988).

West Virginia's Petition

The West Virginia Division of Motor Vehicles, (West Virginia) submitted a petition for an extension of time. In support of its petition, West Virginia states that a new administration has recently taken office and that "it does not appear that any effort was made to meet the April 29, 1989 deadline" by the previous administration. West Virginia is currently reviewing its laws, its title documents, and computer procedures. West Virginia believes that legislative action may be necessary to meet the new requirements and notes that the West Virginia Legislature will not meet until February 1990. With regard to the computer system, West Virginia states that changes will need to be made to accomodate new information and that these changes will require training. For these reasons, West Virginia requests that it be granted an extension of time until April 29, 1990.

NHTSA's Response to the Petition

NHTSA finds that West Virginia has made reaonable efforts to achieve compliance with the Motor Vehicle Information and Cost Savings Act and the implementing regulations.

Since the new West Virginia administration learned about the Federal disclosure requirements, they immediately began to review the State laws and regulation, title documents, and computer system. West Virginia recognizes that legislation may be needed to change its rules and regulations. However, the Legislature will not meet until February 1990. In addition, West Virginia anticipates that changes to the computer system are necessary to print the odometer reading and a brand at the time of issuance of the title.

In light of West Virginia's past and planned actions, we grant West Virginia's request for an extension of time until April 29, 1990, to revise its laws and its title documents to meet the Federal criteria.

Authority: 15 U.S.C. 1988 note; delegation of authority at 49 CFR 1.50(f) and 501.8(e).

Issued on April 26, 1989.

Kathleen DeMeter,

Assistant Chief Counsel for General Law.

[FR Doc. 89-10361 Filed 4-26-89; 2:09 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 11B)]

Abandonment Regulations—Costing (Revised Treatment of Return on Investment—Equipment)

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: In early 1987, the Commission in this proceeding amended its regulations governing railroad abandonments, service discontinuances, and financial assistance offers to, among other things, treat return on investment in railroad equipment (ROI-Equipment) as an economic cost rather than an avoidable cost. On appeal, the United States Court of Appeals for the District of Columbia Circuit remanded that part of this proceeding and directed the Commission to reconsider its decision. In response, the Commission issued a notice of proposed rulemaking proposing to amend its rules to place ROI-Equipment back in the avoidable cost category, 53 FR 47559, November 23, 1988. Comments were filed and have been considered. The Commission now adopts as final rules those proposed changes. In addition, some minor errors in the abandonment regulations are corrected and the rules have been modified to require that ROI-Equipment be shown separately under both the on-branch and off-branch cost categories.

EFFECTIVE DATE: The revised rules are effective on May 30, 1989.

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.)

These rule revisions will not have a significant economic impact on a substantial number of small entities. Nor will this action significantly affect either the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1152

Abandonments and discontinuances, Administrative practice and procedure, and Railroads.

Decided: April 17, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Andre concurred in the result. Vice Chairman Simmons dissented in part with a separate expression. Commissioner Lamboley dissented with a separate expression.

Noreta R. McGee,

Secretary.

For the reasons set out in the preamble, Title 49, Chapter X, Part 1152 of the Code of Federal Regulations is amended as follows:

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

1. The authority citation for Part 1152 is revised to read as follows:

Authority: 5 U.S.C. 553, 559, and 704; 11 U.S.C. 1170; 16 U.S.C. 1247(d); and 49 U.S.C. 10321, 10362, 10505, 10903, 10904, 10905, 10906, 11161, 11162, and 11163.

Subpart C—Procedures Governing Notice, Applications, Financial Assistance, and Acquisition for Public Use

2. Section 1152.22 is amended by revising paragraph (d)(1) to read as follows:

§ 1152.22 Contents of application.

* * * * *

(d) * * *

(1) Computation of the revenues attributable and avoidable costs for the line to be abandoned for the base year (as defined by § 1152.2(c) and to the extent such branch level data is available), in accordance with the methodology prescribed in §§ 1152.31 through 1152.33, as applicable, and submitted in the form called for in § 1152.36, as Exhibit 1.

* * * * *

Subpart D—Standards for Determining Costs, Revenues, and Return on Value

§ 1152.32 [Amended]

3. Paragraph (g) introductory text of § 1152.32 is amended by adding the sentence "The freight car costs shall be separated between 'return on value-freight cars' and 'freight car costs other than return on freight cars'." before the sentence beginning with the phase "The

costs assigned to a line under this subsection * * *".

4. Paragraph (g)(3)(ii) is added to § 1152.32 to read as follows:

* * * * *

(g) * * *

(3) * * *

(ii) Add 100 percent of the return on investment. Return on investment shall be determined by multiplying the current value of each type of car, developed in paragraph (g)(3)(i) of this section, by 1 minus the ratio of accumulated depreciation to the total original cost investment. This will determine the net current value for each type of car. The net current value for each type of car shall then be multiplied by the nominal rate of return calculated in § 1152.34(d) to obtain nominal return on investment for each type of car. The total return on investment shall then be calculated by deducting the projected holding gain (loss) for the forecast and/or subsidy year from the nominal return on investment for each type of car. The total return on investment for each type of car shall then be divided by total car-days for each car-type developed in paragraph (g)(1) of this section.

* * * * *

5. Paragraph (h) is added to § 1152.32 to read as follows:

* * * * *

(h) *Return on investment—locomotive (line).* The return on investment shall be calculated for each type of classification of locomotive that is actually used to provide service to the line segment. The return for the locomotive(s) used shall be calculated in accordance with the following procedure:

(1) The current replacement cost for each type of locomotive used to serve the line segment shall be based on the most recent purchase of that particular type and size locomotive by the carrier, indexed to the midpoint of the subsidy year, or an amount quoted by the manufacturer. The amount must be substantiated. This unit cost shall be multiplied by 1 minus the ratio of total accumulated depreciation to original total cost of that type of equipment owned by applicant-carrier, as shown by company records.

(2) The current nominal cost of capital shall be used in the calculation of return on investment for locomotives shall be calculated as provided in § 1152.34(d).

(3) The return on investment for each category or type of locomotive shall be the nominal return less the holding gain (loss). The nominal return is calculated by multiplying the replacement cost determined in paragraph (h)(1) of this section by the nominal rate of return determined in paragraph (h)(2) of this section. The holding gain (loss) shall be gain (loss) projected to occur during the forecast and/or subsidy year.

(4) The return on investment for each type of locomotive shall be assigned to the line segment on a ratio of the locomotive unit hours on the segment to average locomotive unit hours per unit for each type of locomotive in the system. This ratio will be developed as follows:

(i) The carrier shall keep and maintain records of the number of hours that each type of locomotive incurred in serving the segment during the subsidy period.

(ii) The railroad shall develop the system average locomotive unit hours per unit for each of the following types of locomotives; yard diesel; yard-other; road diesel; and road-other.

(iii) The ratio applied to the return on investment is calculated by dividing the hours that each type or class of locomotive is used to serve the segment, as developed in paragraph (h)(4)(i) of this section, by the system average locomotive unit hours per unit for the applicable type developed in paragraph (h)(4)(ii) of this section.

(5) The cost assigned to the segment for each type of locomotive shall be calculated by multipying the annual return on investment developed in paragraph (h)(3) of this section by the ratio(s) developed in paragraph (h)(4) of this section.

* * * * *

6. The introductory text of paragraph (n) of § 1152.32 is amended by adding the sentence "The off-branch costs developed in this section shall be separated between 'off-branch costs other than return on freight cars' and 'return on value-freight cars'." before the sentence beginning "The development of the off-branch costs shall be as follows:".

7. The introductory text of § 1152.34 is revised to read as follows:

§ 1152.34 Return on investment.

Return on investment for road property shall be computed according to the procedures set forth in this section.

* * * * *

8. Paragraphs (a) and (b) of § 1152.34 are removed and reserved for future use.

§ 1152.36 [Amended]

9. The table appearing in § 1152.36 is revised to read as:

	Base year operations	Forecast year operations	Projected subsidy year operations
Revenues attributable for:			
1. Freight originated and/or terminated on branch.			
2. Bridge traffic.			
3. All other revenue and income.			
4. Total revenues attributable (lines 1 through 3).			
Avoidable costs for:			
5. On-branch costs (lines 5a through 5k).			
a. Maintenance of way and structures.			
b. Maintenance of equipment.			
c. Transportation.			
d. General administrative.			
e. Deadheading, taxi, and hotel.			
f. Overhead movement.			
g. Freight car costs (other than return on freight cars).			
h. Return on value-locomotives.			
i. Return on value-freight cars.			
j. Revenue taxes.			
k. Property taxes.			
6. Off-branch costs.			
a. Off-branch costs (other than return on freight cars).			
b. Return on value-freight cars.			

	Base year operations	Forecast year operations	Projected subsidy year operations
7. Total avoidable costs (line 5 plus line 6).			
Subsidization costs for:			
8. Rehabilitation [1].			
9. Administration costs (subsidy year only) [2].			
10. Casualty reserve account [2].			
11. Total subsidization costs (lines 8 through 10).			
Return on value:			
12. Valuation of property (lines 12a through 12c).			
a. Working capital.	XXXX		
b. Income tax consequences.	XXXX		
c. Net liquidation value.	XXXX		
13. Nominal rate of return.	XXXX		
14. Nominal return on value (line 12 times line 13).	XXXX		
15. Holding gain (loss).	XXXX		
16. Total return on value (line 14 minus 15).	XXXX		
17. Avoidable loss from operations (line 4 minus line 7).			
18. Estimated forecast year loss from operations (line 4 minus lines 7 and 16).			
19. Estimated subsidy (line 4 minus lines 7, 11 and 16).			

[1] This projection shall be computed in accordance with § 1152.32(m).
[2] Omit in applications pursuant to §§ 1152.22 and 1152.23.

§ 1152.37 [Amended]

10. The table in § 1152.37 is amended by substituting "income tax consequences" in place of "income tax benefits" on line 12b.

[FR Doc. 89-10478 Filed 4-28-89; 8:45am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 60224-9045]

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Interim rule; extension of comment period.

SUMMARY: The National Marine Fisheries Service (NOAA Fisheries) extends the period for public comments on the interim rule governing importation of yellowfin tuna and tuna products taken in association with marine mammals. The comment period was scheduled to end on May 8, 1989, and is extended for a period of thirty days by this notice to June 7, 1989. This extension is intended to provide more time for affected foreign governments and foreign-based businesses to comment formally on the requirements of the interim rule.

DATE: Comments on the interim rule must be postmarked on or before June 7, 1989.

ADDRESS: Comments may be mailed to E.C. Fullerton, Director, Southwest Region NOAA Fisheries, 300 South Ferry Street, Room 2005, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Director, NMFS, Telephone: (213) 514-6196.

SUPPLEMENTARY INFORMATION: NOAA Fisheries published an interim rule on March 7, 1989 (54 FR 9438) setting forth requirements for nations offering yellowfin tuna and tuna products for importation into the United States. This rule responded to portions of the Marine Mammal Protection Act Amendments of 1988 (Pub. L. 100-711). The amended Act and the interim rule place requirements not only on the nations that harvest yellowfin tuna with purse seine vessels in the eastern tropical Pacific Ocean but also on nations that buy tuna from those harvesting nations and export tuna into the United States. These intermediary nations are expected to require more time to assess the impact of the new import requirements and to prepare their comments on the interim rule.

The interim rule continues in effect during the extended comment period and until superceded.

Classification: The classification statements made in the interim rule (54 FR 9438, March 7, 1989) apply also to this notice.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Marine Mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Date: April 25, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-10278 Filed 4-28-89; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Parts 611, 672, and 675

[Docket No. 80872-9052]

Foreign Fishing; Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 17 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (Gulf FMP) and Amendment 12 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (Bering FMP). Both amendments, as approved by the Secretary of Commerce (Secretary): (1) Require U.S. vessels that receive groundfish harvested from the U.S. exclusive economic zone (EEZ) adjacent to Alaska to report such receipts and transfers weekly (Gulf and Bering FMPs); (2) establish prohibited species catch (PSC) limits for groundfish species, applicable to U.S. fishing vessels delivering their catch to foreign processing vessels (JVP), and to foreign directed fishing (Bering FMP); (3) establish rock sole as a target species separate from the "other flatfish" category (Bering FMP); and (4) remove the requirement to complete a resource assessment document annually by July 1 (Bering FMP). All but the last of these changes require regulatory implementation. These regulations are necessary for the conservation and management of the groundfish resources in the EEZ off Alaska and for the orderly conduct of the groundfish fisheries.

EFFECTIVE DATE: May 26, 1989.

ADDRESSES: Individual copies of the amendments, the environmental assessment, regulatory impact review, and final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the North Pacific Fishery Management

Council, P.O. Box 103136, Anchorage, AK 99510, (telephone 907–271–2809).

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter (Fishery Management Biologist, NMFS), 907–586–7229.

SUPPLEMENTARY INFORMATION: Domestic and foreign groundfish fisheries in the EEZ off Alaska are managed in accordance with the Gulf and Bering FMPs. The FMPs were developed by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Gulf FMP is implemented by regulations appearing at 50 CFR 611.92 and Part 672 and the Bering FMP by regulations appearing at 50 CFR 611.93 and Part 675.

The Council approved Amendments 17 and 12 to the Gulf and Bering FMPs respectively for submission to the Secretary of Commerce at the June 21–24, 1988 meeting of the Council. The Secretary received Amendments 17 and 12 on August 7, 1988, and immediately began a review of them to determine their consistency with the Magnuson Act and other applicable law. The Director, Alaska Region, NMFS (Regional Director), determined that both amendments were consistent with the Magnuson Act and other applicable law and approved Amendments 17 and 12 on November 10, 1988, under his delegated authority to approve fishery management plans and plan amendments submitted by the Council.

A notice of availability of Amendments 17 and 12 was published in the **Federal Register** on August 11, 1988 (53 FR 30322) and proposed implementing regulations were published on September 6, 1988 at 53 FR 34322 (correction at 53 FR 36696; September 21, 1988). Both notices invited public review and comment on the amendment and proposed rule through October 21, 1988. Three letters of public comment were received and considered in developing this final rule. A summary of, and response to, all comments received is given below.

Description

A description of, and reasons for, each part of Amendments 17 and 12 are given in the preamble of the proposed rule. A summary follows of what is accomplished by this rule which implements Amendments 17 and 12.

1. Revised Federal Reporting Requirements (Pertaining to the Gulf and Bering FMPs)

The purpose of Amendment 17 to the Gulf FMP and this part of Amendment 12 to the Bering FMP is to assure that records of groundfish catches from the Gulf of Alaska and the Bering Sea and Aleutian Islands Management Area (BSAI area) are received at frequent enough intervals to provide fishery managers with accurate information on harvest rates. A delay of harvest data could result in exceeding catch limits or delay in reapportionment of groundfish that are surplus to the needs of domestic processors.

In 1986, a problem of delayed harvest data emerged within the domestic annual processing (DAP) sector of the groundfish industry. This sector includes domestic fishing vessels that process their catch on board or deliver it to domestic processors. At that time, the only source of DAP catch data was fish ticket reports required of fishermen within one week of sale or delivery of their catch to shore. However, DAP vessels such as catcher/processor and mothership/processor vessels normally stay at sea for lengthy periods of time. Because they did not report their catches until fish ticket submission was required, the flow of harvest data was delayed significantly.

This problem was partly resolved in 1987 when the weekly catch/receipt report requirement (§§ 672.5(a)(3) and 675.5(a)(3)) was imposed on catcher/processor and mothership/processor vessels operating in the EEZ (52 FR 8592, March 19, 1987). The part that remained unresolved pertained to vessels that were not operating in the EEZ. For example, a U.S. processing vessel operating only in waters of the State of Alaska but receiving groundfish caught in the EEZ would not be required to submit weekly catch/receipt reports. The reason for this is that the weekly reporting requirement was imposed only on vessels to which a Federal fishing permit had been issued. Vessels operating outside of the EEZ off Alaska were not required to have a Federal permit.

A management measure proposed in Amendments 17 and 12 would have closed this unintended reporting loophole by revising §§ 672.4(a) and 675.4(a) to extend the permit requirement to vessels receiving fish that were caught or harvested in the EEZ off Alaska. Subsequent to publication of the proposed rule, however, NOAA reviewed the requirement in light of the permit provision of the Magnuson Act (section 303(b)(1)), which applies only to fishing vessels fishing in the EEZ.

NOAA found no need to disapprove the proposed management measure, however. The need to gather groundfish harvesting and processing data necessary for effective conservation and management of EEZ fishery resources was apparent. The final rule differs from the proposed rule by extending existing reporting requirements rather than permit requirements. Under this extension, mothership/processors that operate outside of the EEZ and process groundfish harvested from the EEZ are required to comply with existing catcher/processor-mothership/processor reporting requirements under §§ 672.5(a)(3) and 675.5(a)(3).

To effect this change from the proposed rule, some language in the (a)(3) paragraphs of §§ 672.5 and 675.5 has been changed. For example, the word "area" in these paragraphs is clarified as "statistical area" and this term is defined in §§ 672.2 and 675.2, respectively. Other minor changes improve clarity and specificity of the required information. No new information is required that substantially changes the reporting burden previously estimated in the proposed rule. The principal and intended effect of requiring weekly receipt and product transfer reports from motherships processing groundfish caught in the EEZ remains unchanged from the proposed rule.

Specific Changes From the Proposed Rule in the Final Rule

The changes to §§ 672.4 and 675.4 in the proposed rule are deleted from the final rule since the domestic permit provision of the Magnuson Act (section 303(b)(1)) only applies to vessels fishing in the EEZ.

Under §§ 672.5 and 675.5, paragraphs (a)(3) and (a)(3)(i) have been revised to delete reference to permits and to include all processor vessels receiving fish caught in the EEZ. Also, under §§ 672.5 and 675.5, paragraphs (a)(3) (ii) and (iii) are removed to eliminate redundancy with (a)(3)(i); and paragraphs (a)(3)(iv) and (a)(3)(v) are redesignated as (a)(3) (ii) and (iii), respectively.

Under §§ 672.5 and 675.5, new paragraph (a)(3)(ii) has been changed as follows: paragraph (a)(3)(ii)(A) is new regulatory text which lists information currently required in the catch/receipt and product transfer report; new paragraph (a)(3)(ii)(B) is old paragraph (a)(3)(iv)(A), new paragraph (a)(3)(ii)(C) is old paragraph (a)(3)(iv)(B), new paragraph (a)(3)(ii)(D) is old paragraph (a)(3)(iv)(C); new paragraph (a)(3)(ii)(E) is further clarification of content in (a)(3)(ii); new paragraph (a)(3)(ii)(F) is old paragraph (a)(3)(iv)(D); new paragraph (a)(3)(ii)(G) is old paragraph (a)(3)(iv)(E); new paragraph (a)(3)(ii)(H) is old paragraph (a)(3)(iv)(F) with the word "statistical" added before the

word "area"; new paragraph (a)(3)(ii)(I) is old paragraph (a)(3)(iv)(G); and new paragraph (a)(3)(ii)(J) is old paragraph (a)(3)(iv)(H).

2. PSC Limits for Groundfish Species Applicable to JVP and Foreign Fisheries (Pertaining to the Bering FMP)

This part of Amendment 12 to the Bering FMP establishes a procedure similar to that in the Gulf FMP whereby the Secretary, in consultation with the Council, can annually specify PSC limits for groundfish species that are fully apportioned to domestic fisheries. Such PSC limits will apply to JVP and foreign fisheries. The purpose of this management measure is to resolve two problems.

The first problem concerns the biological conservation of the BSAI groundfish resource. The harvest limit, or total allowable catch (TAC) for each species, is the primary control preventing excessive fishing mortality and ultimately overfishing. When the Regional Director determines that the amount of TAC of any target species or of the "other species" category remaining during the fishing year is necessary for bycatch in either groundfish fishery, § 675.20(a)(7) requires the Secretary to prohibit further directed fishing for that species. However, when the catch of a species reaches its TAC, any further bycatches of it may not be retained and must be treated in the same manner as a prohibited species. Although the resulting discard of further bycatches of this species contributes to its total fishing mortality, the amount of additional fishing mortality from this source is not counted against or controlled by any quota or limit, and further catches are restrained only when fishing mortality will result in overfishing.

In earlier years, fishing mortality resulting from bycatch discard was an insignificant part of the total fishing mortality for any groundfish species. This would remain true if directed fishing for, and retainable bycatches of, most groundfish species continued for all or most of the fishing year. The character of Bering Sea groundfish fisheries is rapidly changing, however, with persistent increase in domestic fishing effort. This increasing fishing effort is translating into shorter periods of allowable directed fishing for key high-valued species. Decreased time for directed fishing on a species means increased time during which it will be caught as a bycatch before and after its TAC is reached. The resulting increase in bycatch discard is becoming a significant portion of the total fishing mortality for many groundfish species. If it remains unlimited, the bycatch discard rate could lead to excessive fishing mortality and increase the risk of overfishing.

The second problem concerns management of allocations among domestic and foreign fisheries. Currently, any allocation of groundfish to foreign directed fishing must also include an allocation of species that are taken as bycatch. Current regulations do not allow a foreign fishery to retain or discard bycatches of groundfish without accounting for such catches against an allocation for each species caught. The TACs of most bycatch species, however, can be fully harvested by domestic (DAP and JVP) fisheries, leaving no opportunity for allocation of these species to foreign fisheries which, under the Magnuson Act, may be allocated only amounts of the TAC that is surplus to domestic fishery needs. Therefore, if a directed foreign fishery could not avoid incidental harvest of one or more groundfish species which were expected to be fully harvested by domestic fisheries, then these species could not, under the current regulations, be allocated to the foreign fishery in any way; consequently, the foreign fishery would be foreclosed from pursuing its directed fishing allocation. In approving and implementing this part of Amendment 12, the Secretary concurs with the Council's recommended policy that a foreign nation should not necessarily forego a specified allocation of a target species due to the lack of an allocation of bycatch species.

A similar problem exists with respect to specification of groundfish for JVP. The processor preference amendments to the Magnuson Act provide for DAP priority access to allowable harvests of groundfish. This has been interpreted to mean that the specified DAP for any species is not a limit on DAP harvests if there is an unharvested amount of that species specified for JVP. The practical effect of this is similar to the foreign fishing problem in that specified amounts of a species necessary for JVP bycatches may be taken instead by DAP fisheries. Unlike the foreign fisheries, however, this event does not cause the elimination of JVP directed fishing, but it does require the discard of the JVP bycatch species for which the specified JVP apportionment has been, or will be, fully harvested by DAP fishermen.

This rule resolves these two conservation and management problems by (1) providing for a specific PSC limit on non-retainable catches in the same way that the TAC for a species limits retainable catches, and (2) providing foreign and JVP fisheries with groundfish PSC limits that are outside of the TAC and optimum yield (OY) thereby providing assurance that a specified PSC limit will be available for non-retainable bycatch purposes only, regardless of DAP priority to allocations of retainable groundfish. Groundfish catches by foreign and JVP fisheries will be counted against their respective PSC limits only after their retainable catch limits, if any, have been taken. All foreign or JVP fishing likely to take significant amounts of a prohibited groundfish species would cease when that species' PSC limit is reached, unless the limit is increased by the Secretary under inseason adjustment authority.

3. Rock Sole as a Distinct Target Species (Pertaining to the Bering FMP).

Under this management measure, the list of species in Table 1 of 50 CFR Part 675 would be expanded to include rock sole as a distinct target species. This species currently is part of the "other flatfish" category which includes eight other species. Grouping these species into one target species category was done originally because there was little commercial interest in any one species of this group and their distribution was highly intermixed. Species of the "other flatfish" category most commonly are taken as bycatch in directed fisheries for yellowfin sole. In recent years, however, a market for roe-bearing rock sole has developed in Japan. Accordingly, fishermen have developed an ability to target on this species.

The intent of this action is to accommodate the new commercial interest and targeting ability by providing for separate accounting of catch and stock abundance information. The regulatory effect of this action for fishermen would be an additional species for which catch reports would be required, and for the Council, an additional species for which TAC, DAP, JVP, TALFF, and PSC limits would be annually specified. The additional reporting requirement for fishermen is expected to be a negligible additional burden since it involves writing one additional number on weekly reporting and fish ticket forms and because catch amounts of individual species probably are recorded anyway for business purposes.

Comments Received

Three letters of comment on the proposed rule were received prior to the end of the comment period on October 21, 1988. The three commenters had similar comments, all of which related to the proposed groundfish PSC limits.

These comments are summarized and responded to below.

Comment 1: The term "minimum" in the proposed language regarding the preseason establishment of PSC limits and the inseason adjustment of PSC limits is unclear. It should be modified by criteria such as those in regulations implementing the Gulf FMP at §§ 672.20(b)(2) (i) and (ii).

Response: Incidental catches (bycatches) of species in the BSAI groundfish fisheries, regardless of whether they are prohibited, are highly variable. The bycatch of any particular species over time can be described in terms of a range of bycatch rates. Various factors such as the time of year, depth of fishing, area of fishing, and gear selectivity, will affect the actual rate of bycatch of a species that will occur. Although NOAA recognizes the highly variable nature of bycatches, it is incumbent on fishermen to maintain their bycatches of prohibited species as low as possible. The term "minimum amount necessary," in this case, means just this: The least amount absolutely necessary for prosecuting an allowable target fishery.

The determination of this minimum will be a matter of judgment on the part of the Council and the Regional Director guided by the Magnuson Act principle of being based on the best available scientific information and the socio-economic objectives of the Bering FMP. NOAA notes that it is a priority objective of the Bering FMP to "minimize the impact of groundfish fisheries on prohibited species" (Section 14.1) and that this objective takes precedence over the objective to "provide for the opportunity and orderly development of domestic groundfish fisheries." Therefore, the "minimum" language in the proposed rule is consistent with the Magnuson Act and the Bering FMP without further specification of qualifying criteria.

Comment 2: The proposed rule sets up an annual confrontation within the Council in the setting of PSC limits. It is likely that politics will influence this process and PSC limits probably will not be based solely on the best scientific information.

Response: It is a purpose of the Magnuson Act to allow all interested persons to participate in the decision-making process of fishery management through the regional fishery management councils. The Secretary will assure that the PSC limits are consistent with the Magnuson Act, the Bering FMP, and other applicable law. The Secretary is not obligated to accept the Council's recommended PSC limits if they are otherwise.

Comment 3: The proposed rule is not supported by an economic analysis of losses and gains.

Response: A combined environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) of the management measures proposed by Amendments 12 and 17 was prepared by the Council and submitted to the Secretary for review and approval. As earlier explained in § 3.4 of this document, it is impossible to precisely predict the behavior of the groundfish fisheries in the BSAI area with respect to bycatches due to the highly variable nature of bycatches and economic factors affecting the incentive to fish for certain species at different times and places. Therefore, the Council performed a qualitative analysis that outlined the basic types of costs and benefits that could be expected from the proposed rule. NOAA finds that this analysis satisfies the economic analytical requirements of Executive Order 12291 and the Regulatory Flexibility Act.

Comment 4: The preseason setting of PSC limits is discretionary. What criteria will the Secretary use to determine if a PSC limit should be established, and will they be fair to all users of the resource?

Response: Preseason specification of PSC limits will be governed by the relative amounts of groundfish apportioned to JVP fisheries in the proposed and final initial specifications notice required under § 675.20(a)(6), which provides for public comment. To the extent that the implementation of PSC limits has allocative effects, the Secretary is guided by national standard four of the Magnuson Act, which requires such allocation of fishing privileges to be fair and equitable, and reasonably calculated to promote conservation.

Comment 5: The Secretary should have to demonstrate why a PSC limit should be established. There must be a demonstrated risk of overfishing before setting a PSC limit for a species of groundfish; most BSAI groundfish species have acceptable biological catches (ABCs) in excess of their TACs.

Response: NOAA agrees that limiting the risk of overfishing is a principal reason for establishing a PSC limit. The ABC of a species is a useful guideline for determining the risk of overfishing, although exceeding the ABC of any species may not result in overfishing. In making its PSC recommendations to the Secretary, NOAA expects the Council to consider the margin between a species' ABC and TAC relative to the likely JVP and foreign bycatch of that species.

Comment 6: The proposed rule suggests that all JVP fishing stops if any PSC limit is reached. The target fisheries affected by this rule should be defined as narrowly as possible. Also, it is imperative that any inseason adjustments of PSC limits be done promptly.

Response: NOAA agrees that only those JVP or foreign fisheries that are likely to catch significant amounts of a species for which a PSC limit has been reached should be prohibited. Defining what is meant by "fishery" or "significant" will be possible only in the context of the circumstances and conditions prevailing at the time a fishery closure is contemplated. An amount of bycatch mortality may be significant to one species but not another. Fishing conditions, season, and location may be some important factors in determining whether bycatches of a species above its PSC limit are likely to be significant. Likewise, a fishery may be defined in terms of its target species, fishing gear used, location, depth or season of fishing. Generally, it is the intent of NOAA to exercise its authority to prohibit fishing due to attainment of PSC limits to minimize any negative effects on commercial fisheries consistent with the purpose of this rule.

Comment 7: It may be necessary to create PSC limits for a species by decreasing its TAC so that its TAC plus its PSC does not exceed its ABC. This can have the same practical effect as stopping a fishery short of harvesting its target species quota, or premature closure. This results in potential revenue loss to the fishery and a failure to achieve OY as required by the Magnuson Act. This could occur even when overfishing is not an issue if PSC limits become too dogmatically enforced. The extent and timeliness of the use of discretionary authority are key to meeting the twin goals of not exceeding a PSC limit while still achieving OY.

Response: The prevention of overfishing is a fundamental tenet of the Magnuson Act. The achievement of the OY or TAC, in the case of the Bering FMP, of a species depends on the condition that it, or any other species, will not become overfished. A principal purpose of the proposed rule is to prevent overfishing of a species of groundfish resulting from its bycatch in a fishery for a different species. The rule to establish PSC limits for groundfish provides the Secretary an appropriate balance between exercising discretion based on the best available information at the time and mandating the closure of fisheries due to attainment of a PSC

limit and to prevent overfishing. The Secretary exercises discretionary judgment first in the establishment of PSC limits, again in the potential adjustment of them due to reapportionments of target species, and finally, when a PSC limits is reached, in deciding whether and which JVP or foreign fishing is likely to catch significant amounts of the species for which the PSC limit is attained. In addition, the Secretary has existing inseason authority to adjust a PSC limit that is found to be incorrectly specified based on the best available scientific information relating to the biological stock status of the species in question. Balancing this discretionary authority are certain procedural requirements to assure that decisions are well founded on factual information, that the interests of all resource users are considered, and that overfishing will not occur.

Classification

The Regional Director has determined that Bering FMP Amendment 12 and Gulf FMP Amendment 17 are necessary for the conservation and management of the BSAI area and Gulf of Alaska groundfish fisheries, respectively, and that these amendments are consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment (EA) for these amendments. The Assistant Administrator for Fisheries concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Under Secretary for Oceans and Atmosphere, NOAA (Under Secretary) determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the EA/RIR/FRFA prepared by the Council. A copy of the EA/RIR/FRFA may be obtained from the Council at the address above.

The EA/RIR/FRFA prepared by the Council describes the effects this rule will have on small entities. The analysis contained in this final document is largely the same as that continued in the (initial) EA/RIR/IRFA which was summarized for each of the management measures in the proposed rule. The Under Secretary concludes that this rule will have significant effects on small entities. These effects have been discussed in the EA/RIR/FRFA, a copy of which may be obtained from the Council at the address above.

This rule contains collection of information requirements subject to the Paperwork Reduction Act. The collection of information requirements have been given approval by the Office of Management and Budget (OMB) under OMB Control Number 0648–0213.

The regulatory changes of Amendments 12 and 17 to the Bering Sea and Gulf FMPs, respectively, clarify the intent of the existing collection of information requirements by requiring reports from catcher/processor and mothership/processor vessels if they use groundfish caught within the EEZ adjacent to Alaska, regardless of whether the vessels are inside or outside of the EEZ when receiving the fish. The original regulations required reports only from vessels with Federal permits, overlooking the potential for groundfish being taken to vessels outside the EEZ which are not required to obtain such permits.

Since the original request for OMB approval included these additional vessels in its burden estimates, and neither the justification for obtaining information on groundfish from the EEZ or the contents of the reports have changed (except for minor clarifications), the amendments do not contain substantive or material modifications to the collections of information approved by OMB.

Public reporting burden for these collections of information is estimated to average 23 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of these collections, including suggestions for reducing this burden, to Steven Pennoyer, Alaska Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802; and to the Office of Management and Budget, Paperwork Reduction Project (0648–0213), Washington, DC 20503.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies failed to comment within the statutory time period.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects

50 CFR Part 611

Fisheries, Foreign fishing.

50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: April 21, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 611, 672, and 675 are amended as follows:

PART 611—[AMENDED]

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1972 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. Section 611.93 is amended by amending Table 1 in paragraph (b)(1)(ii) to add "rock sole" in the column headed "Target species."

3. Section 611.93 is amended by revising paragraph (b)(3)(ii)(A), and adding a new paragraph (b)(3)(ii)(D) to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(A) *Attainment of total allowable catch (TAC).* When the Regional Director determines that the TAC for any target species or the "other species" category is or will be achieved prior to December 31 of any year, the retention of that species or species group is prohibited and its must be treated in the same manner as a prohibited species described in §§ 611.2 and 611.11 of this part. The Secretary may allow continued fishing for groundfish, other than the species or species group for which the TAC is or will be achieved, if the amount of such species caught does not exceed the prohibited species catch (PSC) limit determined by the Regional Director as the minimum amount necessary to allow harvesting of the remaining TALFF of target species and that would not significantly risk overfishing the species or species group for which the TAC is or will be achieved.

* * * * *

(D) *Prohibited species catch (PSC) limits.* When the annual specification of the initial TALFF as required under 50 CFR 675.20(a)(6) is zero for any target

species or the "other species" category, the retention of that species or species group is prohibited and its must be treated in the same manner as a prohibited species described in §§ 611.2 and 611.11 of this part. The Secretary may allow fishing for groundfish other than the species or species group for which the TALFF is zero, providing that the incidental catch of zero-TALFF species does not exceed the PSC limit prescribed for such species in the annual specification. Prescribed PSC limits for groundfish will be determined by the Regional Director, in consultation with the North Pacific Fishery Management Council, as minimum amounts necessary to allow harvesting of the TALFF of target species and that would not significantly risk overfishing of the species or species group for which the TALFF is zero. The Secretary may adjust prescribed PSC limits within a fishing year if such limits become too low due to reapportionment of groundfish to TALFF, unanticipated harvest rates, or specifications based on erroneous information, providing that such adjustment will not significantly risk overfishing of the species or species group for which the TALFF is zero.

* * * * *

PART 672—[AMENDED]

4. The authority citation for 50 CFR Part 672 continues to read as follows:

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

5. In § 672.1, paragraph (a) is revised to read as follows:

§ 672.1 Purpose and scope.

(a) Regulations in this part implement the Fishery Management Plan for Groundfish of the Gulf of Alaska.

* * * * *

6. In § 672.2, a new definition is added in alphabetical order as follows:

§ 672.2 Definitions.

* * * * *

Statistical area means any one of the six statistical areas of the EEZ in the Gulf of Alaska defined as follows:

(1) Statistical Area 61—east of 170°0′ W. longitude and west of 159°00′ W. longitude;

(2) Statistical Area 62—east of 159°00′ W. longitude and west of 154°00′ W. longitude;

(3) Statistical Area 63—east of 154°00′ W. longitude and west of 147°00′ W. longitude;

(4) Statistical Area 64—east of 147°00′ W. longitude and west of 140°00′ W. longitude;

(5) Statistical Area 65—east of 137°00′ W. longitude and north of 54°30′ N. latitude;

(6) Statistical Area 68—east of 140°00′ W. longitude and west of 137°00′ W. longitude.

* * * * *

7. Section 672.5(a)(3), introductory text and § 672.5(a)(3)(i) are revised, paragraphs (a)(3) (ii) and (iii) are removed, and paragraphs (a)(3) (iv) and (v) are redesignated as (a)(3) (ii) and (iii), respectively, and redesignated paragraph (a)(3)(ii) is revised to read as follows:

§ 672.5 Reporting requirements.

(a) * * *

(3) *Catcher/processor and mothership/processor vessels.* The operator of any vessel of the United States who catches groundfish in, or receives groundfish caught in, the EEZ adjacent to Alaska, and who conducts processing of such groundfish on board that vessel, must, in addition to the requirements of paragraphs (a)(1) and (a)(2) of this section, meet the following requirements:

(i) Before starting and upon stopping fishing for or receiving groundfish from any statistical area, the operator of that vessel must notify the Regional Director, through such means as the Regional Director will prescribe, of the vessel's name, permit number (if applicable), radio call sign, date and hour in Greenwich Mean Time (GMT) of when fishing for or receiving groundfish will begin or cease, and the latitude and longitude of such activity.

(ii) *Catch/receipt and product transfer report.* After notification of starting fishing by a vessel under paragraph (a)(3)(i) of this section, and continuing until that vessel's entire catch or cargo of fish has been offloaded, the operator of that vessel must submit a weekly catch/receipt and product transfer report, including reports of zero tons caught or received, for each weekly period, Sunday through Saturday, g.m.t., or for each portion of such period. The catch/receipt and product transfer report must be received by the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe. This report must contain the following information:

(A) Submitter's name, telephone number, and facsimile or telex number;

(B) Name and radio call sign of vessel;

(C) Federal permit number, if applicable;

(D) Month and number of days fished or during which fish were received;

(E) The ending date (Saturday) of the reporting period;

(F) The estimated round weight of all fish caught or received by that vessel during the reporting period by species or species group, rounded to the nearest one-tenth of a metric ton (0.1 mt), whether retained, discarded, or off-loaded;

(G) The number of cartons of fish product, and the estimated unit net weight, in kilograms or pounds, of the cartons of processed fish by species or species group produced by that vessel during the reporting period;

(H) The statistical area in which each species or species group was caught;

(I) If any species or species group were caught in more than one statistical area during a reporting period, the estimated round weight of each, to the nearest 0.1 mt by statistical area; and

(J) The product weight, rounded to the nearest 0.1 mt and the number of cartons transferred or off-loaded by product type and by species or species group.

* * * * *

PART 675—[AMENDED]

8. In § 675.1, paragraph (a) is revised to read as follows:

§ 675.1 Purpose and scope.

(a) Regulations in this part implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

* * * * *

9. In § 675.2, a new definition is added in alphabetical order as follows:

§ 675.2 Definitions.

* * * * *

Statistical area means any one of the nine statistical areas of the Bering Sea and Aleutian Islands Management Area defined as follows (Figure 2):

(a) Statistical Area 511—south of 58°00′ N. latitude and east of 165°00′ W. longitude;

(b) Statistical Area 512—that part of Statistical Area 511 that is south of 58°00′ N. latitude, east of 162°00′ W. longitude and west of 160°00′ W. longitude;

(c) Statistical Area 513—south of 58°00′ N. latitude, west of 165°00′ W. longitude, east of 170°00′ W. longitude, and north of straight lines connecting the following coordinates in the order listed: 55°46′ N. 170°00′ W., 54°30′ N. 167°00′ W., 54°30′ N. 165°00′ W.;

(d) Statistical Area 514—north of 58°00′ N. latitude and east of 170°00′ W. longitude;

(e) Statistical Area 515—south of straight lines connecting the following coordinates in the order listed: 55°46′ N. 170°00′ W., 54°30′ N. 167°00′ W., 54°30′ N. 165°00′ W. and east of 170°00′ W. longitude;

(f) Statistical Area 521—that part of Statistical Area 522 bounded by straight lines connecting the following coordinates in the order listed: 55°46′ N. 170°00′ W., 59°25′ N. 179°20′ W., 60°00′ N. 179°20′ W., 60°00′ N. 171°00′ W., 58°00′ N. 171°00′ W., 58°00′ N. 170°00′ W., and 55°46′ N. 170°00′ W.

(g) Statistical Area 522—north of 55°00′ N. latitude, west of 170°00′ W. longitude, and east of 180°00′ longitude;

(h) Statistical Area 530—north of 55°00′ N. latitude, and west of 180°00′ longitude;

(i) Statistical Area 540—south of 55°00′ N. latitude, and west of 170°00′ W. longitude.

10. In § 675.5, the introductory text of paragraph (a)(3) and paragraph (a)(3)(i) are revised paragraphs (a)(3)(ii) and (iii) are removed and paragraphs (a)(3)(iv) and (v) are redesignated as (a)(3)(ii) and (iii), respectively, and redesignated paragraph (a)(3)(ii) is revised to read as follows:

§ 675.5 Reporting requirements.

(a) * * *

(3) *Catcher/processor and mothership/processor vessels.* The operator of any vessel of the United States who catches groundfish in, or receives groundfish caught in, the EEZ adjacent to Alaska, and who conducts processing of such groundfish on board that vessel, must, in addition to the requirements of paragraphs (a)(1) and (a)(2) of this section, meet the following requirements:

(i) Before starting and upon stopping fishing for or receiving groundfish from any statistical area, the operator of that vessel must notify the Regional Director, through such means as the Regional Director will prescribe, of the vessel's name, permit number (if applicable), radio call sign, date and hour in Greenwich Mean Time (GMT) of when fishing for or receiving groundfish will begin or cease, and the latitude and longitude of such activity.

(ii) *Catch/receipt and product transfer report.* After notification of starting fishing by a vessel under paragraph (a)(3)(i) of this section, and continuing until that vessel's entire catch or cargo of fish has been offloaded, the operator of that vessel must submit a weekly catch/receipt and product transfer report, including reports of zero tons caught or received, for each weekly period, Sunday through Saturday, GMT, or for each portion of such period. The catch/receipt and product transfer report must be received by the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe. This report must contain the following information:

(A) Submitter's name, telephone number, and facsimile or telex number;

(B) Name and radio call sign of vessel;

(C) Federal permit number, if applicable;

(D) Month and number of days fished or during which fish were received;

(E) The ending date (Saturday) of the reporting period;

(F) The estimated round weight of all fish caught or received by that vessel during the reporting period by species or species group, rounded to the nearest one-tenth of a metric tron (0.1 mt), whether retained, discarded, or off-loaded;

(G) The number of cartons of fish product, and the estimated unit net weight, in kilograms or pounds, of the cartons of processed fish by species or species group produced by that vessel during the reporting period;

(H) The statistical area in which each species or species group was caught;

(I) If any species or species group were caught in more than one statistical area during a reporting period, the estimated round weight of each, to the nearest 0.1 mt by statistical area; and

(J) The product weight, rounded to the nearest 0.1 mt and the number of cartons transferred or off-loaded by product type and by species or species group.

* * * * *

11. Section 675.20 is amended by revising Table 1 in paragraph (a)(1) to remove outdated references and to include "Rock Sole" between "Arrowtooth Flounder" and "Other Flatfishes" in the column headed "Species."

§ 675.20 [Amended]

(a) * * *

(1) * * *

TABLE 1. GROUNDFISH SPECIES AND SPECIES GROUPS ASSIGNED TOTAL ALLOWABLE CATCH (TAC), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF) IN THE BERING SEA (BS) AND THE ALEUTIAN ISLAND AREA (AI) SEPARATELY, OR BOTH AREAS COMBINED (BASI) ON AN ANNUAL BASIS.[1]

Species	Species code	Areas
Pollock	701	BS and AI
Pacific ocean perch	780	BS and AI
Other rockfish	849	BS and AI
Sablefish	703	BS and AI
Pacific cod	702	BSAI
Yellowfin sole	720	BSAI
Greenland turbot	721	BSAI

TABLE 1. GROUNDFISH SPECIES AND SPECIES GROUPS ASSIGNED TOTAL ALLOWABLE CATCH (TAC), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF) IN THE BERING SEA (BS) AND THE ALEUTIAN ISLAND AREA (AI) SEPARATELY, OR BOTH AREAS COMBINED (BASI) ON AN ANNUAL BASIS.[1]—Continued

Species	Species code	Areas
Arrowtooth flounder	118	BSAI
Rock sole		BSAI
Other flatfish	129	BSAI
Atka Mackerel		BSAI
Squid		BSAI
Other species		BSAI

[1] The actual values for TAC, DAP, JVP reserve and TALFF for each species and species group are published annually in the FEDERAL REGISTER. See the "List of CFR Sections Affected in January and February issues of the FEDERAL REGISTER.

12. Section 675.20 is amended by revising the heading of paragraph (a); by redesignating paragraphs (a)(6), (a)(7), (a)(8), (a)(9) and (a)(10) as paragraphs (a)(7), (a)(8), (a)(9), (a)(10) and (a)(12) respectively; by revising new paragraphs (a)(10) and (a)(12); by adding new paragraphs (a)(6), (a)(11) and (b)(1)(iv); and by revising paragraph (b)(2) to read as follows:

§ 675.20 General limitations.

(a) *Harvest limits.*

* * * * *

(6) *Prohibited species catch (PSC) limits.* When the Secretary determines, after consultation with the Council, that the TAC for any species or species group in any fishing year will be harvested by fishing vessels of the United States, the Secretary may specify PSC limits for that species or species group applicable to JVP and TALFF fisheries. Species for which a PSC limit has been specified under this paragraph shall be treated in the same manner as prohibited species under paragraph (c) of this section. Any PSC limit specified under this paragraph may not exceed an amount determined by the Regional Director to be the minimum amount necessary to harvest a groundfish species or species group for which there is a JVP or TALFF apportionment and which will not result in overfishing of the species for which the PSC limit is specified. The Regional Director will account for the JVP or TALFF catch of a species against an applicable PSC limit after any retainable JVP or TALFF amounts of that species have been taken and notice has been given under

paragraph (a)(9) of this section that the JVP or TALFF fishery must treat that species as a prohibited species.

* * * * *

(10) If the Regional Director determines that directed fishing for groundfish other than the species for which the TAC is achieved, as determined under paragraph (a)(9) of this section, may lead to overfishing of this species, the Secretary will, in the notice required by that paragraph, also limit such directed fishing for other groundfish by any method, including area closures, gear restrictions, or prohibition of directed fishing, that will prevent overfishing of the species for which the TAC is achieved.

(11) When the Regional Director determines that a PSC limit applicable to a JVP or TALFF fishery for a groundfish species has been or will be reached, the Secretary will publish a notice in the **Federal Register** prohibiting any further receipt of domestically-harvested fish by foreign vessels or TALFF fishing which is likely to catch significant amounts of the species for which the PSC limit has been or will be reached for the remainder of the fishing year.

(12) When making the determinations specified under paragraphs (a) (8), (9), (10) and (11) of this section, the Regional Director may consider allowing fishing to continue or resume with certain gear types or in certain areas and times based on findings of:

(i) The risk of biological harm to groundfish for which the TAC or PSC limit will be or has been achieved;

(ii) The risk of socioeconomic harm to authorized users of the groundfish for which the TAC or PSC limit will be or has been achieved; and

(iii) The negative effect of prohibitions or restrictions authorized under paragraphs (a) (8), (9), (10) and (11) of this section on the socioeconomic well-being of other domestic fisheries.

(b) * * *

(1) * * *

(iv) *Adjustments of PSC limits.* When the Secretary apportions or reapportions groundfish under paragraph (b)(1) of this section, the Secretary may, by notice in the **Federal Register**, increase proportionately any applicable PSC limit of a species or species group if such increase will not result in overfishing of that species or species group. Any adjusted PSC limit may not exceed the amount determined by the Regional Director to be the minimum amount necessary to harvest the groundfish species or species group affected by the apportionment or reapportionment.

(2) *Procedure.* (i) The Secretary will provide all interested persons an opportunity to comment on the proposed apportionments, retentions or PSC limit adjustments under paragraph (b)(1) of this section before such apportionments, retentions or adjustments are made, unless he finds that there is good cause for not providing a prior comment opportunity, and publishes the reasons therefore in the notice of apportionment, retention or adjustment. No apportionment, retention or PSC limit adjustment may take effect until it has been published in the **Federal Register** as a notice with a statement of the findings upon which the apportionment, retention or adjustment is based. Comments provided for in this paragraph must be received by the Secretary not later than 5 days before April 1, June 1, and August 1, or other dates that may be specified. If the Secretary determines for good cause that a notice of apportionment, retention or PSC limit adjustment must be issued without providing interested persons a prior opportunity for public comment, comments on the apportionment, retention or adjustment will be received for a period of 15 days after its effective date. The Secretary will consider all timely comments in deciding whether to make a proposed apportionment, retention or PSC limit adjustment or to modify an apportionment, retention or adjustment that previously has been made, and shall publish responses to those comments in the **Federal Register** as soon as practicable.

(ii) Comments provided for in paragraph (a)(7) and (b)(2)(i) of this section should be addressed to Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802. The Regional Director will make available to the public during business hours the aggregate data upon which any preliminary TAC, DAH, TALFF, or PSC limit figure is based or the data upon which any apportionment or retention of surplus DAH or reserve, or PSC limit adjustment, was or is proposed to be based at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska. These data will be available for a sufficient period to facilitate informed comment by interested persons.

* * * * *

[FR Doc. 89-10042 Filed 4-26-89; 1:47 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 81132-9033]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the portion of the total allowable catch (TAC) of sablefish allocated to trawl gear in the Southeast Outside/East Yakutat District of the Gulf of Alaska has been reached. The Secretary of Commerce (Secretary) is prohibiting further retention of sablefish by trawl vessels fishing in this district from 12:00 noon, Alaska Daylight Time (a.d.t.), on April 25, 1989 through December 31, 1989.

DATES: This notice is effective from 12:00 noon, a.d.t., on April 25, until midnight, Alaska Standard Time (a.s.t.) December 31, 1989.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker, Fishery Management Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR Part 672. Section 672.20(a) of the regulations establishes an optimum yield range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. The TACs for target species and species groups are specified annually and apportioned among the regulatory areas and districts.

Section 672.24(b)(1) restricts the trawl catch of sablefish in the Eastern Regulatory Area to five percent of the TAC. The sablefish TAC in the Eastern Regulatory Area is divided between two districts, one of which is the Southeast Outside/East Yakutat District. The 1989 TAC specified for sablefish TAC in the Southeast Outside/East Yakutat District is 5,980 mt (54 FR 6524, February 13, 1989); five percent of the TAC in this district is 300 mt. Under § 672.24(b)(3)(ii), if the share of the sablefish TAC assigned to any type of gear for any area or district is reached, further catches of sablefish must be treated as prohibited species by persons

using that type of gear for the remainder of the year. Sablefish are caught incidentally by vessels using trawl gear while fishing for other groundfish species. The Regional Director reports that 120 mt of sablefish have been harvested by catcher/processor vessels through April 15, 1989. Current daily catch rates by these vessels are as high as 40 mt per day. At this catch rate, the balance of the 300 mt allocated to trawl vessels will be harvested by 12:00 noon, a.d.t., April 25, 1989.

Therefore, pursuant to § 672.24(b)(3)(ii), the Secretary is prohibiting further retention of sablefish caught with trawl gear in the Southeast Outside/East Yakutat District effective 12:00 noon, a.d.t., April 25, 1989. After that date, any sablefish caught with trawl gear must be treated as prohibited species and discarded at sea. Allocation of the sablefish resource between hook-and-line and trawl gear in the Southeast Outside/East Yakutat District and the continued health of all components of the sablefish fishery will be jeopardized unless this notice takes effect promptly. NOAA therefore finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. Public comments on the necessity for this action are invited for a period of 15 days after the effective date of this notice. Public comments on this notice of closure may be submitted to the Regional Director at the address above until May 10, 1989. If written comments are received that oppose or protest this action, the Secretary will reconsider the necessity of this action, and, as soon as practicable after that reconsideration, will publish in the **Federal Register** a notice either of continued effectiveness of the adjustment, responding to comments received, or modifying or rescinding the adjustment.

Classification

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

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: April 25, 1989.

Alan Dean Parsons,

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

[FR Doc. 89-10264 Filed 4-25-89; 3:06 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 82
Monday May 1, 1989

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. 89-065]

Sharwil Avocados From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of comment period for proposed rule; notice of public hearing.

SUMMARY: In a document published in the **Federal Register** on March 7, 1989, we proposed to amend the Hawaiian Fruits and Vegetables regulations to allow interstate movement pursuant to certificates of untreated Sharwil avocados from Hawaii to any destination. In response to requests from commenters, we are scheduling a public hearing on the proposed rule to be held in Los Angeles, California. We are also extending the comment period on the proposed rule.

DATES: Consideration will be given only to comments received on or before June 1, 1989. The public hearing will be held on May 17, 1989, in Los Angeles, California.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87-092. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

The public hearing will be held on May 17, 1989, at the Viscount Hotel, 9750 Airport Boulevard, Los Angeles, California 90045.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Griffin, Staff Officer, Port Operations, PPQ, APHIS, USDA, Room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8645.

SUPPLEMENTARY INFORMATION:

Background

The Hawaiian Fruits and Vegetables regulations (contained in 7 CFR 318.13 through 318.13-17 and referred to below as the regulations), among other things, govern the interstate movement from Hawaii of avocados in a raw or unprocessed state. Regulation is necessary to prevent spread of the Mediterranean fruit fly (*Ceratitis capitata* (Wied.)), the melon fly (*Dacus cucurbitae* (Coq.)), and the Oriental fruit fly (*Dacus dorsalis* (Hendel)). These fruit flies, commonly referred to as "Trifly," infest Hawaii but not the rest of the United States.

On March 7, 1989, we published in the **Federal Register** (54 FR 9453-9455, Docket No. 87-092) a proposal to amend the regulations to allow interstate movement pursuant to certificates of untreated Sharwil avocados from Hawaii to any destination based on compliance with certain harvesting and handling provisions. The proposal solicited comments postmarked or received by May 8, 1989.

Public Hearing and Extension of Comment Period

In response to a request from counsel for the California Avocado Commission, we are scheduling a public hearing on the proposed rule. We are also extending the comment period on the proposed rule for an additional 24 days to allow consideration of comments received at or in response to the public hearing.

The public hearing will be held in Los Angeles, California. A representative of the Animal and Plant Health Inspection Service (APHIS) will preside at the public hearing. Any interested person may appear and be heard in person, by attorney, or by other representative. A representative of the Agricultural Research Service (ARS) will also speak at the public hearing, presenting a summary of the research on Sharwil avocados and Trifly that provides the basis for the proposed rule.[1]

The public hearing will begin at 10 a.m. and is scheduled to end at 5 p.m. local time. However, the hearing may be terminated at any time after it begins if all persons desiring to speak have been heard. We request that all persons attending the public hearing register with the presiding officer, and fill out a speakers' registration card if they wish to speak, on the morning of the hearing between 9 a.m. and 10 a.m. at the hearing room. Registered speakers will be heard in the order of their registration. Anyone else who wishes to speak at the hearing will be heard after the registered speakers. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing.

If the number of registered speakers and other participants at the hearing warrants it, the presiding officer may limit the time for each presentation so that everyone wishing to speak has the opportunity.

The purpose of the hearing is to give interested persons an opportunity for oral presentation of data, views, and arguments. Questions about the scientific research on Sharwil avocados and Trifly that provides the basis for the proposed rule may be addressed to the ARS representative at the hearing. Questions about the content of the proposed rule may be part of the commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS or ARS will respond to comments at the hearing, except to clarify or explain provisions of the proposed rule.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167; 7 CFR 2.17, 2.51, and 371.2(c).

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[1] The initial ARS research was conducted during Hawaii's January-March 1985 harvesting season on 38,241 Sharwil avocados. At our request, ARS continued the study until February 1987. A total of 114,112 Sharwil avocados were ultimately inspected during the 24-hour post-picking period. No Trifly eggs or larvae were found. Documents concerning the ARS research may be obtained from Mr. Robert Griffin, Staff Officer, Port Operations, PPQ, APHIS, USDA, Room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8645. Note: The contact person for this information has been changed since publication of the proposed rule.

Done at Washington, DC, this 26th day of April 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-10389 Filed 4-28-89; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590 (102 Stat. 2989), enacted November 3, 1988, amends the Small Business Act (15 U.S.C. 636) to authorize a Certified Lenders Program (CLP). This proposed rule would implement the statutory provision.

DATE: Comments must be submitted on or before May 31, 1989.

ADDRESS: Comments may be mailed to: Charles R. Hertzberg, Deputy Associate Administrator for Financial Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, (202) 653-6574.

SUPPLEMENTARY INFORMATION: For almost ten years, SBA has administratively operated a Certified Lenders Program (CLP) for selected participating lenders. Approximately 670 participating lenders are Certified Lenders presently. Certified Lenders are subject to all the rules and regulations applicable to participating lenders generally. The basic distinction between regular processing and CLP processing is that the SBA is committed to review and respond to CLP applications in three business days. CLP lenders may use regular processing when necessary. The branch and district offices are directed to focus their attention immediately on CLP applications while regular applications, even from CLP lenders, are processed by SBA in the order they are received by such offices.

Section 102 of Pub. L. 100-590 (102 Stat. 2989) authorizes the SBA to establish the CLP in a more formal posture. Accordingly, the SBA is proposing this rule to implement the statutory change.

The proposed regulation would be placed in a new Subpart E to follow the present subpart which covers the Preferred Lenders Program (PLP). Proposed § 120.500 sets forth Congressional intent to establish a CLP in which lenders may submit applications to SBA for a guaranty and the SBA reviews such applications with a three business day turnaround.

Proposed § 120.501 would contain definitions of terms and words to be used in the CLP regulations. Proposed § 120.502 would explain the procedure by which a participating lender becomes a Certified Lender. An SBA branch, district or regional office may initiate the process, but two approvals are required for the nomination to be effective. Thus, the SBA regional administrator must agree with the SBA district director before the latter could execute an agreement with the participating lender. If the regional administrator and the district director disagree, they must send their recommendations to SBA Central Office for final decision by the Associate Administrator for Finance and Investment. This procedure ensures that the nomination would get a full and complete review.

Proposed § 120.502-2 would present the factors which SBA will consider in evaluating a recommendation that a participating lender be a Certified Lender. These include whether the lender has a proven ability to serve the credit needs of the small business community; whether the lender has a history of submitting to SBA complete, accurate and adequately analyzed loan guaranty application packages; whether the lender has shown the ability to work with the local SBA office and whether it has the ability to process, close, service or liquidate SBA loans; whether the lender has an SBA purchase rate that is acceptable to the local and regional SBA offices; whether the lender is prepared to commit at least 40 percent of its loan guaranty applications through CLP procedures; whether the lender has well-trained, qualified officers who are well-versed in SBA's lending policies. These criteria are general in order to allow SBA to take into account the wide variety of economic conditions and banking systems throughout the United States.

The thrust of CLP is to rely on the expertise of the Certified Lender's loan officers so that SBA can make informed reviews within a three-day period. That is why a lender must demonstrate its expertise before SBA can designate it as a Certified Lender. Proposed § 120.503 would state that all the general provisions in Part 120 relating to the operations of participating lenders would continue to apply to Certified Lenders. The main distinction between participating lenders as a group and Certified Lenders is that SBA will make a good faith attempt to review a CLP application within three business days. However, SBA's failure to meet this time frame has no effect on whether or not the CLP loan will be approved.

Public Law 100-590 provides that SBA has the authority to suspend or revoke the designation of a lender as a Certified Lender if SBA determines that the lender is not adhering to SBA rules and regulations or that the lender's purchase rate is excessive compared to other lenders. SBA believes that this authority already exists in present § 120.305 of its regulations (13 CFR 120.305) which is incorporated into this subpart by proposed § 120.500(b).

For purposes of the Regulatory Flexibility Act (5 U.S.C. § 605(b)), SBA certifies that this rule, if promulgated in final form, will not have a significant economic impact on a substantial number of small entities because the program is operational presently and these proposed regulations do not change the existing program. Similarly, SBA certifies that this proposed rule does not constitute a major rule for the purposes of Executive Order 12291, since its promulgation is not likely to result in an annual effect on the economy of $100 million or more.

This proposed rule, if promulgated in final form, would impose no additional reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 120

Loan programs/business.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)) and section 136 of Pub. L. 100-590 (102 Stat. 2989), SBA proposes to amend Part 120, Chapter I, Title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a) and (h).

2. A new Subpart E is added to read as follows:

Subpart E—Certified Lenders Programs

Sec.

120.500 Objective and characteristics of certified lenders program.
120.501 Definitions as used in this subpart.
120.502 Eligibility of certified lender.
120.502-1 Procedures.
120.502-2 Factors which SBA shall consider.

Subpart E—Certified Lenders Programs

§ 120.500 Objective and characteristics of certified lenders program.

(a) *Purpose.* The purpose of this subpart is to implement the intent of Congress as expressed in 15 U.S.C. 363(a)(19) to authorize designated Financial Institutions, hereinafter called Certified Lenders, to undertake loan processing, servicing, collection and liquidation functions and responsibilities with respect to SBA guaranteed loans with quick response time assured by SBA in approving loan applications.

(b) *Characteristics.* SBA will process a loan submitted under this program within three business days, but SBA's failure to meet this time frame will have no effect on whether or not such loan will be approved. All other rules in this Part 120 relating to the operations of participating lenders shall apply to Certified Lenders.

§ 120.501 Definitions as used in this subpart.

(a) "Act" means the Small Business Act, 15 U.S.C. 631, *et seq.*

(b) "Administrator" means the Administrator of the Small Business Administration.

(c) "Certified Lender" means a Financial Institution (as defined in § 120.2–4 of these regulations) which has met the eligibility requirements prescribed in this Subpart and which has executed with SBA and CLP Supplemental Guaranty Agreement (SBA Form 1186).

(d) "CLP" means the Certified Lenders Program.

(e) "SBA" means the Small Business Administration.

§ 120.502 Eligibility of certified lender.

§ 120.502–1 Procedures.

Nominations of a Financial Institution to be a Certified Lender may begin at the SBA branch, district or regional office, and two approvals are necessary for the nomination to be effective. If the district director and the regional administrator agree to certify a lender, the district director may certify the lender by executing with the Financial Institution the Supplemental Guaranty Agreement (SBA Form 1186). Before it can operate as a Certified Lender, the Financial Institution must execute such Supplemental Guaranty Agreement. If the regional administrator and the district director do not agree, each office shall transmit their recommendation to SBA Central Office where the Associate Administrator for Finance and Investment shall make the final decision.

§ 120.502–2 Factors which SBA shall consider.

In making the determination of whether a Financial Institution shall be a Certified Lender, SBA shall consider, but is not limited to, the following factors:

(a) Whether the Financial Institution has a proven ability to serve the credit needs of the small business community.

(b) Whether the Financial Institution has a history of submitting to SBA complete, accurate and adequately analyzed loan guaranty application packages.

(c) Whether the Financial Institution has shown the ability to work with the local SBA office in a cooperative and constructive manner.

(d) Whether the Financial Institution has the ability to process, close, service and liquidate SBA loans.

(e) Whether the Financial Institution has an SBA purchase rate that is acceptable to the local and regional SBA offices.

(f) Whether the Financial Institution is prepared to commit at least 40 percent of its loan guaranty applications through CLP procedures.

(g) Whether the Financial Institution has well-trained, qualified loan officers who are well-versed in SBA's lending policies and procedures.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

Dated: February 10, 1989.

James Abdnor,

Administrator.

[FR Doc. 89–10190 Filed 4–28–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 061CE, Notice No. 23–ACE–44]

Special Conditions; Dornier Seastar CD–2 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Claudius Dornier Seastar GmbH and Company Model CD–2 Series amphibian airplanes. These airplanes will have novel and unusual design features when compared to the state of technology envisaged in the applicable airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. The novel and unusual design features include the use of advanced composite materials for primary flight structure, the location of the engines and propellers, protection from lightning and high energy radio frequency, and emergency flotation equipment for which the regulations do not contain adequate or appropriate safety standards. This notice contains the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that envisioned in the applicable regulations.

DATE: Comments must be received on or before August 29, 1989.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, ACE–7, Attention: Rules Docket Clerk, Docket No. 061CE, 601 East 12th Street, Kansas City, Missouri 64106; or delivered in duplicate to: Room 1558, 601 East 12th Street, Kansas City, MO. All comments must be marked: Docket No. 061CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the development of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action on this proposal. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 061CE". The postcard will be date stamped and returned to the commenter. The proposals contained in

this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background

On November 18, 1986, Claudius Dornier Seastar GmbH and Company made application for a type certificate through the Luftfahrt Bundesamt (LBA) to the FAA Brussels Office for the Seastar Model CD–2 airplane. At the time of application, commuter airworthiness requirements were not incorporated into Part 23 and certification for 12 passenger airplanes would require Part 25 airworthiness standards.

The commuter category airworthiness requirement which permits a seating configuration, excluding pilot seats, of 19 or less, was incorporated into Part 23 by amendment 23–34, which became effective February 17, 1987. Claudius Dornier then made a new application for U.S. type certificate on July 31, 1987 for Part 23 commuter category.

The Dornier Seastar Model CD–2 is a high wing twin-engine amphibian airplane with turboprop engines that are mounted on the center-top of the parasol wing in a tandem push-pull arrangement. The airframe structure utilizes composite materials. The maximum gross weight is 10,141 lbs. with a seating configuration of 12 passengers.

Type Certification Basis

The type certification basis for the Dornier Seastar Model CD–2 airplane is as follows: Part 21 of the Federal Aviation Regulations (FAR), § 21.29; Part 23 of the FAR, effective February 1, 1965, including amendments 23–1 through 23–34; Special Federal Aviation Regulation (SFAR) No. 27, effective February 1, 1974, as amended by amendments 27–1 through 27–6; Part 36 of the FAR, effective December 1, 1969, as amended by amendments 36–1 through amendment effective on the date of type certification; exemptions, if any; and any special conditions resulting from this notice.

Discussion

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator funds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, § 21.17(a)(2).

The proposed type design of the Seastar Model CD–2 airplane contains a number of novel or unusual design features not envisaged by the applicable Part 23 airworthiness standards. Special conditions are considered necessary because the airworthiness requirements of Part 23 do not contain adequate or appropriate safety standards for the novel and unusual design features of the Seastar Model CD–2 airplane.

Composite Structure

The airframe of the Seastar Model CD–2 airplane is made of composite material and is assembled differently from the typical semi-monicoque aluminum airframes that have been predominant since the early 1940's. Composite materials of the type used on the Seastar Model CD–2 airplane are generally not susceptible to initiation of fatigue cracks by the application of repetitive loads, but are susceptible to damage in the form of cracks, breaks, and delaminations from intrinsic and discrete sources growing under application of repetitive loads. Because of this and other factors, the FAA has determined that the fatigue requirements of § 23.572 are inadequate to assure that composite material structure can withstand the repeated loads of variable magnitude expected in service.

The use of advanced composite materials and extensive bonding of these materials in primary flight structure is a novel and unusual design feature with respect to the type of airplane construction envisaged by the existing airworthiness standards of Part 23. Because the requirements of Part 23 do not require the level of substantiation necessary for composite material structure, a special condition is proposed to include the necessary airworthiness standards as a part of the type certification basis for the Seastar Model CD–2 airplane. This special condition is proposed to ensure that a level of safety exists for airplanes made from bonded composite materials equivalent to those existing for aluminum airplanes.

The proposed special condition will require composite structural components critical to safe flight be evaluated by damage tolerance criteria. The damage tolerance consideration includes principal structural elements, such as the fuselage, and the vertical and horizontal stabilizers, and their carry-through structure, since failure of these structures could have catastrophic results. When damage tolerance is shown to be impractical, the proposed special condition is worded to permit approval, based on safe-life testing. Metal detail designs may continue to be evaluated to the fatigue requirements of § 23.572.

Damage tolerance criteria for composite structure, in combination with the existing material requirements of Part 23, such as §§ 23.603 and 23.613, will provide a level of safety for the composite material airframe structure used in the Seastar Model CD–2 airplane equivalent to that required by the airworthiness standards of Part 23.

In addition to those components requiring fatigue/damage tolerance evaluations, other components that are critical to flight safety, such as movable control surfaces and wing flaps, must also be protected against loss of strength or stiffness. Protection conventionally is provided through design and inspection. Since composite material strength is susceptible to manufacturing defects and damage from discrete sources, including lightning strikes, process controls and inspectability are limited; therefore, structures design must provide for these limits with adequate protection allowances.

The lack of adequate service experience with composite material structures in airplanes type certificated to the airworthiness standards of Part 23, the unusual mechanical properties characteristics, and the experience with composite material structural bonding, to date, necessitate proposing special conditions to assure an appropriate level of safety for the Model CD–2 airframe structure. These proposed special conditions are intended to require: (1) Accounting for environmental effects, i.e., temperature and humidity on material mechanical properties in all structural substantiation analyses and tests; (2) limit load residual strength with impact damage from discrete sources; (3) ability to carry ultimate load with realistic intrinsic and discrete impact damage at the threshold of detectability; and (4) design features to prevent disbonds greater than the disbonds for which limit load capability has been shown. Proof-testing of each production component to limit load and reliance on manufacturing quality control procedures between limit and ultimate load may be used in lieu of design features provided each bonded joint is subjected to its critical design limit load during the proof-testing.

Acceptable non-destructive testing techniques do not yet exist in state-of-the-art composite technology to reliably identify weak bonds. However, proof-testing of each production article may be discontinued if such tests are developed and accepted by the FAA.

Because the composite material and bonding may require preventive maintenance and inspection procedures different from those commonly utilized for existing aluminum airframes, the proposed special condition requires that instructions for continued airworthiness be established in addition to those required by § 23.1529.

Lightning Protection

The regulations incorporated by reference include standards for protection from damage to the structure of the airplane by lightning (§ 23.867) and from ignition of fuel vapor (§ 23.954). These standards do not provide the level of safety for the electronic system installed in composite airframe structures which provide less electromagnetic shielding than metal skins. For airplanes employing the extensive use of composite materials, the lightning produced voltage and currents could increase substantially and additional protecting design features should be installed. These systems can be susceptible to disruption to both the command/response signals and the operational modes as a result of direct lightning strike attachment or electrical and magnetic interference. To ensure that a level of safety is achieved equivalent to that of existing aircraft that utilize a metal structure, a special condition is being proposed which requires that these components be designed and installed to preclude component damage and interruption of function due to both direct and indirect effects of lightning.

Protection From Unwanted Effect on High Energy Radio Frequency (RF) Fields

Traditional airplane designs which utilize metal skins and mechanical control systems had inherent design features which provided protection and were less susceptible to the effects of RF energy from ground-based transmitters. There is a trend toward increased use of composite structures that do not provide the RF shielding normally provided by metal skins and electrical and electronic systems to perform critical and essential airplane functions. Therefore, the effective measures against the effects of high energy radio frequency fields must be provided for by the design and installation of these systems. The primary factors that have contributed to this increased concern are: (1) The increasing use of sensitive electronics that perform critical and essential functions; (2) the reduced electromagnetic shielding afforded airplane systems by advanced technology airframe materials; (3) the adverse service experience of military airplanes which use these technologies; and (4) the increased number and power of radio frequency emitters and expected future increases.

In showing compliance with the regulations for protection against hazards caused by the exposure to high energy radio frequency fields, electrical and electronics systems which perform critical and essential functions must be considered. The hazards addressed include those which would result in a catastrophic failure condition to the airplane. Failures that would be a hazard to the airplane, but not catastrophic, are considered under § 23.1309. To prevent the occurrence, airplane systems which perform critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the airplane is exposed to high energy radio fields. Airplane systems which perform essential functions must be protected to ensure that essential functions can be recovered after the airplane has been exposed to the high energy radio frequency fields. Manual mode reversion is considered an acceptable method of retaining the essential functions. Reliance on redundancy as a means of protection against the effects of external RF fields is generally insufficient since all elements of a redundant system are likely to be exposed to the fields concurrently.

No universally accepted guidance to define the maximum energy level in which civilian airplane system installations must be capable of operating safely has been established. At this time, the FAA and other airworthiness authorities are working to establish an agreed RF energy level representative of that to which the airplane will be exposed in service. These special conditions require that the airplane be evaluated under an interim standard for the protection of the electronic system and its associated wiring harness.

Location of the Engines and Propellers

Part 23 envisions propellers located forward of the wing and other aircraft surfaces that may shed ice. On the Seastar Model CD–2 airplane, the propellers are located above and aft of the forward portion of the fuselage and one is a pusher propeller located aft behind the parasol wing and both engine exhaust systems. Ice shed by the wing, wing struts, forward fuselage, or other parts of the airplane may have adverse effects on the propellers. In addition, the effects of exhaust gases impinging on the aft propeller must be evaluated. A special condition is proposed requiring propeller ice and exhaust gas impingement protection.

Since the location of the propellers on the Model CD–2 is an unusual design feature, passengers, crew, and ground personnel may be less aware of the proximity of the propeller blades. Propeller disc conspicuity is of concern during ground operation. Therefore, a special condition is proposed to require the necessary visibility of the propeller discs.

The location of the engines on the Seastar Model CD–2 airplane will prevent the pilot from quickly visually determining if an engine is operating. A special condition is proposed to require a positive means to indicate to the pilot when an engine is inoperative.

Effects of Water in Hull Compartments

The Seastar Model CD–2 is an amphibian airplane with several watertight compartments in the hull area. To ensure that the proper weight and center of gravity is maintained, it is necessary to provide a means for determining the amount of water in the watertight compartments. The Airplane Flight Manual or other approved manual material must describe the means for determining the effects of the water in the compartments for safe operation of the airplane. A special condition is proposed requiring means to determine the presence and quantity of water in the hull compartments.

Emergency Flotation Equipment

The commuter category requirements did not envision an amphibian airplane designed to operate a considerable time near or over water areas. For the level of safety envisioned for the commuter category, such airplanes must include emergency flotation means for each occupant, unless the airplane is restricted to operating over water bodies of such size and depth that life preservers or other flotation means would not be required for survival of occupants during emergency landing and emergency evacuation.

The Seastar Model CD–2 airplane is expected to operate extensively over lakes, rivers, and other bodies of water. In the case of an emergency, this may lead to an inadvertent water landing in water too deep to safely evacuate

without appropriate emergency flotation equipment.

In response to Public Law (Pub. L.) 100–223, entitled "Airport and Airway Safety and Capacity Enhancement Act of 1987", enacted December 30, 1987, the FAA published a notice of proposed rulemaking (NPRM) entitled "Improved Survival Equipment for Inadvertent Water Landings" (53 FR 24890; June 30, 1988). This NPRM proposes to amend FAR Parts 121 and 135 to require, among other things, adequate life preservers and flotation devices for passengers, including small children and infants, on flights of an air carrier which the Secretary of Transportation determines will occur partly over water.

The FAA anticipates that these proposals will be adopted essentially as proposed and has determined it is appropriate to propose a special condition for the Seastar to require flotation equipment that will provide the level of safety expected for a commuter category amphibian airplane in over water operation.

Federalism Implications

The regulations proposed 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

In view of the design features discussed above, the following special conditions are proposed for the Dornier Seastar Model CD–2 airplanes under the provisions of § 21.16 to provide a level of safety equivalent to that intended by the regulations incorporated by reference. This action is not a rule of general applicability and affects only the model/series of airplane identified in these special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aircraft, Air transportation, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as part of the type certification basis for the Dornier Seastar Model CD–2 Series amphibian airplanes and future changes to those airplanes:

1. *Evaluation of Composite Structure.* In lieu of complying with § 23.572 and in addition to the requirements of § § 23.603 and 23.613, airframe structure, the failure of which would result in catastrophic loss of the airplane, the wing, horizontal stabilizer, horizontal stabilizer carry-through and attaching structure, fuselage, vertical stabilizer, vertical stabilizer attaching structure and all movable control surfaces and their attaching structure, must be evaluated to damage tolerance criteria prescribed in paragraphs (a) through (j) of this special condition, unless shown to be impractical. In cases shown to be impractical, the aforementioned structure must be evaluated in accordance with the criteria of paragraphs (a) and (k) of this special condition. Where bonded joints are used, the structure must also be evaluated in accordance with the residual strength criteria in paragraph (h) of this special condition.

(a) It must be demonstrated by tests, or by analysis supported by tests, that the structure is capable of carrying ultimate load with impact damage. The level of impact damage considered need not be more than the established threshold of detectability considering the inspection procedure employed.

(b) The growth rate of damage that may occur from fatigue, corrosion, intrinsic defects, manufacturing defects; e.g., bond defects, or damage from discrete sources under repeated loads expected in service; i.e., between the time at which damage becomes initially detectable and the time at which the extent of damage reaches the value selected by the applicant for residual strength demonstration, must be established by tests or by analysis supported by tests.

(c) The damage growth, between initial detectability and the value selected for residual strength demonstration, factored to obtain inspection intervals, must permit development of an inspection program suitable for application by operations and maintenance personnel.

(d) Instructions for continued airworthiness for the airframe must be established consistent with the results of the damage tolerance evaluations. Inspection intervals must be set so that after the damage initially becomes detectable by the inspection method specified, the damage will be detected before it exceeds the extent of damage for which residual strength is demonstrated.

(e) Loads spectra, load truncation, and the locations and types of damage considered in the damage tolerance evaluations must be documented in test proposals.

(f) The structure of the fuselage must be shown by residual strength tests, or by analysis supported by residual strength tests, to be able to withstand critical limit flight and water loads, considered as ultimate loads, with damage consistent with the results of the damage tolerance evaluations.

(g) The wing, horizontal stabilizer, horizontal stabilizer carry-through and attaching structure, vertical stabilizer and vertical stabilizer attaching structure, and all movable control surfaces and their attaching structure must be shown by residual strength tests, or analysis supported by residual strength tests, to be able to withstand critical limit flight loads, considered as ultimate loads, with the extend of damage consistent with the results of the damage tolerance evaluations.

(h) In lieu of a nondestructive inspection technique which ensures ultimate strength of each bonded joint, the limit load capacity of each bonded joint critical to safe flight must be substantiated by either of the following methods used singly or in combination:

(1) The maximum disbonds of each bonded joint consistent with the capability to withstand the loads in paragraphs (f) and (g) of this special condition must be determined by analysis, tests, or both. Disbonds of each bonded joint greater than this must be prevented by design features.

(2) Proof-testing must be conducted on each production article which will apply the critical limit design load to each critical bonded joint.

(i) The effects of material variability and environmental conditions must be accounted for in the damage tolerance evaluations and in the residual strength tests; e.g., exposure to temperature, humidity, erosion, ultraviolet radiation, and/or chemicals, on the strength and durability properties of the composite materials.

(j) The airplane must be shown by analysis to be free from flutter to V_D with the extent of damage for which residual strength is demonstrated.

(k) For those structures where the damage tolerance method is show to be impractical, the strength of such structures must be demonstrated by tests, or analysis supported by tests, to

be able to withstand the repeated loads of variable magnitude expected in service. Sufficient component, subcomponent, element, or coupon tests must be performed to establish the fatigue scatter and the environmental effects. Impact damage in composite material components which may occur must be considered in the demonstration. The impact damage level considered must be consistent with detectability by the inspection procedures employed.

2. *Protection of Systems From Lighting and High Energy Radio Frequency (RF) Fields.* (a) Each system which performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the airplane is exposed to: (1) Lightning and (2) high energy radio frequency fields external to the airplane.

(b) Each essential function of the system must be protected to ensure that the essential function can be recovered after the airplane has been exposed to: (1) Lightning and (2) high energy radio frequency fields external to the airplane.

(c) For the purposes of the above, the following definitions apply:

(1) *Critical functions.* Functions whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

(2) *Essential functions.* Functions whose failure would contribute to or would cause a hazardous failure condition which would significantly impact the safety of the airplane or the ability of the flight crew to cope with adverse operating conditions.

3. *Location of the Engines and Propellers.* In the absence of requirements for propellers, the following is required:

(a) *Ice impingement on the propeller.* All areas of the airplane forward of the propellers that are likely to accumulate and shed ice into the propeller disc during any operating conditions for which the airplane is certificated must be suitably protected to prevent ice formation, or it must be shown that any ice shed into the propeller disc will not create a hazardous condition.

(b) *Exhaust gas impingement on propeller.* If the engine exhaust gases are discharged into the propeller disc, it must be shown by tests, or analysis supported by tests, that the propeller material is capable of continuous safe operation.

(c) *Propeller marking.* The propellers must be marked so that their discs are conspicious under normal daylight ground conditions.

(d) *Engine inoperative warning.* A positive means must be provided to indicate an engine is inoperative, or it must be determined that required instruments will readily alert the pilot when an engine is inoperative.

4. *Effects of Water in Hull Compartment.* In the absence of specific regulations, the hull watertight compartments required by § 23.755 must be equipped with means to determine the presence of water and the effects of any accumulated water on the weight and center of gravity of the airplane in accordance with § 23.1519.

5. *Emergency Flotation Equipment.* In addition to the requirements of § 23.1415, the emergency flotation equipment installed in the airplane must include an approved life preserver with an approved survivor locator light for each occupant of the airplane, including an approved life preserver for each infant and child. The approved life preserver must be located at the passenger seat, or in the case of the infant and child life preservers, in the immediate vicinity of the seat occupied by the individual responsible for the infant or child. Provisions for storage of each life preserver must be approved by the Administrator. Each approved survivor locator light must activate automatically upon contact with water.

Issued in Kansas City, Missouri on March 10, 1989.

Earsa Lee Tankesley,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-10312 Filed 4-28-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 21 and 25

[Docket No. NM-37; Notice No. SC-89-2-NM]

Special Conditions; British Aerospace (BAe) Model 146-300A Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the BAe Model 146-300A airplane. Some versions of the airplane will have a novel or unusual design feature associated with the use of the landing gear door as an assist means during an emergency evacuation. This notice contains the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established by the airworthiness standards of Part 25 of the Federal Aviation Regulations.

DATES: Comments must be received on or before June 15, 1989.

ADDRESSES: Comments on this proposal may be mailed in duplicate to Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-37, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-37. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Frank Tiangsing, Regulations Branch, ANM-114, Transport Airplane Directorate, Aircraft Certification Service, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2121.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-37." The postcard will be date/time stamped and returned to the commenter.

Background

On June 5, 1987, British Aerospace (BAe) applied for a change to their Type Certificate No. A49EU for a new exit configuration on their Model 146-300A airplane. The basic Model 146-300A, type certificated on October 28, 1988, is a four engine, 109 passenger, high-wing

airplane with an exit configuration consisting of two pairs of Type I exits, one pair at each end of the passenger cabin. British Aerospace now seeks to add a pair of Type III exits and thereby be eligible for an increase in the maximum passenger configuration to 139 passengers.

Type III exits are typically installed over the wings of the airplane. They are allowed by Part 25 of the Federal Aviation Regulations (FAR) to have a 27-inch step-down from the exit sill to the wing. Additionally, if the escape route on the wing terminates at a point more than six feet above the ground, means must be provided to assist evacuees to reach the ground. If the termination point is less than six feet above the ground, then the assist means is not required.

Since the airplane is of a high-wing configuration, it is not practicable to incorporate overwing Type III exits. Part 25 of the FAR permits non-overwing, non-floor level exits when certain conditions are satisfied. Included in these conditions is the requirement for an assist means for passengers and crew to egress from the airplane to the ground when the exit sill height is more than six feet. This assist means must be an automatically erected escape slide or equivalent, and must be self-supporting on the ground. The sill of the proposed Type III exits will be more than six feet above the ground; therefore, an assist means will be necessary.

BAe has proposed to position the Type III exits above the landing gear doors such that the deployed landing gear door would form a surface for evacuees to use in lieu of what would be provided by a wing. The evacuees would then slide or jump off the landing gear door to the ground in much the same manner as they would off a wing trailing edge.

Since the landing gear must be extended in order for the landing gear door to be available as an assist means, a gear-up landing will result in no assist means at the Type III exits; however, in this condition, the exit sill height would be less than six feet. BAe's proposed use of a landing gear door as an assist means results in features which are characteristic of both escape slides and overwing evacuation routes; therefore, the requirements for either configuration are insufficient by themselves to assure that minimum standards are established.

This notice, which proposes special conditions for the use of a landing gear door as an evacuation assist means, will include requirements pertinent to both overwing and non-overwing exits as well as additional criteria for this specific exit.

Under the provisions of § 21.101, BAe must show that the Model 146–300A, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A49EU, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in Type Certificate No. A49EU are as specified in U.S. Type Certificate Data Sheet A49EU. In addition, the applicant volunteered to comply with the following sections, as amended by Amendment 25–1 through the amendments shown, for the Model 146–300A:

Part 25, Subpart C, Amendment 25–54.

§ 25.629	Amendment 25–46
§ 25.783	Amendment 25–54
§ 25.785	Amendment 25–51
§ 25.787	Amendment 25–51
§ 25.789	Amendment 25–46
§ 25.803	Amendment 25–46
§ 25.811	Amendment 25–46
§ 25.812	Amendment 25–46
§ 25.853	Amendment 25–51
§ 25.853	Amendment 25–54
§ 25.863	Amendment 25–46

In addition, the regulations applicable to the Model 146–300 include the following noise and environmental requirements:

1. Part 36 of the FAR, effective December 1, 1965, including Amendments 36–1 through 36–13, and any later amendments which become effective prior to U.S. type certification.

2. Special Federal Aviation Regulation No. 27 effective February 1, 1974, including amendments 27–1 through 27–5, and any later amendments which become effective prior to U.S. type certification.

If the administrator finds that the applicable airworthiness regulations (i.e., Part 25 as amended) do not contain adequate or appropriate safety standards for the Model 146–300A because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.17(a)(2). In addition to the applicable airworthiness regulations and special conditions, the Model 146–300A must comply with the noise certification requirements of Part 36 and the engine emission requirements of Special Federal Aviation Regulation (SFAR).

Novel or Unusual Design Features

The Model 146–300A will incorporate the following novel or unusual design features:

A Type III exit is proposed to be located under each wing such that an evacuee using the exit will step out onto the main landing gear door. The evacuee would then slide or jump from the landing gear door to the ground.

Section 25.809(f) requires all non-overwing exits more than six feet above the ground to be equipped with an approved means to assist occupants in descending to the ground.

Section 25.809(h) similarly requires all overwing exits having an excape route which terminates at a point more than six feet above the ground to be equipped with an assist means. The exit proposed for the BAe Model 146–300A will be more than six feet from the ground; however, the landing gear door surface will be within 27 inches of the lower exit sill. This distance corresponds to the allowable step-down for an overwing Type III exit. The distance from the landing gear door to the ground is less than six feet.

Section 25.809(f) also requires that assist means be automatically erected during exit opening. Strictly speaking, the landing gear door does not satisfy this requirement since opening the exit is not correlated to the availability of the assist means; however, during any normal take-off or landing, the landing gear door will, of course, be available. During a landing with the landing gear retracted, evacuees using the Type III exits will not have an assist means. With the airplane on the ground with the landing gear retracted and one wing tip down, the distance to the ground is less than six feet for both Type III exits, and an assist means would not otherwise be required.

The regulations also require that an assist means be self-supporting on the ground. This requirement has been interpreted to mean that the assist means rests on the ground when in use such that an evacuee does not have to jump to the ground from the bottom of the assist means. In the case of an overwing exit where the terminating edge of the escape route is less than six feet from the ground, it is likely that evacuees might have to jump a short distance from the wing to the ground. BAE's proposal incorporates aspects of both of these exit arrangements and the proposed special conditions address this.

Other features of the exit arrangement which involve both overwing and non-overwing exit considerations include

marking, visibility, and width of the escape route. For the purposes of these special conditions, this exit will be treated as an overwing exit with respect to these requirements.

Other areas which are of particular concern for this unusual exit arrangement are the effectiveness of the exit in the event of landing gear collapse and the proximity of the excape route to the engines and wheel wells.

Since a collapse of the landing gear will necessarily result in some form of collapse of the landing gear door, the exit must be demonstrated to be usable and provide for safe evacuation considering all conditions of landing gear collapse. In addition, as mentioned previously, the exit must be demonstrated to be usable in the event of landing gear non-deployment.

Since the Type III exits are directly above the main landing gear, it is possible that a fire originating in the landing gear assembly could render such an exit unusable. Due to the design of the BAe Model 146–300A, it is considered necessary to address the possibility that a fire on one side of the airplane could also render the opposite side unusable.

These proposed special conditions are intended to provide requirements which result in an evacuation system that is as effective and safe as those envisioned by the regulations. Where appropriate, requirements have been drawn from existing regulations. In other cases new requirements have been developed to preserve the level of safety which is inherent in the design of more conventional exit arrangements or assist means.

Accordingly, in lieu of the requirements of § 25.809(f)(1), the following special conditions are proposed for the BAe 146–300A airplane with the main landing gear doors to be used as an assist means for non-overwing Type III exits. Other conditions may be developed as needed based on further FAA review and discussions with the manufacturer and the Civil Aviation Authority (CAA).

Conclusion

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

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special condition for the BAe Model 146–300A series airplanes with non-overwing Type III exits installed.

The authority citation for these special conditions is as follows:

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

1. The landing gear door must be established as an escape route in accordance with the dimensional, reflectance, and slip resistant surface requirements of § 25.803(e).

2. The step-down distance from the exit sill to the surface of the landing gear door, where an evacuee would make first contact, shall not exceed 27 inches (ref. § 25.807(a)(3)).

3. The assist means must provide for safe evacuation of occupants, considering all conditions of landing gear collapse. In addition, safe evacuation must be afforded via the Type III exit in the event of main landing gear non-deployment.

4. Exterior emergency lighting must be provided for the assist means and all areas of likely ground contact in accordance with §§ 25.812(g)(1)(i) and (ii), and § 25.812(h)(1), as amended through Amendment 25–58.

5. The assist means be demonstrated to provide an adequate egress rate for the number of passenbers requested. The passenger capacity, as permitted by § 25.807(c)(i), Table 1, may be reduced if satisfactory Type III exit performance cannot be demonstrated.

6. It must be shown that a landing gear fire occurring on one side of the airplane is unlikely to render the opposite exit unusable.

7. The assist means must be shown to be as reliable as an escape slide following exposure to the emergency landing conditions that may be encountered in service. In addition, safe evacuation from the airplane must be afforded following the crash conditions specified in § 25.561(b).

Issued in Seattle, Washington, on April 20, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89–10313 Filed 4–28–89; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 89–NM–38–AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which would require replacement of the upper door liner track pivot bolts on the aft passenger doors. This proposal is prompted by a report of interference between the pivot bolt and the escape slide packboard identified during testing by the manufacturer. This condition, if not corrected, could lead to failure of the escape slide to properly deploy and the door to fully open, thus delaying and possibly jeopardizing successful emergency evacuation of an airplane.

DATE: Comments must be received no later than June 12, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 89–NM–38–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Branch, ANM–120S; telephone (206) 431–1929. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 89168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before

the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-38-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 89168.

Discussion

During an escape slide test of a Model 767 airplane at Boeing, an aft door escape slide deployed inside the airplane and the door failed to open fully. This condition was caused by interference between the escape slide packboard and the upper door liner track pivot bolt. The pivot bolt was found installed with the head in the incorrect direction where the threaded end of the bolt contacted the escape slide packboard. A large percentage of the Model 767 doors were tested as part of the quality control program; therefore, it is unlikely that this interference problem due to a reversed bolt existed on other airplanes at the time they were delivered from Boeing.

Further investigation revealed that interference was possible even if the bolt was correctly installed, due to the tolerance on the bolt bushing and packboard movement. This interference may cause the escape slide to deploy improperly when the door is opened in the emergency mode, thereby making the exit unusable for evacuation.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-25A0109, dated January 19, 1989, which contains instructions for the replacement of the upper door liner track pivot bolts. The new bolt has a low profile head which will provide more clearance between the bolt and the escape slide packboard. Airplanes listed in the service bulletin under Group 1 which have had Boeing Service Bulletin 767-25-0036 incorporated, and airplanes listed in the service bulletin under Group 2 would be required to have the pivot bolts replaced.

Subsequent to the release of the alert service bulletin, Boeing determined that the replacement bolt specified in that bulletin may be too short. Boeing has issued Notice of Status Change No. 767-25A0109, NSC 1, dated April 6, 1989, which corrects the alert service bulletin to specify the proper bolt number.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require replacement of the upper door liner track pivot bolts in accordance with the procedures specified in the Alert Service Bulletin previously described, and with the part number bolt specified in the Notice of Status Change.

There are approximately 212 Model 767 series airplanes in the worldwide fleet. It is estimated that 98 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 pe manhour. The cost of the required parts is estimated to be less than $50. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $28,420.

The regulations proposed herein would not have substantial direct effects ont he 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 767 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 767 series airplanes, identified in Boeing Alert Service Bulletin 767-25A0109, dated January 19, 1989, listed in Group 1 on which Boeing Service Bulletin 767-25-0036 has been accomplished, and, airplanes listed in Group 2, certificated in any category. Compliance is required within 18 months after the effective date of this AD, unless previously accomplished.

To ensure that the escape slide will deploy properly, accomplish the following:

A. Replace the upper door liner pivot bolts, in accordance with the procedures specified in Boeing Alert Service Bulletin 767-25A0109, dated January 19, 1989, and with the part number bolt specified in Boeing Notice of Status Change 767-25A0109, NSC 1, dated April 6, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 11, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-10314 Filed 4-28-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 89-ANM-04]

Proposed Establishment of Telluride Transition Area, Telluride, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish controlled transition areas to provide a controlled airspace environment for the new VOR/DME approach to Runway 9 at Telluride Airport, Telluride, Colorado. The area will be depicted on aeronautical charts to provide reference for Visual Flight Rules (VFR) pilots.

DATES: Comments must be received on or before June 12, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 89-AMN-04, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Jerry Parker, ANM-538, Federal Aviation Administration, Docket No. 89-ANM-01, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, Telephone: (206) 431-2576.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89-ANM-04". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, WA 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2A which describes the application procedure.

The Proposal

The FAA proposes an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide controlled airspace transition areas for instrument flight rules procedures for the new VOR/DME approach to Runway 9 at the Telluride Airport. The intent is to segregate aircraft operating in visual flight rules conditions from aircraft operating in instrument flight rules conditions. The area would be depicted on appropriate aeronautical charts so that pilots may circumnavigate the area or comply with instrument flight rules procedures.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended to read as follows:

Telluride, Colorado, Transition Areas [New]

1,200 Foot Transition Area

Starting at

Latitude	*Longitude*
38°12'00" N.	108°12'00" W.
to 37°58'00" N.	108°17'55" W.
to 38°02'35" N.	108°37'30" W.
to 38°16'45" N.	108°32'00" W.

To the point of beginning.

700 Foot Transition Area

Starting at

Latitude	*Longitude*
to 38°12'00" N.	108°12'00" W.
to 37°58'00" N.	108°17'55" W.
to 37°51'05" N.	107°50'00" W.
38°05'20" N.	107°44'10" W.

To the point of beginning.

Issued in Seattle, Washington, on April 3, 1989.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 89-10315 Filed 4-28-89; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No: 861 0134]

Brooks Drug, Inc.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, Brooks Drug, Inc., a Pawtucket, RI based corporation, from entering into any agreement with other pharmacy firms to withdraw from or refuse to enter into any participation agreement. They would further be prohibited, for a period of ten years, from communicating to another pharmacy firm their decision or intention to enter or refuse to enter into such a participation agreement. In addition, for eight years, they would be prohibited form advising another pharmacy firm on whether to enter into any participation agreement.

DATE: Comments must be received on or before June 30, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael D. McNeely, FTC/S–3308, Washington, DC 20580. (202) 326–2904.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement(s) containing a consent order(s) to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has(ve) been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

List of Subjects in 16 CFR Part 13

Prescription drugs, Trade practices.

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Brooks Drug, Inc., a corporation, hereinafter sometimes referred to as "Brooks", and it now appearing that Brooks is willing to enter into an agreement containing an order to cease and desist from the use of the acts and the practices being investigated,

It is hereby agreed by and between Brooks, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Brooks is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business at 75 Sabin Street, Pawtucket, Rhode Island 02860.

2. Brooks admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Brooks waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Brooks, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Brooks that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Brooks, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Brooks' address, as stated in this agreement, shall constitute service. Brooks waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Brooks has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Brooks further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of the order, the following definitions shall apply:

A. "Brooks" means Brooks Drug, Inc., a Delaware corporation, its directors, officers, agents, employees, divisions, subsidiaries, successors and assigns;

B. "Third-party payer" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. "Participation agreement" means any existing or proposed agreement, oral or written, in which a third-party payer

agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "Pharmacy firm" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures, but excludes any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, which own, are owned by, control or are under common control with Brooks. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered That Brooks, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any Pharmacy Firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any Participation Agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, stating or communicating in any way to any pharmacy firm the intention or decision of Brooks with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement into which Brooks and the other pharmacy firm have entered, could enter or are considering entering;

C. For a period of eight (8) years after the date this order becomes final, advising any pharmacy firm with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Brooks and the other pharmacy firm have entered, could enter or are considering entering.

Provided that nothing in this order shall prevent Brooks from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(2) Subcontracting, preparing joint bids, or jointly undertaking with pharmacy firms to provide prescription drug services under a participation agreement if requested to do so in writing by the third-party payer;

(3) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

In the event that Brooks is merged into or consolidated with its parent corporation, Hook-SupeRx, Inc., the provisions of Paragraph II.B. and C. shall only apply to activities related to or affecting participation agreements in New York, Massachusetts, Vermont, New Hampshire, Rhode Island, Pennsylvania, Connecticut, Maine, New Jersey, and Maryland.

III

It is further ordered That Brooks:

A. Provide a copy of this order within thirty (30) days after the date this order becomes final to each officer, director, employee pharmacist who is employed in New York state, and each employee whose responsibilities include recommending or deciding whether to enter into any participation agreement, and each employee who regularly attends meetings on Brooks' behalf that include representatives of other pharmacies; and

B. For a period of five (5) years after the date this order becomes final, provide each new director and each employee who enters a position described in Paragraph A a copy of the order within ten (10) days of the date the employee or director assumes the new position.

IV

It is further ordered That Brooks:

A. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Brooks, require, setting forth in detail the manner and form in which it has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice all documents generated by Brooks or that come into Brooks' possession, custody, or control regardless of source, that embody, discuss or refer to the decision or upon which Brooks relies in deciding whether to enter into any participation agreement in which Brooks participates, has participated, or has considered participating; and

C. Notify the Commission at least thirty (30) days prior to any proposed change in Brooks such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, the creation, sale or dissolution of a subsidiary, or any other change that may affect compliance with this order. Provided however that with respect to the sale of a single subsidiary consisting of three or fewer retail locations, Brooks shall provide such advance notice as is practicable.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, three agreements to proposed consent orders from Brooks Drug, Inc., Carl's Drug Co., Inc., and Genovese Drug Stores, Inc. ("proposed respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

Description of Complaint

A complaint prepared for issuance by the Commission along with the three proposed orders alleges that the three proposed respondents agreed to refuse to participate in the New York State Employees Prescription Program. The complaint alleges that the agreement coerced the State of New York into raising the prices paid to pharmacies. More specifically, the complaint alleges the following facts.

Brooks Drug, Inc. operates a chain of drug stores, including approximately 60

stores in New York State. Carl's Drug Co., Inc. operates a chain of drug stores, including approximately 42 stores in New York State. Genovese Drug Stores, Inc. operates a chain of drug stores, including approximately 72 stores in New York State. In 1986, each proposed respondent was a member of the Chain Pharmacy Association of New York State ("Chain Association").

Customers often receive prescriptions through health benefit programs under which third-party payers compensate the pharmacy according to a predetermined formula. Pharmacies that participate in such programs accept the reimbursement offered by the third-party payer as full payment for dispensing prescription drugs. The New York State Employees Prescription Program is a prescription drug benefit plan that covers approximately 500,000 beneficiaries. In 1986, proposed respondents participated in many prescription drug benefit plans, including the Employees Prescription Program as it existed prior to July 1.

The complaint alleges that, in May 1986, New York State solicited pharmacies to participate in the Employees Prescription Program under terms that would go into effect on July 1, 1986. The terms offered were generally lower than the terms pharmacies were receiving under the existing program. The proposed respondents purchased prescription drugs at an average cost that was below the level of reimbursement that was offered. Each proposed respondent would have suffered a loss of customers if its competitors had participated in the program at a time when it was not participating.

The complaint alleges that during or before March 1986, the Chain Association informed proposed respondents of the proposed terms of the Employees Prescription Program. The Chain Association told members that it would have a difficult time opposing the terms of the proposed program if members were signed up to participate in the program. The Chain Association held meetings at which some members stated that they would not participate in the Employees Prescription Program. Many of these competitors also discussed their decisions not to participate in the program outside of Chain Association meetings. The complaint further alleges that through these exchanges of information and other acts, proposed respondents agreed among themselves and with others to refuse to participate in the Employees Prescription Program to coerce the State of New York to increase the level of reimbursement under the program.

The complaint alleges that the agreement to refuse to participate in the program injured consumers in New York by reducing competition among pharmacy firms with respect to third-party prescription plans. Furthermore, proposed respondents' boycott forced New York State to pay substantial additional sums for prescription drugs provided to beneficiaries of the Employees Prescription Program.

Description of the Proposed Consent Orders

The three proposed orders would require each of the proposed respondents to cease and desist from entering into any agreement among pharmacy firms to withdraw from or refuse to enter into any participation agreement. The proposed orders would also prohibit each of the proposed respondents, for a period of ten years, from communicating to any pharmacy firm the proposed respondent's decision or intention to enter into or refuse to enter into any participation agreement. The proposed orders would also prohibit each proposed respondent, for a period of eight years, from advising any pharmacy firm with respect to entering into or refusing to enter into any participation agreement.

The orders would not prohibit proposed respondents from: (a) Petitioning the government on matters involving legislation, rules or procedures; (b) jointly undertaking with other pharmacy firms to provide prescription drug services so long as the third party payer requests in writing that the proposed respondents do so; or (c) making truthful and nondeceptive public statements about existing or proposed participation agreements.

The orders would require each proposed respondent to distribute a copy of the order to certain employees and others, to file compliance reports, to retain certain documents, and to notify the Commission of certain changes in its corporate structure.

The purpose of this analysis is to facilitate public comment on the three proposed orders, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify their terms in any way.

The proposed consent orders have been entered into for settlement purposes only, and do not constitute an admission by any of the proposed respondents that the law has been violated as alleged in the complaint.

Donald S. Clark,

Secretary.

[FR Doc. 89-10271 Filed 4-28-89; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[File No. 861 0134]

Carl's Drug Co., Inc.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, Carl's Drug Co., Inc., a Rome, NY based corporation, from entering into any agreement with other pharmacy firms to withdraw from or refuse to enter into any participation agreement. They would further be prohibited, for a period of ten years, from communicating to another pharmacy firm their decision or intention to enter or refuse to enter into such a participation agreement. In addition, for eight years, they would be prohibited from advising another pharmacy firm on whether to enter into any participation agreement.

DATE: Comments must be received on or before June 30, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael D. McNeely, FTC/S-3308, Washington, DC 20580. (202) 326-2904.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement(s) containing a consent order(s) to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has(ve) been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

List of Subjects in 16 CFR Part 13

Prescription drugs, Trade practices.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Carl's Drug Co., Inc., a corporation, hereinafter sometimes referred to as "Carl's", and it

now appearing that Carl's is willing to enter into an agreement containing an order to cease and desist from the use of the acts and the practices being investigated,

It is hereby agreed By and between Carl's, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Carl's is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at Box 203 Success Drive, Rome, New York 13440.

2. Carl's admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Carl's waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Carl's, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Carl's that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Carl's, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Carl's address, as stated in this agreement, shall constitute service. Carl's waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Carl's has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Carl's further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of the order, the following definitions shall apply:

A. "Carl's" means Carl's Drug Co., Inc., its directors, officers, agents, employees, divisions, subsidiaries, successors and assigns;

B. "Third-party payer" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. "Participation agreement" means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "Pharmacy firm" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures, but excludes any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, which own, are owned by, control or are under common control with Carl's. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered That Carl's, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any Pharmacy Firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any Participation Agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, stating or communicating in any way to any pharmacy firm the intention or decision of Carl's with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement into which Carl's and the other pharmacy firm have entered, could enter or are considering entering;

C. For a period of eight (8) years after the date this order becomes final, advising any pharmacy firm with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Carl's and the other pharmacy firm have entered, could enter or are considering entering.

Provided that nothing in this order shall prevent Carl's from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(2) Subcontracting, preparing joint bids, or otherwise jointly undertaking with pharmacy firms to provide prescription drug services under a participation agreement if requested to do so in writing by the third-party payer;

(3) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III

It is further ordered That Carl's:

A. Provide a copy of this order within thirty (30) days after the date this order becomes final to each officer, director, employee pharmacist who is employed in New York state, and each employee whose responsibilities include recommending or deciding whether to enter into any participation agreement, and each employee who regularly attends meetings on Carl's behalf that include representatives of other pharmacies; and

B. For a period of five (5) years after the date this order becomes final, provide each new director and each employee who enters a position described in Paragraph A a copy of the order within ten (10) days of the date the employee or director assumes the new position.

IV

It is further ordered That Carl's:

A. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Carl's, require, setting forth in detail the manner and form in which it has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice all documents generated by Carl's or that come into Carl's possession, custody, or control regardless of source, that embody, discuss or refer to the decision or upon which Carl's relies in deciding whether to enter into any participation agreement in which Carl's participates, has participated, or has considered participating; and

C. Notify the Commission at least thirty (30) days prior to any proposed change in Carl's such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, the creation, sale or dissolution of a subsidiary, or any other change that may affect compliance with this order.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, three agreements to proposed consent orders from Brooks Drug, Inc., Carl's Drug Co., Inc., and Genovese Drug Stores, Inc. ("proposed respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

Description of Complaint

A complaint prepared for issuance by the Commission along with the three proposed orders alleges that the three proposed respondents agreed to refuse to participate in the New York State Employees Prescription Program. The complaint alleges that the agreement coerced the State of New York into raising the prices paid to pharmacies. More specifically, the complaint alleges the following facts.

Brooks Drug, Inc. operates a chain of drug stores, including approximately 60 stores in New York State. Carl's Drug Co., Inc. operates a chain of drug stores, including approximately 42 stores in New York State. Genovese Drug Stores, Inc. operates a chain of drug stores, including approximately 72 stores in New York State. In 1986, each proposed respondent was a member of the Chain Pharmacy Association of New York State ("Chain Association").

Customers often receive prescriptions through health benefit programs under which third-party payers compensate the pharmacy according to a predetermined formula. Pharmacies that participate in such programs accept the reimbursement offered by the third-party payer as full payment for dispensing prescription drugs. The New York State Employees Prescription Program is a prescription drug benefit plan that covers approximately 500,000 beneficiaries. In 1986, proposed respondents participated in many prescription drug benefit plans, including the Employees Prescription Program as it existed prior to July 1.

The complaint alleges that, in May 1986, New York State solicited pharmacies to participate in the Employees Prescription Program under terms that would go into effect on July 1, 1986. The terms offered were generally lower than the terms pharmacies were receiving under the existing program. The proposed respondents purchased prescription drugs at an average cost that was below the level of reimbursement that was offered. Each proposed respondent would have suffered a loss of customers if its competitors had participated in the program at a time when it was not participating.

The complaint alleges that during or before March 1986, the Chain Association informed proposed respondents of the proposed terms of the Employees Prescription Program. The Chain Association told members that it would have a difficult time opposing the terms of the proposed program if members were signed up to participate in the program. The Chain Association held meetings at which some members stated that they would not participate in the Employees Prescription Program. Many of these competitors also discussed their decisions not to participate in the program outside of Chain Association meetings. The complaint further alleges that through these exchanges of information and other acts, proposed respondents agreed among themselves and with others to refuse to participate in the Employees Prescription Program to coerce the State of New York to increase the level of reimbursement under the program.

The complaint alleges that the agreement to refuse to participate in the program injured consumers in New York by reducing competition among pharmacy firms with respect to third-party prescription plans. Furthermore, proposed respondents' boycott forced New York State to pay substantial additional sums for prescription drugs provided to beneficiaries of the Employees Prescription Program.

Description of the Proposed Consent Orders

The three proposed orders would require each of the proposed respondents to cease and desist from entering into any agreement among pharmacy firms to withdraw from or refuse to enter into any participation agreement. The proposed orders would

also prohibit each of the proposed respondents, for a period of ten years, from communicating to any pharmacy firm the proposed respondent's decision or intention to enter into or refuse to enter into any participation agreement. The proposed orders would also prohibit each proposed respondent, for a period of eight years, from advising any pharmacy firm with respect to entering into or refusing to enter into any participation agreement.

The orders would not prohibit proposed respondents from: (a) Petitioning the government on matters involving legislation, rules or procedures; (b) jointly undertaking with other pharmacy firms to provide prescription drug services so long as the third-party payer requests in writing that the proposed respondents do so; or (c) making truthful and nondeceptive public statements about existing or proposed participation agreements.

The orders would require each proposed respondent to distribute a copy of the order to certain employees and others, to file compliance reports, to retain certain documents, and to notify the Commission of certain changes in its corporate structure.

The purpose of this analysis is to facilitate public comment on the three proposed orders, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify their terms in any way.

The proposed consent orders have been entered into for settlement purposes only, and do not constitute an admission by any of the proposed respondents that the law has been violated as alleged in the complaint.

Donald S. Clark,

Secretary.

[FR Doc. 89-10272 Filed 4-28-89; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No 861 0134]

Genovese Drug Stores, Inc.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, Genovese Drug Stores, Inc., a Melville, NY based corporation, from entering into any agreement with other pharmacy firms to withdraw from or refuse to enter into any participation agreement. They would further be prohibited, for a period of ten years, from communicating to another pharmacy firm their decision or intention to enter or refuse to enter into such a participation agreement. In addition, for eight years, they would be prohibited form advising another pharmacy firm on whether to enter into any participation agreement.

DATE: Comments must be received on or before June 30, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael D. McNeely, FTC/S-3308, Washington, DC 20580. (202) 326-2904.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement(s) containing a consent order(s) to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has(ve) been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

List of Subjects in 16 CFR Part 13

Prescription drugs, Trade practices.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Genovese Drug Stores, Inc., a corporation, hereinafter sometimes referred to as "Genovese", and it now appearing that Genovese is willing to enter into an agreement containing an order to cease and desist from the use of the acts and the practices being investigated,

It is hereby agreed By and between Genovese, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Genovese is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business at 80 Marcus Drive, Melville, NY 11747.

2. Genovese admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Genovese waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Genovese, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Genovese that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Genovese, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Genovese's address, as stated in this agreement, shall constitute service. Genovese waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Genovese has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Genovese further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of the order, the following definitions shall apply:

A. "Genovese" means Genovese Drug Stores, Inc., its directors, officers, agents, employees, divisions, subsidiaries, successors and assigns;

B. "Third-party payer" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. "Participation agreement" means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "Pharmacy firm" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures, but excludes any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, which own, are owned by, control or are under common control with Genovese. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II

It is ordered That Genovese, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any Pharmacy Firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any Participation Agreement or (2) threaten to boycott, threat to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, stating or communicating in any way to any pharmacy firm the intention or decision of Genovese with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement into which Genovese and the other pharmacy firm have entered, could enter or are considering entering;

C. For a period of eight (8) years after the date this order becomes final, advising any pharmacy firm with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Genovese and the other pharmacy firm have entered, could enter or are considering entering.

Provided that nothing in this order shall prevent Genovese from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(2) Subcontracting, preparing joint bids, or otherwise jointly undertaking with pharmacy firms to provide prescription drug services under a participation agreement if requested to do so in writing by the third-party payer;

(3) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III

It is further ordered That Genovese:

A. Provide a copy of this order within thirty (30) days after the date this order becomes final to each officer, director, employee pharmacist who is employed in New York state, and each employee whose responsibilities include recommending or deciding whether to enter into any participation agreement, and each employee who regularly attends meetings on Genovese's behalf that include representatives of other pharmacies; and

B. For a period of five (5) years after the date this order becomes final, provide each new director and each employee who enters a position described in Paragraph A a copy of the order within ten (10) days of the date the employee or director assumes the new position.

IV

It is further ordered That Genovese:

A. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Genovese, require, setting forth in detail the manner and form in which it has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice all documents generated by Genovese or that come into Genovese's possession, custody, or control regardless of source, that embody, discuss or refer to the decision or upon which Genovese relies in deciding whether to enter into any participation agreement in which Genovese participates, has participated, or has considered participating; and

C. Notify the Commission at least thirty (30) days prior to any proposed change in Genovese such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, the creation, sale or dissolution of a subsidiary, or any other change that may affect compliance with this order.

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, three

agreements to proposed consent orders from Brooks Drug, Inc., Carl's Drug Co., Inc., and Genovese Drug Stores, Inc. ("proposed respondents").

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will decide whether it should withdraw from the agreements or make final the agreements proposed orders.

Description of Complaint

A complaint prepared for issuance by the Commission along with the three proposed orders alleges that the three proposed respondents agreed to refuse to participate in the New York State Employees Prescription Program. The complaint alleges that the agreement coerced the State of New York into raising the prices paid to pharmacies. More specifically, the complaint alleges the following facts.

Brooks Drug, Inc. operates a chain of drug stores, including approximately 60 stores in New York State. Carl's Drug Co., Inc. operates a chain of drug stores, including approximately 42 stores in New York State. Genovese Drug Stores, Inc. operates a chain of drug stores, including approximately 72 stores in New York State. In 1986, each proposed respondent was a member of the Chain Pharmacy Association of New York State ("Chain Association").

Customers often receive prescriptions through health benefit programs under which third-party payers compensate the pharmacy according to a predetermined formula. Pharmacies that participate in such programs accept the reimbursement offered by the third-party payer as full payment for dispensing prescription drugs. The New York State Employees Prescription Program is a prescription drug benefit plan that covers approximately 500,000 beneficiaries. In 1986, proposed respondents participated in many prescription drug benefit plans, including the Employees Prescription Program as it existed prior to July 1.

The complaint alleges that, in May 1986, New York State solicited pharmacies to participate in the Employees Prescription Program under terms that would go into effect on July 1, 1986. The terms offered were generally lower than the terms pharmacies were receiving under the existing program. The proposed respondents purchased prescription drugs at an average cost that was below the level of reimbursement that was offered. Each proposed respondent would have suffered a loss of customers if its competitors had participated in the program at a time when it was not participating.

The complaint alleges that during or before March 1986, the Chain Association informed proposed respondents of the proposed terms of the Employees Prescription Program. The Chain Association told members that it would have a difficult time opposing the terms of the proposed program if members were signed up to participate in the program. The Chain Association held meetings at which some members stated that they would not participate in the Employees Prescription Program. Many of these competitors also discussed their decisions not to participate in the program outside of Chain Association meetings. The complaint further alleges that through these exchanges of information and other acts, proposed respondents agreed among themselves and with others to refuse to participate in the Employees Prescription Program to coerce the State of New York to increase the level of reimbursement under the program.

The complaint alleges that the agreement to refuse to participate in the program injured consumers in New York by reducing competition among pharmacy firms with respect to third-party prescription plans. Furthermore, proposed respondents boycott forced New York State to pay substantial additional sums for prescription drugs provided to beneficiaries of the Employees Prescription Program.

Description of the Proposed Consent Orders

The three proposed orders would require each of the proposed respondents to cease and desist from entering into any agreement among pharmacy firms to withdraw from or refuse to enter into any participation agreement. The proposed orders would also prohibit each of the proposed respondents, for a period of ten years, from communicating to any pharmacy firm the proposed respondent's decision or intention to enter into or refuse to enter into any participation agreement. The proposed orders would also prohibit each proposed respondent, for a period of eight years, from advising any pharmacy firm with respect to entering into or refusing to enter into any participation agreement.

The orders would not prohibit proposed respondents from: (a) petitioning the government on matters involving legislation, rules or procedures; (b) jointly undertaking with other pharmacy firms to provide prescription drug services so long as the third-party payer requests in writing that the proposed respondents do so; or (c) making truthful and nondeceptive public statements about existing or proposed participation agreements.

The orders would require each proposed respondent to distribute a copy of the order to certain employees and others, to file compliance reports, to retain certain documents, and to notify the Commission of certain changes in its corporate structure.

The purpose of this analysis is to facilitate public comment on the three proposed orders, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify their terms in any way.

The proposed consent orders have been entered into for settlement purposes only, and do not constitute an admission by any of the proposed respondents that the law has been violated as alleged in the complaint.

Donald S. Clark,

Secretary.

[FR Doc. 89-10273 Filed 4-28-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket S-015]

Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment; Extension of Comment Period

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is extending the period for the submission of comments to the proposed electric power generation, transmission, and distribution and electrical protective equipment standards published in the **Federal Register** on January 31, 1989 (54 FR 4974). This extension is in response to a request filed with OSHA by industry organizations. Interested parties are given an additional 31 days to comment on this proposal.

DATES: Written comments on these proposed rules must be postmarked by June 1, 1989.

ADDRESS: All comments should be sent in quadruplicate to Docket Officer; Docket S–015, Rm. N2634; OSHA, U.S. Department of Labor; 200 Constitution Avenue NW.; Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster; U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637; 200 Constitution Avenue NW.; Washington, DC 20210 (202–523–8148).

SUPPLEMENTARY INFORMATION: This document was prepared under the direction of Alan C. McMillan, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

This document is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599, 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR Part 1911.

Signed at Washington, DC this 25th day of April, 1989.

Alan C. McMillan,

Acting Assistant Secretary of Labor.

[FR Doc. 89–10309 Filed 4–28–89; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 98a

Military Whistleblower Protection

AGENCY: Inspector General, Department of Defense.

ACTION: Proposed rule.

SUMMARY: This part provides policy and implements the military whistleblower protection provisions contained in Pub. L. 100–456. It applies to all DoD components and personnel and establishes responsibilities, authorities, and operating procedures to ensure that military members of the Armed Forces are protected from reprisal for making lawful communication with a member of Congress or an Inspector General in which the member makes a complaint or discloses information that the member reasonably believes evidence a violation of law or regulation; mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public safety. This part specifically provides for the reporting and investigating of reprisal allegations. It also provides for remedies when reprisal is found, including disciplinary action against persons taking reprisal, and the correction of military records when appropriate.

DATE: Comments must be received by May 31, 1989.

ADDRESS: Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–2884.

FOR FURTHER INFORMATION CONTACT: Ms. M. Campbell, telephone (202) 697–6656.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 98a

Armed forces, Fraud, Investigations.

Accordingly, Title 32 of the Code of Federal Regulations, is proposed to be amended to add Part 98a as follows:

PART 98a—MILITARY WHISTLEBLOWER PROTECTION

Sec.

98a.1 Purpose.
98a.2 Applicability and scope.
98a.3 Definitions.
98a.4 Policy.
98a.5 Responsibilities.
98a.6 Authority.
Appendix—Operating Procedures.

Authority: 10 U.S.C. 1034; Pub. L. 100–456

§ 98a.1 Purpose.

This document provides policy and implements Pub. L. 100–456 that establishes protection against reprisal for military members of the Armed Forces for making a lawful communication to a Member of Congress or an Inspector General in which the member makes a complaint or discloses information that the member reasonably believes evidences a violation of law or regulation; or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public safety. It sets forth responsibilities and authorities for such protection and prescribes operating procedures (Appendix).

§ 98a.2 Applicability and scope.

This part applies to all DoD personnel and to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and reserve components), the Joint Chiefs of Staff (JCS), the Unified and Specified Commands, the Inspector General and the Defense Agencies, including nonappropriated fund activities (hereafter referred to collectively as "DoD Components").

§ 98a.3 Definitions.

(a) *Communication.* Any lawful communication to a Member of Congress or an Inspector General.

(b) *Member of Congress.* Any Delegate or Resident Commissioner to Congress.

(c) *Inspector General.* An Inspector General appointed under the Inspector General Act of 1978; and an officer of the armed forces assigned or detailed under Service regulations to serve as an Inspector General at any command level in one of the Military Departments.

(d) *Board for the Correction of Military Records.* Any board empowered under 10 U.S.C. 1552 to recommend correction of military records to the Secretary of the Military Department concerned.

(e) *Correction Action.* Any action deemed necessary to make the complainant whole; changes in agency regulations, or practices; administrative or disciplinary action against offending personnel; or referral to the U.S. Attorney General or Court Martial convening authority of any evidence of criminal violation.

(f) *Member of the Armed Forces.* All Regular and Reserve component officers (commissioned and warrant) and enlisted members of the Army, Navy, Air Force, Marine Corps, and the Coast Guard when operating as part of the Navy, on active duty, and Reserve component officers (commissioned and warrant) and enlisted members whether on active duty, on inactive duty for training, or not in a training status. This definition includes professors and cadets of the Military Service academies and officers and enlisted members of the National Guard.

(g) *Reprisal.* Taking or threatening to take an unfavorable personnel action or withholding or threatening to withhold a favorable personnel action against a member for making or preparing to make a communication to a Member of Congress or an Inspector General.

(h) *Personnel Action.* Any action taken with respect to a member of the Armed Forces which affects or has the potential to affect the member's current position or his career. Such actions include: a promotion; a disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; a decision concerning pay, benefits, awards or training; any other significant change in duties or responsibilities inconsistent with the member's rank.

§ 98a.4 Policy.

(a) No person shall restrict a member of the Armed Forces from lawfully communicating with a Member of Congress or an Inspector General.

(b) It is DoD policy that members of the Armed Forces shall be free from reprisal for making or preparing to make

lawful communications to Members of Congress and Inspectors General.

(c) Any employee or member of the Armed Forces who has the authority to take, direct others to take, recommend or approve any personnel action shall not, under such authority, take, withhold, threaten to take, or threaten to withhold a personnel action with respect to any member of the Armed Forces in reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General.

§ 98a.5 Responsibilities.

(a) The Inspector General, Department of Defense (IG, DoD) shall:

(1) Expeditiously initiate an investigation of any allegation submitted to the IG, DoD under this part by a member of the Armed Forces that a personnel action has been taken (or threatened) in reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General in which the member makes a complaint or discloses information that the member reasonably believes evidences a violation of law or regulation; or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. The IG, DoD may request the appropriate DoD Component Inspector General conduct the investigation. No investigation is required when such allegation is submitted more than 60 days after the military member became aware of the personnel action that is the subject of the allegation.

(2) Initiate a separate investigation of the information the member believes evidences wrongdoing if such investigation has not already been initiated. No investigation is required if the information that the member believes evidences wrongdoing relates to actions which took place during combat.

(3) Complete the investigation of the allegation of reprisal and issue a report within 90 days of the receipt of the allegation. If a determination is made that the report cannot be issued within 90 days of receipt of the allegation, notify the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) and the member or former member making the allegation of the reasons the report will not be submitted within that time and when the report will be submitted.

(4) Prepare report of the results of the investigation. The report will include a thorough review of the facts and circumstances relevant to the allegation, the relevant documents acquired during the investigation, and summaries of interviews conducted.

(5) Submit a copy of the report of investigation to the ASD(FM&P) and to the member or former member making the allegation not later than 30 days after the completion of the investigation. The copy of the report issued to the member may exclude any information not otherwise available to him/her under "DoD Freedom of Information Act Program." (32 CFR Part 285)

(6) At the request of a Board for the Correction of Military Records, submit a copy of the investigative report to the Board.

(7) At the request of a Board for the Correction of Military Records, gather further evidence and issue a further report of the Board.

(8) After the final action in any allegation filed under this part, whenever possible, interview the person who made the allegation to determine the views of that person on the disposition of the matter.

(9) Review and determine the adequacy of any DoD Component Inspector General investigation of allegations of reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General conducted under the provisions of Pub. L. 100–456 amd at the request of the IG, DoD. If such inquiry is found inadequate, initiate an investigation to correct the inadequacies or assure that the DoD Component corrects the inadequacies.

(b) Inspector Generals of DoD Component shall:

(1) Upon receipt of a member's allegation of reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General, expeditiously investigate the allegation and notify the IG, DoD, of the initiation and the expected date of completion of such investigation. No investigation is required when such allegation is submitted more than 60 days after the military member became aware of the personnel action that is the subject of the allegation.

(2) Upon completion of an investigation into an allegation that a member or former member suffered reprisal, forward a copy of the investigative report to the head of the DoD Component, and the member. The copy of the report issued to the member may exclude any information not otherwise available to him/her under 32 CFR Part 285.

(3) For those investigations done at the request of the IG, DoD, within 90 days of the receipt of the allegation, provide the IG, DoD with an investigative report containing a thorough review of the facts and circumstances relevent to the allegation, documents acquired during the investigation, and summaries of interviews conducted.

(4) At the request of a Board for the Correction of Military Records, submit a copy of the investigative report to the Board.

(5) At the request of a Board for the Correction of Military Records, gather further evidence and issue a further report to the Board.

(c) The Boards for the Correction of Military Records (BCMR) shall:

(1) Determine whether the resolve an application for the correction of records made by a member or former member of the armed forces who has filed a timely complaint with the IG, DoD alleging a personnel action was taken in reprisal for making or preparing to make a lawful communication to a member of Congress or an Inspector General, in accordance with the provisions of 10 U.S.C. 1552. This may include the receipt of oral argument, examining and cross-examining witnesses, taking depositions and conducting an evidentiary hearing at the Board's discretion.

(2) Review the report of any investigation into the member's allegation of reprisal conducted by the IG, DoD or the IG of a DoD Component.

(3) As deemed necessary, request that the IG, DoD, or the IG of the DoD Component originally investigating the allegation, gather futher evidence.

(4) If the Board elects to hold an administrative hearing, the member may be represented by a judge advocate if:

(i) The IG, DoD report of investigation finds there is probable cause to believe that a personnel action was taken, withheld, or threatened in reprisal for the member making or preparing to make a lawful communication to a Member of Congress or an Inspector General;

(ii) The Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

(iii) The member is not represented by outside counsel chosen by the member.

(5) If the Board elects to hold an administrative hearing, assure that the member may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in an Inspector General investigatory record, but not included in the report released to the member.

(6) If the Board determines that a personnel action was taken in reprisal for a member or former member making or preparing to make a lawful communication to a Member of Congress or an Inspector General, the Board may forward its recommendation to the Secretary concerned for appropriate administrative or disciplinary action against the individual or individuals who committed the action.

(d) The Assistant Secretary of Defense (Force Management & Personnel) (ASD(FM&P)) shall:

(1) Review and process, under the standards and procedures in paragraph 5 of the Appendix to this part, request from members or former members of the Armed Forces for review of final decisions of a Secretary of a Military Department on applications for correction of military records decided under provisions of this part.

(2) Notify the IG, DoD of decisons made on requests for review of a final decision of a Secretary of a Military Department on an application for correction of military records submitted under provisions of this Directive.

(e) Secretaries of Military Departments or their designees under 10 U.S.C. 1552, shall:

(1) Within 180 days of its receipt, issue a final decision on an application for the correction of military records from a member or former member alleging reprisal for making or preparing to make a lawful communication to Members of Congress or an Inspector General. When the final decision does not grant the full relief requested by the member, advise the member that within 90 days he and/or she may request the Secretary of Defense reconsider the decision.

(2) When reprisal is found, take appropriate corrective action including the correction of the records of the military member in accordance with sections 1552 and 1553, Title 10, U.S.C.

(3) Ensure that administrative or disciplinary action, if appropriate, is taken against individuals found to have taken reprisal against a member for making or preparing to make a communication to a Member of Congress or an Inspector General.

(4) Notify the IG, Dod of a decision on an application for the correction of military records received from a member or former member alleging reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General and of any disciplinary action taken.

(f) DoD Components shall:

(1) Bases on an Inspector General investigative report, take appropriate corrective action.

(2) Publicize the content of this part to ensure that military and other DoD personnel fully understand the scope and application of the part. The publicity should include the definition of "communication" and the procedures for filing a complaint.

§ 98a.6 Authority.

(a) The Assistant Secretary of Defense (Force Management & Personnel) (ASD(FM&P) is hereby delegated authority to:

(1) Have access to all research, reports, investigations, audits, reviews, documents, papers or any other material necessary to carry out the responsibilities of § 98a.5(d).

(2) Request the Secretaries of the Military Departments to comment on and make available for review, if necessary, evidence considered by a Board for Correction of Military Records in cases in which the Secretary is requested to reconsider the final decision of the Secretary concerned.

(3) Issue instructions to amplify or amend the procedures in paragraph 5 of Appendix to this part as may be necessary to implement the responsibilities of § 98a.5(d).

(b) The Secretary of Defense shall, upon receipt of a timely request from a member or former member, make a decision to uphold or reverse the decision of a Secretary of a Military Department in an application for the correction of military records alleging reprisal for making or preparing to make a communication to a member of Congress or an Inspector General.

Appendix—Operating Procedures

1. Any member of the Armed Forces who reasonably believes a personnel action (including the withholding of an action) was taken or threatened in reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General may file a complaint with the DoD Hotline. Such a complaint may be filed by telephone (800) 424–9098, (202) 693–5080, or Autovon 223–5080 or by letter addressed to Department of Defense Hotline, The Pentagon, Washington, DC 20301–1900.

2. Complaints should include the name, address, and telephone number of the complainant, the name and location of the activity where the alleged violation occurred, the personnel action taken which is alleged to be motivated by reprisal, the DoD Component, and the individual(s) believed to be responsible for the personnel action, when the alleged reprisal occurred, and what information suggests or evidences a connection between the communication and retaliatory action. The complaint should also include a description of the communication to a Member of Congress or an Inspector General including a copy of any written communication and a brief summary of any oral communication showing date of communication, subject matter, and the name of the person or officer to whom the communication was made.

3. The IG, DoD may refer complaints to the appropriate DoD Component for investigation. DoD Components conducting investigations shall provide the IG, DoD with an investigative report containing a thorough review of the facts and circumstances relevant to the allegation, the relevant documents acquired during the investigation, and summaries of interviews conducted. The report shall be issued within 90 days of the receipt of the allegation.

4. A member of the Armed Forces who is alleging reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General may file an application for the correction of military records with the appropriate Board for the Correction of Military Records using the procedures established by the Board.

5. A member or former member of the Armed Forces who has filed an application for the correction of military records under paragraph 4 above, alleging reprisal for making or preparing to make a lawful communicating to a Member of Congress or an Inspector General, may request review by the Secretary of Defense of the final decision of the Secretary of a Military Department concerned on such application. The following procedures apply to requests for review by the Secretary of Defense:

a. *Content of Request.* The request for review must be in writing and include the military member's name, address, telephone number, copies of the application to the Board for Correction of Military Records and the final decision of the Secretary concerned on such application, and a statement of the specific reasons why the member is not satisfied with the decision of the Secretary concerned. Requests based on factual allegations or evidence not previously presented to the cognizant Board for Correction of Military Records will not be considered. New allegations or evidence must be submitted directly to the Board for reconsideration under procedures established by the Board.

b. *Standard of Review.* The Secretary of Defense will review the allegations submitted by the member or former member requesting review and other records deemed appropriate and necessary by the Secretary of Defense for deciding, in his or her sole discretion, whether to uphold or reverse the decision of the Secretary concerned. The decision of the Secretary of Defense is final.

c. *Time Limits.* The request for review must be filed within 90 days of receipt by the member or former member of the final decision of the Secretary concerned.

d. *Address.* Requests for review by the Secretary of Defense must be summitted to:

Assistant Secretary of Defense (Force Management and Personnel), (Attention: Director, Legislation and Legal Policy, ODASD (MM&PP)), Room 3E764, The Pentagon, Washington, DC 20301–4000.

Dated: April 21, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-10242 Filed 4-28-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN 2900-AD75

National Service Life Insurance: Verbal Authorization of Premium Deduction Actions

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations to reflect that an insured under a National Service Life Insurance (NSLI) policy may verbally authorize VA to establish, adjust or cancel a monthly deduction of premiums from VA benefits or military service retired pay. Currently such action may only be taken pursuant to a written authorization from an insured. By amending regulations in this manner, insured veterans will be able to utilize the VA Insurance Service's toll-free telephone service to expedite their premium deduction action reports.

DATES: Comments must be received on or before May 31, 1989. Comments will be available for public inspection until May 31, 1989. The effective date of this regulation, if promulgated, is 30 days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 132 of the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until June 12, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Paul F. Koons, Assistant Director for Insurance, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, (215) 951-5360.

SUPPLEMENTARY INFORMATION: The Secretary hereby certifies that these proposed regulations, if promulgated, will not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b) these proposed regulations are, therefore, exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604. The reason for this certification is that these proposed regulations will affect only certain NSLI policyholders. It will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperswork requirements or effect on competition.

VA has also determined that these proposed regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase of costs or prices, and will not otherwise have any significant adverse economic effects.

The Catalog of Federal Domestic Assistance program number for this regulation is 64.101.

List of Subjects in 38 CFR Part 8

Life insurance, Veterans.

Approved: April 6, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 8—[AMENDED]

In 38 CFR Part 8, National Service Life Insurance, paragraphs (a) and (c) of § 8.8 are revised and an authority citation is added at the end of the section to read as follows:

§ 8.8 Deduction of insurance premiums from compensation, retirement pay, or pension.

* * * * *

(a) The authorization may be made by an insured or the insured's legal representative. If the authorization is made by the insured legal representative, it must be in writing over the signature of the representative and forwarded to the Department of Veterans Affairs along with a copy of the document which evidences the individual's authority to act on behalf of the insured. If an insured is incompetent and has no legal representative and has a spouse to whom benefits are being paid pursuant to section 3202(f) of Title 38, United States Code, and § 13.57 of this chapter, the spouse may authorize payment of insurance premiums through the deduction system. If an insured is incompetent and has no legal representative and an institutional award has been made in his or her behalf, the authorization may be executed by the Director of the field facility in which the insured is hospitalized or receiving domiciliary care, and in appropriate cases by the chief officers of State hospitals or other institutions to whom similar awards may have been approved.

* * * * *

(c) The authorization may be cancelled by the insured at any time. Such cancellation will be effective on the first day of the month following the month in which it is received by the Department of Veterans Affairs.

* * * * *

(Authority: 38 U.S.C. 708)

2. Section 8.9 is revised and an authority citation is added to read as follows:

§ 8.9 Authorization for deduction of insurance premiums from compensation, retirement pay, or pension.

The authorization for deductions from disability compensation, death compensation, dependency and indemnity compensation, retirement pay, disability pension, or death pension, to be acceptable for the payment of insurance premiums, must be received by the Department of Veterans Affairs while the insurance is not lapsed. Such an authorization will be effective against the benefit payment for the month in which it is received by the Department of Veterans Affairs, unless the insured elects to have the authorization become effective against the benefit payment for a succeeding month. However, the deduction made from the benefit payment for the month in which the authorization becomes effective shall be for the insurance premium due in the succeeding calendar month. When premium deductions are authorized in accordance with the provisions of Department of Veterans Affairs regulations, the Department of Veterans Affairs will make monthly deductions from the benefit payment due and payable to the insured of an amount sufficient to pay the monthly insurance premium. Such deductions will continue so long as the benefit payment due and payable to the insured is sufficient to pay the monthly insurance premium or until the authorization is revoked by the veteran or otherwise terminated.

(Authority: 38 U.S.C. 708)

[FR Doc. 89-10427 Filed 4-28-89; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Region II Docket No. 95; FRL-3562-9]

Approval and Promulgation of Implementation Plans; Designation of Areas For Air Quality Planning Purposes; Revisions to the State of New York Implementation Plan and Attainment Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today announcing the proposed approval of the New York State Air Quality State Implementation Plan (SIP) for particulate matter. On July 1, 1987 EPA promulgated new ambient air quality standards for particulate matter which are based upon the measurement of particles having an aerodynamic diameter of 10 microns or less (PM_{10}). Consequently, states are required to develop plans which provide for attainment and maintenance of these new standards. The New York statewide SIP revision demonstrates that the existing SIP for total suspended particulates (TSP) is adequate to provide for attainment and maintenance of the PM_{10} standards.

This notice also announces EPA's proposed approval of a request from the State of New York to revise the air quality TSP designation for areas in the following Air Quality Control Regions (AQCRs): New York-New Jersey-Connecticut Interstate AQCR and Central New York AQCR. Specifically, this action means that the air quality in these locations will now be designated as "unclassifiable" with respect to particulate matter.

DATE: Comments must be received by May 31, 1989.

ADDRESSES: All comments should be addressed to: William J. Muszynski, P.E., Acting Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 26 Federal Plaza, Room 1005, New York, New York 10278.

New York State Department of Environmental Conservation, Division of Air Rsources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Backgrounds

In 1971, EPA promulgated primary and secondary national ambient air quality standards for particulate matter, measured as "total suspended particulate matter" or "TSP". The primary standards were set at 260 $\mu g/m^3$, 24-hour average not to be exceeded more than once per year, and 75 $\mu g/m^3$, annual geometric mean. The secondary standard, also measured as TSP, was set at 150 $\mu g/m^3$, 24-hour average not to be exceeded more than once per year. In accordance with sections 108 and 109 of the Clean Air Act, EPA has reviewed and revised the health and welfare critiera upon which these primary and secondary particulate matter standards were based.

In a **Federal Register** notice published on July 1, 1987 (52 FR 24634), EPA announced its final decisions regarding changes to the particulate matter standards. Specifically, (1) TSP was replaced as the indicator for determining attainment of particulate matter standards by a new indicator that consists of measuring only particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}); (2) replacing the 24-hour primary TSP standard with a 24-hour PM_{10} standard of 150 $\mu g/m^3$ with no more than one expected exceedance per year; (3) replacing the annual primary TSP standard with a PM_{10} standard of 50 $\mu g/m^3$, expected annual arithmetic mean; and (4) replacing the secondary TSP standard with 24-hour and annual $\mu g/m^3$ standard that are identical in all respects to the primary standards.

The new PM_{10} indicator was selected since it includes all the particles small enough to cause the adverse health effects associated with breathing particle-laden air. These smaller particles are detrimental to human respiratory health due to their ability to penetrate the sensitive alveolar regions of the lung.

A. Group Designations

Because PM_{10} air quality data was lacking in most areas of the country, EPA could not arbitrarily designate areas as attainment or nonattainment. EPA then developed an analysis using historical ambient TSP data and any available PM_{10} data to classify all counties in the nation into one of three groups based upon the statistical probabilities of not attaining the new PM_{10} standards. EPA has classified the following: (1) Areas with a probability of not attaining the PM_{10} standard of at least 95 percent as "Group I", (2) areas with a probability of not attaining the PM_{10} standard of between 20 and 95 percent as "Group II", and (3) areas with a probability of not attaining the PM_{10} standard of less than 20 percent as "Group III". All areas are currently conducting ambient monitoring to determine whether actual ambient PM_{10} concentrations are above or below the PM_{10} NAAQS.

B. SIP Revisions

For Group I areas, a State Implementation Plan (SIP) is required with sufficient PM_{10} control strategies included to demonstrate attainment and maintenance of the standard. For Group II areas, the state must submit a "committal" SIP that supplements the existing TSP SIP with enforceable commitments. Specific commitments should include plans to collect and analyze PM_{10} ambient air quality data and to report violations to the EPA Region III Office. For Group III areas, existing SIP documents are adequate but the SIP revision must include provisions for Prevention of Significant Deterioration (PSD) and PM_{10} monitoring. A full SIP revision would be required for a Group II or Group III area if a monitoring site records four exceedances of the PM_{10} 24-hour standard over a three year period or less or if the PM_{10} annual arithmetic mean is greater than 50 $\mu g/m^3$ based on three consecutive years of data.

Each SIP for particulate matter must be revised for PM_{10} in order to: (1) Include State ambient air quality standards for PM_{10} at least as stringent as the NAAQS; (2) trigger preconstruction review for new or modified sources which would emit significant amounts of either PM or PM_{10} emissions; (3) invoke the emergency episode plan to prevent PM_{10} concentrations from reaching the significant harm level of 600 $\mu g/m^3$; (4) meet ambient PM_{10} monitoring requirements of 40 CFR 58; and (5) meet the requirements of 40 CFR 51.322 and 51.323 to report actual emissions of PM_{10} (beginning with emissions for calendar year 1988) for point sources emitting 100 tons per year or more.

II. SIP Content and Review

On May 28, 1988 New York State submitted a SIP for PM_{10} which contains the following: (1) Current particulate air quality data for each Air Quality Control Region; (2) description of

existing and proposed monitoring network for PM_{10}; (3) air quality control of particulate matter under existing regulations and controls; (4) PSD from new sources and modifications and; (5) additional commitments for the area in the Village of Solvay, Onondaga County. In New York State, EPA has designated one Group III area in the Village of Solvay, Onondaga County. Thr rest of the State is designated as Group III.

A. Outline of Existing Plans

New York State is divided into eight Air Quality Control Regions (AQCRs). The EPA has designated certain areas in these regions, based on population growth and economic development, as Air Quality Maintenance Areas (AQMA). As a result of the Clean Air Act Amendments of 1977, SIP revisions were written in 1978 for each AQMA. From time to time, revisions of these plans have been made. All existing SIPs will continue to cover those areas and pollutants addressed in those plans. Particulate controls and regulations called for in the TSP SIPs will continue to be enforced. The New York State Implementation Plan includes statewide SIP revisions resulting from the change in the particulate matter standard.

B. Monitoring

Since 1983, EPA has been assisting in and encouraging states to develop PM_{10} monitoring networks. As a result, New York State has PM_{10} air quality monitoring equipment operating at 15 monitoring sites where TSP concentrations had historically been high and/or where local emission sources contribute to PM_{10} concentrations. The following sampling frequencies are being observed for the different area designations: (1) All Group I areas require, for one year or its equivalent, every day PM_{10} sampling at the site of maximum concentration with other sites on a sixth day schedule; (2) Group II areas require, for one year or its equivalent, every other day PM_{10} sampling at the site of maximum concentration with other sites on a sixth day schedule and; (3) for Group III areas, PM_{10} monitoring is on a sixth day schedule at any site.

C. Pre-Construction Review, New Source Review (NSR) and Prevention of Significant Deterioration (PSD)

New source review in TSP nonattainment areas will continue to be covered under Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Chapter III Part 231.

Once TSP areas have been designated as attainment or unclassifiable, all new or modified construction at a major facility must conform to PSD review. TSP increments will continue to be used under PSD review until new PM_{10} increments are established. Therefore, the PSD review program must evaluate particulate emissions on the basis of both TSP and PM_{10}. A major source is subject to PSD review if the increase in emissions is 25 tons/year for TSP or 15 tons/year for PM_{10}. One year of preconstruction monitoring will be required by a source owner if the ambient air quality impact of the proposed source is 10 ug/m^3 for either TSP or PM_{10}. If a source would be located in an area that is in violation of the PM_{10} standard, the source would be required to obtain offsetting emissions reductions prior to construction.

EPA has delegated authority for implementing the Federal PSD program to the State of New York and, as such, the State has included PM_{10} in its PSD review program. (New York State Air Quality Implementation Plan, Appendix A, April 1, 1988).

D. Regulations and Consent Orders

The State of New York is maintaining all existing regulations and/or consent orders which pertain to particulate control. These controls will remain in place to ensure that the air quality in the State does not deteriorate and the PM_{10} NAAQS is maintained.

E. Annual NEDS Emissions Data Reporting

New York State reports emissions data for point sources emitting 100 tons/year or more of any criteria pollutant each year. This information is entered by EPA into the National Emissions Data System (NEDS). Starting with calendar year 1988, TSP emissions data will be replaced by PM_{10} emission data. Calendar year 1988 PM_{10} emission data will be reported in July, 1989.

F. Changes to State Emergency Episode Plans

New York State has made the following changes to the State Emergency Episode Plans as a result of the new PM_{10} standard: (1) The significant harm level for particulate matter is revised from 1000 $\mu g/m^3$ measured as TSP to 600 $\mu g/m^3$ measured as PM_{10}. (2) The combined sulfur dioxide/particulate matter significant harm level is deleted. (3) The alert level for particulate matter (PM_{10}) is changed to 350 $\mu g/m^3$ for a 24-hour average. (4) The warning level for particulate matter (PM_{10}) is changed to 420 $\mu g/m^3$ for a 24-hour average. (5) The emergency level for particulate matter (PM_{10}) is changed to 500 $\mu g/m^3$ for a 24-hour average.

EPA believes that these levels will provide sufficient warning so that preventative measures can be initiated before a major episode can occur.

G. Group II Area—Village of Solvay, Onondaga County

Based on monitored data collected in the Village of Solvay (site 360672002) during 1984–1986, EPA has classified the area as a Group II PM_{10} area. Therefore, New York State has committed to the requirements for Group II areas as stated in the July 1, 1987 notice (52 FR 24681). Modeling results in 1978 and in 1980 indicated that the Solvay site was predominately impacted by the Allied Chemical Plant in the area. Since this plant closed in June, 1986, the concentrations at this monitoring site have decreased.

(1) PM_{10} Monitoring Solvay

Because the Village of Solvay, Onondaga County is classified as Group II, New York State is committed to monitor PM_{10} at this site every other day for one year or at an equivalent schedule of every sixth day sampling for a period of 37 months. Since PM_{10} monitoring was started on August 17, 1985, New York State elected to use the equivalent monitoring schedule since approximately three years of data has already been collected. As of June 26, 1987, there have been 215 samples collected at this site, resulting in an overall arithmetic mean of 34 $\mu g/m^3$. The maximum value recorded during this period was 89 $\mu g/m^3$.

In addition to collecting three years of data, DEC has agreed to operate additional PM_{10} monitors in the area of predicted maximum concentration if the operation of the boilers resumes at the Allied Chemical Plant.

(2) Air Quality Control of Particulate Matter

The closing of the Allied Chemical Plant removed a large source of particulate emissions from the area. This facility not only impacted the Solvay area, but also had an effect on air quality in Syracuse. Should the boilers at the Allied Chemical Plant resume operation, an air quality evaluation may be warranted to determine the impact from the source. EPA considers the existing regulations, as well as both State and Federal Motor Vehicle Emissions Control Programs, as being sufficient for attaining and maintaining the new PM_{10} standards in the Village of Solvay and the Syracuse AQMA. Also, the control measures in the existing TSP SIP will continue to be enforced.

(3) Additional Commitments for Group II Area in Solvay

New York State has committed to the following:

i. Analyze and verify the ambient PM_{10} air quality data and report 24-hour PM_{10} exceedance to the EPA Region II office within 45 days of each exceedance. After an equivalent monitoring period (three years), analyze air quality data and determine the long term monitoring requirement and attainment status.

ii. Within 30 days of notification of a PM_{10} exceedance or within 30 months of promulgation of the PM_{10} standard, whichever comes first, determine whether the measures in the existing Syracuse TSP SIP will assure the timely attainment and maintenance of the primary PM_{10} standards and immediately notify EPA Region II.

iii. Within 6 months after notifying EPA Region II of a PM_{10} non-attainment problem, adopt and submit to EPA Region II a PM_{10} control strategy that assures attainment within three years from the approval date of the PM_{10} SIP revisions for the Solvay Group II area.

(4) Schedule of Activities

The SIP revision shall demonstrate that both daily and annual national ambient air quality standards for PM_{10} will not be exceeded. In the village of Solvay, New York State will follow the following schedule for attainment demonstration:

—August 17, 1985, PM_{10} monitoring started at Solvay Site 360672002.

—September 17, 1988, monitoring period completed at the Solvay site.

—January 16, 1989, Analyze monitor data and determine attainment status.

—October 16, 1989, TSP and PM_{10} actual and allowable emissions data prepared for the Solvay area.

H. Group III Areas

Based on monitored TSP data and some PM_{10} data, the entire state of New York, outside the Village of Solvay, is designated as Group III for PM_{10}. As such, EPA believes that the existing TSP SIP is adequate to demonstrate attainment and maintenance of the PM_{10} standards. New York State, in its SIP revision, has committed to the monitoring and PSD requirements for Group III areas (see sections B and C of this notice). Any Group II or Group III areas which subsequently observe violations of the PM_{10} NAAQS will be treated as a newly discovered non-attainment area. Thus, the State will submit a full control strategy which demonstrates attainment of the PM_{10} standard within three years.

The following AQCRs and AQMAs are designated as Group III for PM_{10} by EPA.

—New York-New Jersey-Connecticut AQCR

—Hudson Valley AQCR

—Northern AQCR

—Central New York AQCR (Utica-Rome AQMA)

—Genesee Finger Lakes AQCR

—Niagara Frontier AQCR

—Southern Tier West AQCR

—Southern Tier East AQCR

I. Niagara Frontier

There has never been a recorded violation of the PM_{10} standard in the Niagara Frontier. The application of EPA's screening technique demonstrates that the Niagara Frontier is a Group III area. However, the area has never had an approved TSP SIP. The State has on January 5, 1987 submitted a TSP control strategy and attainment demonstration for the Niagara Frontier. EPA will take rulemaking action on this submittal in a separate Federal Register notice.

J. Other Administrative Requirements

As part of the public notification process, New York State published a notice announcing the availability of the SIP revision in the Department of Environmental Conservation's Environmental Notice Bulletin (ENB) on March 30, 1988 and requested comments.

While EPA believes that the State did provide adequate opportunity for public comments, EPA regulations require the State to provide an opportunity for a public hearing. Therefore, the State has been notified that they must provide interested individuals an opportunity to comment and request a public hearing if they have substantial negative comments concerning the proposed approval of this SIP revision. These individuals would have to request this public hearing in writing and provide the basis to support their negative position.

In addition, EPA is providing an opportunity to submit written comments on the proposed SIP revision to the address at the beginning of this notice. All comments shall be considered before a final rulemaking action is taken on this SIP revision.

III. Designation of Areas for Air Quality Planning Purposes; Revision to Section 107 Attainment Status Designations for the State of New York

A. Background

Under 107(d) of the Clean Air Act, 42 U.S.C. 7407 (d), directs each state to submit to the Administrator of the EPA a list of NAAQS attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 9862). Pursuant to 52 FR 24682 in the July 1, 1987 Federal Register, states are encouragd to request the redesignation of TSP nonattainment areas to unclassifiable at the time the PM_{10} control stretegy for the area is submitted. When EPA approves the control strategy as sufficient to attain and maintain the PM_{10} NAAQS, it will also approve the redesignation. Since New York State made revisions to the SIP for particulate matter that enable the State to protect the NAAQS for particulate matter having a nominal aerodynamic diameter of 10 microns (PM_{10}), EPA will redesignate TSP Primary or Secondary nonattainment area in the following AQCRs to unclassifiable: (1) New York-New Jersey-Connecticut Interstate AQCR; (2) Hudson Valley AQCR and; (3) Central New York AQCR. The TSP attainment areas in New York remain attainment for TSP.

One significant result of EPA's rulemaking is that states will no longer be required to subject major new and modified sources of particulate matter to the nonattainment requirements under Part D of the Clean Air Act. That is, because EPA is implementing the PM_{10} NAAQS accordance with section 110 of the Clean Air Act and will not promulgate any nonattainment area designations (pursuant to section 107n of the Clean Air Act) for PM_{10}, the nonattainment area NSR requirements contained in paragraph (a) of section 51.165 will not apply to PM_{10}. Furthermore, in light of EPA's deletion of the TSP indicator for the NAAQS, EPA no longer requires states to submit TSP nonattainment area NSR requirements based on Part D of the Clean Air Act.

IV. Conclusion

The existing regulations and control programs since 1970 have resulted in improved particulate air quality in New York State such that a statewide composite level has fallen from 73 $\mu g/m^3$ in 1970 to 40.5 $\mu g/m^3$ in 1987. TSP concentrations in New York State are predominately influenced by combustion sources and motor vehicles. Combustion sources are controlled by State regulations through the Department of Environmental Conservation's permit system while State and Federal Motor Vehicle Control programs limit motor vehicle emissions. Since a large percentage of the particles that are being controlled by these programs have emissions that are less

than 10 microns, existing controls and strategies are considered adequate for controlling and maintaining the PM_{10} standard in New York State. Air quality in the Village of Solvay has improved after the closing of a major facility and PM_{10} monitoring data indicates that this area should attain the PM_{10} standards without any new regulations.

EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address at the beginning of this notice.

The revisions are being proposed under a procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed in areas other than those identified in this notice, EPA will publish a revised Notice of Proposed Rulemaking. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revisions have been adopted by New York State and submitted to EPA for incorporation into the SIP.

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 of the Clean Air Act, and 40 CFR Part 51.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects

40 CFR Part 52

Air pollution control, Particulate matter.

40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Date: April 12, 1989.

William J. Muszynski,

Acting Regional Administrator, Environmental Protection Agency, Region II.

[FR Doc. 89–10405–Filed 4–28–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

43 CFR Part 17

Federally Assisted Programs or Activities of the Department of the Interior, Nondiscrimination on the Basis of Handicap

AGENCY: Department of the Interior (DOI).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would amend the regulation issued by DOI, at 43 CFR Part 17, Subpart B, for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a crossreference to the Uniform Federal Accessibility Standards (UFAS). Because some facilities subject to new construction or alteration requirements under section 504 are also subject to the Architectural Barriers Act, governmentwide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce potential conflicts when a building is subject to the section 504 regulations of more than one Federal agency.

DATE: To be assured of consideration, comments must be in writing and must be received by June 30, 1989.

ADDRESSES: Comments should be sent to: Carmen R. Maymi, Director, Office for Equal Opportunity, U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240. Comments received will be available for public inspection at the Office for Equal Opportunity, Room 1324, Main Interior Building, 18th and C Streets, NW., Washington, DC 20240. Copies of this notice are available on tape for persons with impaired vision. They may be obtained at the above address.

FOR FURTHER INFORMATION CONTACT: Melvin C. Fowler, Office for Equal Opportunity, U.S. Department of the Interior, Washington, DC 20240, telephone (202) 343–3455 or (202) 343–3434 Voice/ TDD.

SUPPLEMENTARY INFORMATION:

Background

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), provides in part that:

> No otherwise qualified individual with handicaps in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *

DOI's current section 504 regulation for federally assisted programs or activities requires that new construction be designed and built to be accessible and that alterations of facilities be made in an accessible manner. It states that new construction, addition or alteration must be accomplished in accordance with the Minimum Guidelines and Requirements for Accessible Design, issued by the Architectural and Transportation Barriers Compliance Board (ATBCB). The proposed revision set forth in this document will reference UFAS in place of the current standard.

On August 7, 1984, UFAS was issued by the four agencies establishing standards under the Architectural Barriers Act (49 FR 31528 (see discussion *infra*)). The Department of Justice (DOJ), as the agency responsible under Executive Order 12250 for coordinating the enforcement of section 504, has recommended that agencies amend their section 504 regulations for federally assisted programs or activities to establish that, with respect to new construction and alterations, compliance with UFAS shall be deemed to be in compliance with section 504. Because some facilities subject to new construction or alteration requirements under section 504 are also subject to the Architectural Barriers Act, governmentwide reference to UFAS will diminish the possibility that recipients of Federal financial assistance would face conflicting enforcement standards. In addition, reference to UFAS by all Federal funding agencies will reduce potential conflicts when a building is subject to the section 504 regulations of more than one Federal agency.

Background of Accessibility Standards

The Architectural Barriers Act of 1968, 42 U.S.C. 4151–4157, requires certain Federal and federally funded buildings to be designed, constructed, and altered in accordance with accessibility standards. It also designates four agencies (the General Services Administration, the Departments of Defense and Housing and Urban Development, and the U.S. Postal Service) to prescribe the accessibility standards. Section 502 of the Rehabilitation Act of 1973 established the ATBCB. In 1978, the Rehabilitation Act was amended to require the ATBCB, *inter alia*, to issue minimum guidelines and requirements for the standards to be issued by the four standard-setting agencies. The minimum guidelines were published on August 4, 1982 (47 FR

33862), and are codified at 36 CFR Part 1190.[1]

On August 7, 1984, the four standard-setting agencies issued UFAS as an effort to minimize the differences among their Architectual Barriers Act standards, and among those standards and accessibility standards used by the private sector. The General Services Administration (GSA) and Department of Housing and Urban Development (HUD) have incorporated UFAS into their Architectual Barriers Act regulations (*see* 41 CFR Subpart 101–19.6 (GSA) and 24 CFR Part 40 (HUD)). In order to ensure uniformity, UFAS was designed to be consistent with the scoping and technical provisions of the ATBCB's minimum guidelines and requirements, as well as with the technical provisions of ANSI A117.1–1980, published by the American National Standards Institute. (The 1980 ANSI standard contains few scoping provisions.) ANSI is a private, national organization that publishes recommended standards on a wide variety of subjects. ANSI's original accessibility standard, ANSI A117.1, "Specifications for Making Buildings and Facilities Accessible to, and Usable by, Physically Handicapped People," was published in 1961 and reaffirmed in 1971. The current edition, issued in 1986, is ANSI A117.1–1986. The 1961, 1980, and 1986 ANSI standards are frequently used in private practice and by State and local governments.

This proposed amendment would amend the current regulation implementing section 504 in programs or activities receiving Federal financial assistance from DOI to refer to UFAS.

DOI has determined that it will not require the use of UFAS, or any other standard, as the sole means by which recipients can achieve compliance with the requirement that new construction and alterations be accessible. To do so would unnecessarily restrict recipients' ability to design for particular circumstances. In addition, it might create conflicts with State or local accessibility requirements that may also apply to recipients' buildings and that are intended to achieve ready access and use. It is expected that in some instances recipients will be able to satisfy the section 504 new construction and alteration requirements by following either UFAS or applicable State or local codes.

Effect of Amendment

DOI's current section 504 rule requires that new facilities be designed and constructed to be readily accessible to and usable by persons with handicaps and that alterations be accessible to the maximum extent feasible. The amendment would not affect the current requirement but would merely provide that compliance with UFAS with respect to buildings (as opposed to "facilities," a broader term that encompasses buildings as well as other types of property) shall be deemed in compliance with these requirements with respect to those buildings. Thus, for example, an alteration is accessible "to the maximum extent feasible" if it is done in accordance with UFAS. It should be noted that UFAS contains special requirements for alterations where meeting the general standards would be infeasible or structurally impracticable (*see, e.g.*, UFAS sections 4.1.6(1)(b), 4.1.6(3), 4.1.6(4), and 4.1.7).

The amendment also includes language providing that departures from particular UFAS technical and scoping requirements are permitted so long as the alternative methods used will provide substantially equivalent or greater access to and usability of the building. Allowing these departures from UFAS will provide recipients with necessary flexibility to design for special circumstances and will facilitate the application of new technologies that are not specified in UFAS. As explained under "Background of Accessibility Standards," DOI anticipates that compliance with some provisions of applicable State or local accessibility requirements will provide "substantially equivalent" access. In some circumstances, recipients may choose to use methods specified in model building codes or other State or local codes that are not necessarily applicable to their buildings but that achieve substantially equivalent access.

The amendment requires that the alternative methods provide "substantially" equivalent or greater access, in order to clarify that the alternative access need not be precisely equivalent to that afforded by UFAS. Application of the "substantially equivalent access" language will depend on the nature, location, and intended use of a particular building. Generally, alternative methods will satisfy the requirement if in material respects the access is substantially equivalent to that which would be provided by UFAS in such respects as safety, convenience, and independence of movement. For example, it would be permissible to depart from the technical requirement of UFAS section 4.10.9 that the inside dimensions of an elevator car be at least 68 inches or 80 inches (depending on the location of the door) on the door opening side, by 54 inches, if the clear floor area and the configuration of the car permits wheelchair users to enter the car, make a 360-degree turn, maneuver within reach of controls, and exit from the car. This departure is permissible because it results in access that is safe, convenient, and independent, and therefore substantially equivalent to that provided by UFAS.

With respect to UFAS scoping requirements, it would be permissible in some circumstances to depart from the UFAS new construction requirement of one accessible principal entrance at each grade floor level of a building (see UFAS section 4.1.2(8)), if safe, convenient, and independent access is provided to each level of the new facility by a wheelchair user from an accessible principal entrance. This departure would not be permissible if it required an individual with handicaps to travel an extremely long distance to reach the spaces served by the inaccessible entrances or otherwise provided access that was substantially less convenient than that which would be provided by UFAS.

It would not be permissible for a recipient to depart from UFAS' requirement that, in new construction of a long-term care facility, at least 50% of all patient bedrooms be accessible (see UFAS section 4.1.4(9)(b)), by using large accessible wards that make it possible for 50% of all beds in the facility to be accessible to individuals with handicaps. The result is that the population of individuals with handicaps in the facility will be concentrated in large wards, while able-bodied persons will be concentrated in smaller, more private rooms. Because convenience for persons with handicaps is therefore compromised to such a great extent, the degree of accessibility provided to persons with handicaps is not substantially equivalent to that intended to be afforded by UFAS.

It should be noted that the amendment does not require that existing buildings leased by recipients meet the standards for new construction and alterations. Rather, it continues the current Federal practice under section 504 of treating newly leased buildings as subject to the program accessibility standard for existing facilities.

Buildings under design on the effective date of this amendment will be

[1] The ATBCB Office of Technical Services is available to provide technical assistance to recipients upon request relating to the elimination of architectural barriers. Its address is: U.S. ATBCB, Office of Technical Services, 1111 18th Street, NW., Suite 500, Washington, DC 20036. The telephone number is (202) 653–7834 [voice/TDD]. This is not a toll free number.

governed by the amendment if the date that bids were invited falls after the effective date. This interpretation is consistent with GSA's Architectural Barriers Act regulation incorporating UFAS, at 41 CFR subpart 101–19.6.

The proposed revision includes language modifying the effect of UFAS section 4.1.6(1)(g), which provides an exception to UFAS section 4.1.6, *Accessible Buildings: Alterations.* Section 4.1.6(1)(g) of UFAS states that "mechanical rooms and other spaces which normally are not frequented by the public or employees of the building or facility or which by nature of their use are not required by the Architectural Barriers Act to be accessible are excepted from the requirements of 4.1.6." Particularly after the development of specific UFAS provisions for housing alterations and additions, UFAS section 4.1.6(1)(g) could be read to exempt alterations to privately owned residential housing, which is not covered by the Architectural Barriers Act unless leased by the Federal Government for subsidized housing programs. This exception, however, is not appropriate under section 504, which protects beneficiaries of housing provided as part of a federally assisted program. Consequently, the proposed amendment provides that, for purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries, or result in the employment or residence therein of persons with physical handicaps.

The proposed revision also provides that the recipient is not required to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member. This provision does not relieve recipients of their obligation under the current regulation to ensure program accessibility.

This notice would also revise the definition of "historic properties" in the current regulation in order to conform it to UFAS section 4.1.7(1)(a). Historic properties under the current regulation are limited to those listed or eligible for listing in the National Register of Historic Places. The special historic preservation section of UFAS applies additionally to buildings and facilities designated as historic under State and local law.

This document has been reviewed by DOJ. It is an adaptation of a prototype prepared by DOJ under Executive Order 12250 of November 2, 1980. The ATBCB has been consulted in the development of this document in accordance with 28 CFR 41.7.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the Federal government to anticipate and reduce the effect of rules and paperwork requirements on small entities. The Departments of Justice and the Interior hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it merely substitutes DOI's current standard with UFAS which is already required throughout the Federal government.

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules. A major rule is defined as a rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it promotes governmentwide consistency and minimizes potential recipient compliance conflicts by incorporating UFAS in place of DOI's current standard.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

Since this regulation is administrative, legal, and procedural in nature it is categorically excluded from the National Environmental Policy Act Process. *See* 516 DM 2, Appendix 1.

Authorship Statement

The principal author of this proposed rulemaking document is Melinda L. Hayden, Equal Opportunity Specialist, Federal Assistance Programs Staff, Office for Equal Opportunity, U.S. Department of the Interior.

List of Subjects in 43 CFR Part 17

Blind, Buildings, Civil rights, Color, Employment, Equal employment opportunity, Federal assistance, Grant programs, Handicapped, Historic preservation, Loan programs, National origin, Nondiscrimination, Race.

For the reasons stated in the preamble, DOI proposes to amend 43 CFR Part 17 as follows:

PART 17—[AMENDED]

1. The authority citation for Part 17, Subpart B, is revised to read as follows:

Authority: 29 U.S.C. 794.

2. Section 17.218 is amended by revising paragraph (c) to read as follows:

§ 17.218 New construction.

* * * * *

(c) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of (the effective date of this amendment), design, construction, or alteration of buildings in conformance with sections 3–8 of the *Uniform Federal Accessibility Standards* (UFAS) (Appendix A to 41 CFR Subpart 101–19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, sec. 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical handicaps.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

3. Section 17.260, "Historic preservation programs," is amended by revising paragraph (a), "Definitions," to read as follows:

§ 17.260 Historic preservation programs.

(a) Definitions.

* * * * *

"Historic properties" means those buildings or facilities that are listed or eligible for listing in the National Register of Historic Places, or such properties designated as historic under a statute of the appropriate State or local government body.

* * * * *

Rick Ventura,

Assistant Secretary, Policy, Budget and Administration, Department of the Interior.

[FR Doc. 89–10250 Filed 4–28–89; 8:45 am]

BILLING CODE 4310–RE–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-93, RM-6372]

Radio Broadcasting Services; Imboden, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Jim Atkinson, seeking the allotment of FM Channel 289A to Imboden, Arkansas, as that community's first local broadcast service. Reference coordinates for this proposal are 36-13-05 and 91-11-27.

DATE: Comments must be filed on or before June 16, 1989, and reply comments on or before July 3, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's consultant, as follows: Dan Winn, Dan Win & Associates, P.O. Box 214, Little Rock, Arkansas 72203.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-93, adopted April 11, 1989, and released April 25, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10420 Filed 4-28-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-237; RM-6130]

Radio Broadcasting Services; Joshua Tree, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Craig L. Fox, to allot FM Channel 221A to Joshua Tree, California, as that community's first local broadcast service, based upon his withdrawal of interest in the proposal. No other comments were received. With this action, the proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-237, adopted April 11, 1989, and released April 25, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocation Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10421 Filed 4-28-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-36; RM-5503 & RM-5923]

Radio Broadcasting Services; Ogden, Hiawatha and Manhattan, KS

AGENCY: Federal Communications Commission.

ACTION: Order to show cause.

SUMMARY: This document directs Station KQLA, Ogden, Kansas, to show cause why its license should not be modified to specify operation on Channel 278A instead of Channel 280A. This action could allow Station KNZA, Hiawatha, Kansas, to upgrade its facility from 280A to 280C2 and for Station KMKF, Manhattan, Kansas, to operate on Channel 268C2 in lieu of Channel 269A. A final determination regarding these amendments to the Table must await the outcome of action ordering the license modification of Station KQLA, Ogden, Kansas. This Order does not afford additional opportunity either to comment on the merits of the conflicting proposal or for the acceptance of additional counterproposals. An opportunity is being provided for Station KQLA to object to the ordered channel substitution.

DATES: Comments must be filed by Kaw Valley Broadcasting Company or before June 16, 1989.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order to Show Cause, MM Docket No. 87-36, adopted April 11, 1989, and released April 25, 1989.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing

permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10422 Filed 4-28-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-92; RM-6660]

Radio Broadcasting Services; Bishopville, MD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by John P. Gillen, proposing the allotment of Fm Channel 295A to Bishopville, Maryland, as that community's first FM broadcast service. The coordinates for Channel 295A are 38-24-58 and 75-09-39 which includes a site restriction 4.1 kilometers southeast.

DATES: Comments must be filed on or before June 16, 1989, and reply comments on or before July 3, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John P. Gillen, Route 1, Box 23, Bishopville, Maryland 21813.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-92, adopted April 11, 1989, and released April 25, 1989.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-10423 Filed 4-28-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 52

Federal Acquisition Regulation (FAR); Commercial Bills of Lading (CBL's) under Cost-Reimbursement Contracts Audit by GSA; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposd rule published in the **Federal Register** on Thursday, November 10, 1988 (53 FR 45742).

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 31, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 88-56 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 88-26087 on page 45742 in the issue of Thursday, November 10, 1988, make the following correction to FAR 52.247-65 to add paragraph (d) which was omitted in the proposed rule. For the convenience of the reader, section 52.247-65 is set out in its entirety as follows:

52.247-65 Submission of Commercial Freight Bills to the General Services Administration for Audit.

As prescribed in 47.104-4(c), insert the following clause:

Submission of Commercial Freight Bills to the General Services Administration for Audit (Nov 1988)

(a) The Contractor shall submit to the General Services Administration (GSA), for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's) and other supporting documents for transportation services on which the United States will assume freight charges that were paid (1) by the Contractor under a cost-reimbursement contract, and (2) by a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(b) The Contractor shall forward copies of paid freight bills/invoices, and CBL's as soon as possible following the end of the month, in one package to the General Services Administration, ATTN: FWAA/C, 18th & F Streets, NW., Washington, DC 20405. The Contractor shall include the paid freight bills/invoices, CBL's, and supporting documents for first-tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices, CBL's and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.

(c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor shall ensure that the name of the contracting agency is stamped or written on the face of the bill before sending it to GSA.

(d) A statement prepared in duplicate by the Contractor shall accompany, each shipment of transportation documents. GSA will acknowledge receipt of the shipment by signing and returning the copy of the statement. The statement shall show:

(1) The name and address of the Contractor.

(2) The contract number including any alpha/numeric prefix identifying the contracting office.

(3) The name and address of the contracting office.

(4) The total number of bills submitted with the statement.

(5) A listing of the respective amounts paid or, in lieu of such listing, an adding machine tape of the amounts paid showing the Contractor's voucher or check numbers.

(End of clause)

Dated: April 24, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 89-10334 Filed 4-28-89; 8:45 am]

BILLING CODE 6820-JC-M

Notices

Federal Register
Vol. 54, No. 82
Monday, May 1, 1989

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.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 1:15 p.m. to 5:00 p.m., on Wednesday, May 10, 1989, in the Garrison Room of the Hyatt Regency Hotel-Downtown Tampa, Florida.

Items on the Agenda: Priorities for FY 1991 technical programs; Americans With Disabilities Act (ADA); public affairs plan; Fiscal Year 1989 budget status report; FY 1990 budget request update; FY 1991 budget proposal; Board proclamation—International Decade of Disabled Persons; complaint status report; draft plan for Compliance and Enforcement case resolution; amendments to the Statement of Organization and Procedures and the Authorities and Delegations. The Board will also hold its annual election of officers.

The ATBCB will hold a public forum immediately following the business portion of the Board meeting. Public participation is invited to discuss issues relevant to the Architectural Barriers Act and the ATBCB. Individuals or organizations interested in testifying must contact Larry Allison, Special Assistant for External Affairs, (202) 653–7848.

DATE: Wednesday, May 10, 1989—1:15 p.m.–5:00 p.m.

ADDRESS: The Garrison Room of the Hyatt Regency Hotel-Downtown Tampa, Florida.

The Technical Programs, the Planning and Budget, and the Executive Committees of the ATBCB will meet on Tuesday, May 9, 1989, from 8:30 a.m. to 5:30 p.m. in the Augustus Steele Room of the Wyndham Harbour Island Hotel, 725 South Harbour Island Blvd., Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: For information regarding committees and the business portion of the Board meeting, contact Barbara A. Gilley, Administrative Officer, (202) 653–7834 (voice or TDD).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 89–10386 Filed 4–28–89; 8:45 am]

BILLING CODE 6820–BP–M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Designation Renewal of the Champaign and Springfield (IL) Agencies

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Champaign-Danville Grain Inspection Departments, Inc. (Champaign) and Glen Wallace dba Springfield Grain Inspection Department (Springfield), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: June 1, 1989.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive order and Departmental Regulation do not apply to this action.

The Service announced that the Champaign and Springfield designations terminate on May 31, 1989, and requested applications for official agency designation to provide official services within specified geographic areas in the December 1, 1988, **Federal Register** (53 FR 48565). Applications were to be postmarked by January 3, 1989. Champaign and Springfield were the only applicants for designation in their area and each applied for designation renewal in the entire area currently assigned to that agency. The Service announced the applicant names in the February 1, 1989, **Federal Register** (54 FR 5101) and requested comments on the applicants for designation. Comments were to be postmarked by March 20, 1989. Six comments were received recommending Champaign's designation renewal. The grain firms expressed satisfaction regarding Champaign's service, stating that it is timely, professional and consistent. No comments were received regarding Springfield's designation renewal.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that Champaign and Springfield are able to provide official services in the geographic areas for which the Service is renewing their designations. Effective June 1, 1989, and terminating May 31, 1992, Champaign and Springfield are designated to provide official inspection functions in their specified geographic areas, as previously described in the December 1 **Federal Register**.

Interested persons may obtain official services by contacting the agencies at the following telephone numbers: Champaign at (217) 446–9821 and Springfield at (217) 522–5233.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 89–10409 Filed 4–28–89; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Cairo (IL) Agency

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed

according to the criteria and procedures prescribed in the Act. This notice announces that the designation of an agency will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agency. The official agency is Cairo Grain Inspection Agency, Inc. (Cairo).

DATE: Applications must be postmarked on or before May 31, 1989.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8524.

SUPPLEMENTARY INFORMATION: .

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive order and Departmental Regulation 1512–1; therefore, the Executive order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Cairo, located at 4007 Sycamore Street, Cairo, IL 62914, was designated under the Act as an official agency on November 1, 1986, to provide official inspection functions.

The official agency's designation terminates on October 31, 1989. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Cairo, in the States of Illinois, Kentucky, and Tennessee, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

In Illinois: Randolph County (southwest of State Route 150 from the Mississippi River north to State Route 3); Jackson County (southwest of State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union County); and Alexander, Johnson, Hardin, Massac, Pope, Pulaski, and Union Counties.

In Kentucky: Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg Counties.

In Tennessee: Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Obion, Stewart, and Weakley Counties.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Hopkinsville Elevator Company, Inc., Hopkinsville, and the L&N Railroad Siding on Alternate U.S. Route 41, 5 miles south of Hopkinsville, both in Christian County, Kentucky (located inside Ohio Valley Grain Inspection's area).

Exceptions to Cairo's assigned geographic area are the following locations inside Cairo's area which have been and will continue to be serviced by the following official agency:

Memphis Grain and Hay Association: Continental Grain Co., and West Tennessee Soya, both in Tiptonville, and Planters Gin, Ridgely, all in Lake County, Tennessee.

Interested parties, including Cairo, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning November 1, 1989, and ending October 31, 1992. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

J.T. Alshier,

Director, Compliance Division.

[FR Doc. 89–10411 Filed 4–28–89; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the Fremont (NE) and Titus (IN) Agencies

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic area currently assigned to Fremont Grain Inspection Department, Inc. (Fremont) and Titus Grain Inspection, Inc. (Titus).

DATE: Comments must be postmarked on or before June 15, 1989.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454.

Telemail users may respond to
[LLEBAKKEN/FGIS/USDA]
telemail.

Telex users may respond as follows:
To: Lewis Lebakken
TLX: 7607351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the March 1, 1989, **Federal Register** (54 FR 8578). Applications were to be postmarked by March 31, 1989. Fremont and Titus were the only applicants for designation in that area and each applied for designation renewal in the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

J.T. Abshier,

Director, Compliance Division

[FR Doc. 89-10410 Filed 4-28-89; 8:45 am]

BILLING CODE 3410-EN-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Albacore Fishing Operation Information.

Form Number: Agency—N/A; OMB—N/A.

Type of Request: Existing collection in use without OMB Control Number.

Burden: 400 respondents, 200 reporting hours. Average hours per response is .5 hours.

Needs and Uses: Captains of vessels fishing for albacore tuna are requested to submit catch, effort, and similar information. The data will be used to evaluate the status of the tuna stock.

Affected Public: Small businesses or organizations.

Frequency: On occasion; annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Russ Scarato, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Russ Scarato, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 24, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-10424 Filed 4-28-89; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-570-801]

Headwear From The People's Republic of China; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of amendment to final determination of sales at less than fair value.

SUMMARY: On March 23, 1989, the Department of Commerce published the final determination of sales at less than fair value of headwear from the People's Republic of China. The investigation covered the period December 1, 1987 through May 31, 1988.

After publication of our final determination, we received comments from certain parties to the proceeding alleging ministerial errors. We have corrected the ministerial errors and have amended the final determination of sales at less than fair value for Jiangsu Arts & Crafts Import and Export Corporation, Zhejiang Arts & Crafts Import & Export Co., and China National Light Industrial Products Import/Export Corporation, Guangzhou Branch Footwear and Headgear Company.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Robin Gray or Anne D'Alauro, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 11983) the final determination of sales at less than fair value of headwear from the People's Republic of China. After publication of our final determination, we received comments from certain parties to the proceeding alleging ministerial errors. We have corrected the ministerial errors and have amended the final determination for Jiangsu Arts & Crafts Import and Export Corp., Zhejiang Arts & Crafts Import & Export Co., and China National Light Industrial Products Import/Export Corp., Guangzhou Branch Footwear and Headgear Co.

Section 1333 of the Omnibus Trade and Competitvenes Act of 1988, which amends section 735 of the Tariff Act of 1930, authorizes Commerce to establish procedures for the correction of ministerial errors in final determinations. Congress has defined the term "ministerial error" to include errors in addition, subtraction, or other arithmetic functions, or clerical errors resulting from inaccurate copying, duplication, or the like.

Ministerial Errors

We have corrected the following ministerial errors:

Jiangsu Arts & Crafts Import and Export Corp.

1. Use of incorrect marine insurance figures in the calculation of U.S. price.
2. Application of an incorrect foreign market value for cotton gob hats.

Zhejiang Arts & Crafts Import & Export Co.

1. Incorrect quantity of cotton cloth used in the calculation of foreign market value for cotton visors from the Hangzhou Hat Factory.
2. Incorrect quantity of cotton cloth used in the calculation of foreign market value for polyester blend visors from the Hangzhou Hat Factory.

China National Light Industrial Products Import/Export Corp., Guangzhou Branch Footwear and Headgear Company

1. Misidentification of U.S. sales of cotton flattop caps as cotton tennis caps, resulting in a match with an incorrect foreign market value.
2. Use of incorrect labor hours in the calculation of foreign market value for cotton painter's caps.

Amended Final Determination of Sales at Less than Fair Value

We have amended the final determination of sales at less than fair value as follows:

Manufacturer/exporter	Time period	Previous margin (%)	Amended margin (%)
Jiangsu Arts & Crafts Import and Export Corp	12/87-05/88	27.71	26.05
Zhejiang Arts & Crafts Import & Export Co	12/87-05/88	22.20	21.97
China National Light Industrial Products Import/Export Corp., Guangzhou Branch Footwear and Headgear Co.	12/87-05/88	*32.06	*11.23
All Other	12/87-05/88	21.37	20.86

* Because we made fair value comparisons on the basis of processing charges, the resulting difference for this company has been multiplied by a coefficient equaling the proportion processing represents of the value of PRC hats to arrive at the margins for individual sales. The coefficient is based on our review of the cost and sales experience of Shanghai Stationery.

The Department will amend its instruction to Customs to adjust the cash deposit or posting of bond equal to the estimated amounts by which the foreign market value of the merchandise exceeds the United States States Price as noted above.

Timothy N. Bergan,

Acting Assistant Secretary, for Import Administration.

Dated: April 21, 1989.

[FR Doc. 89-10283 Filed 4-28-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-533-501]

Certain Iron Construction Castings From India; Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of second amendment ot final determination of sales at less than fair value and antidumping duty order in accordance with decision upon remand.

SUMMARY: On September 12, 1988 the United States Court of International Trade (the Court) ordered the Department of Commerce (Commerce) to account for the freight equalization fund levy and turnover tax and to determine whether it made a computer input error in its final antidumping duty determination on certain iron construction castings from India. *Serampore Industries Pvt. Ltd., et al. v. United States,* 12 CIT —, 696 F. Supp. 665 (1988). Commerce filed the required remand results with the Court on November 28, 1988. On February 10, 1989 the Court affirmed, in its entirety, the remand determination by Commerce. *Serampore Industries Pvt. Ltd., et al. v. United States,* 13 CIT —, Slip Op. 89-18 (1989).

In accordance with the Court's order, Commerce has directed the U.S. Customs Service to terminate the suspension of liquidation of subject merchandise produced by Serampore as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 377-1756.

SUPPLEMENTARY INFORMATION:

Background

No events have occurred nor has any appeal been filed since the filing of Commerce's Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance with Decision Upon Remand (March 23, 1989, 54 FR 11989). Accordingly, the remand results regarding Serampore which were affirmed by the Court on February 10, 1989 are final and in effect.

Suspension of Liquidation

In accordance with the Court's order of September 12, 1988, we are directing the Customs Service on or after the date of publication of this notice in the **Federal Register** to terminate the suspension of liquidation, release any bond, refund any cash deposit, and proceed with the liquidation of all entries of this merchandise produced by Serampore with regard to antidumping duties. With respect to Kejriwal and all other manufacturers, sellers and exporters, the Customs Service shall continue to suspend liquidation of all entries of castings from India and require a cash deposit equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to the redetermination exceeds the United States price.

The weighted-average margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin percentage
RSI (de minimis) (excluded)	0.02
Kejriwal	2.93
Serampore (de minimis) (excluded)	0.487
Kajaria (de minimis) (excluded)	0.04
All others	2.93

Article VI.5 of the General Agreement on Tariff and Trade provides that "(n)o producer * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Tariff Act of 1930, as amended. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit for that amount. Accordingly, the level of certain export subsidies (as determined in the September 23, 1988 Amendment of Final Results of Administrative Review of the Countervailing Duty Order on Certain Iron-Metal Castings from India (51 FR 45788)), which is 7.31 percent *ad valorem,* will be subtracted from the above dumping margins for cash deposit purposes only for imports of construction castings covered by the countervailing duty order.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

April 21, 1989.

[FR Doc. 89-10284 Filed 4-28-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-805]

Preliminary Determination of Sales at Less Than Fair Value: Martial Arts Uniforms from Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminary determine that martial arts uniforms from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of martial arts uniforms from Taiwan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by July 10, 1989.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Mary S. Clapp, Office of Antidumping Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–2830 or 377–3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminary determine that martial arts uniforms are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended, 19 U.S.C. 1673b (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initation (53 FR 50056, December 13, 1988), the following events have occurred. On December 30, 1988, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Taiwan of martial arts uniforms (54 FR 1013, January 11, 1989).

On January 16, 1989, the Department presented antidumping duty questionnaries to Taiwan Hsin Sheng Industrial Co. (Hsin Sheng) and Kuang Fong Industrial Co., Ltd. (Kuang Fong). These companies accounted for a substantial portion of exports of the subject merchandise from Taiwan to the United States during the period of investigation. Responses to Section A of the questionnaire were due on January 30, 1989, and responses to the remaining sections were due on February 15, 1989.

At the request of the respondents, response deadline were extended to February 14, 1989 for Section A, and to March 6, 1989 for Sections B and C of the questionnaire. Responses to Section A were received on January 30, 1989 by Hsin Sheng, and on February 2, 1989 by Kuang Fong. Responses to Sections B and C were received on March 6, 1989 from Hsin Sheng, and on March 2, and 14, 1989 from Kuang Fong. The Department issued deficiency letters to Hsin Sheng on March 13, 1989, March 24, 1989, and April 18, 1989, and to Kuang Fong on March 13, 1989, March 29, 1989 and April 18, 1989. Supplemental responses were filed by Hsin Sheng on April 3, 1989, and by Kuang Fong on April 12, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified soley according to the appropriate HTS item numbers. The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation include the following articles: Martial arts uniforms for men, boys, women, girls and infants. The uniforms consist of tops, pants and belts and are imported from Taiwan separately or as ensembles. They are made of cotton or of man-made fibers, either ornamented or not ornamented. They are suitable for wearing while practicing all forms of martial arts, including but not limited to: Judo, Karate, Kung Fu, Tae Kwon Do, Ninja, Ninjutsu, Hakama, Tai Chi, Jujitsu and Hapkido. These products are currently provided for under HTS subheadings 6203.22.1000, 6203.23.0070, 6203.23.0080, 6203.23.0090, 6203.29.20, 6204.22.1000, 6204.23.00 and 6204.29.20 and may also be entered under HTS subheadings 6203.22.10, 6203.23.00, 6203.29.20, 6203.42.40, 6203.43.40, 6203.49.20, 6204.22.10, 6204.62.40, 6204.63.35, 6204.69.25, 6209.20.30, 6209.20.50, 6209.30.20, 6209.30.30, 6209.90.20, 6209.90.30, and 6217.10.00.

Period of Investigation

The period of investigation is June 1, 1988, through November 30, 1988.

Fair Value Comparisons

Substantial deficiencies with both respondents' responses precluded any reasonable price-to-price comparison. Neither respondent provided the information necessary to make the appropriate product matches. Even where matches were possible, neither respondent provided any cost information pertaining to differences in merchandise. In addition, all values were reported by both respondents in U.S. dollars rather than the currencies in which they were incurred. Hsin Sheng failed to report warranty or guarantee expenses, although it admitted shipping "free goods" to replace defective goods. Hsin Sheng's credit expenses were reported incorrectly. Kuang Fong failed to provide credit expenses and packing costs.

Therefore, as a basis for determining the estimated dumping margins, we used the information contained in the petition as the best information otherwise available pursuant to section 776(c) of the Act, 19 U.S.C. 1677e(c).

United States Price

United States price was based on the U.S. price information provided in the petition.

Foreign Market Value

Foreign market value was based on home market prices provided in the petition.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of martial arts uniforms from Taiwan that are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of martial arts uniforms from Taiwan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturing/producer/exporter	Margin percentage
Hsin Sheng	8.50
Kuang Fong	8.50
All others	8.50

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will

not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this determination, or 45 days after the final determination, if affirmative.

Public Comment

In accordance with section 353.38 of the Commerce Department's regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 3563.38), we will hold a public hearing, if requestd, to afford interested parties an opportunity to comment on this preliminary determination, on May 31, 1989 at 10:00 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Interested parties who wish to request or to participate in a hearing must submit a request within 10 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the arguments to be raised at the hearing. In addition, ten copies of the business proprietary version and five copies of the public version of case briefs must be admitted to the Assistant Secretary no later than May 19, 1989. Ten copies of the business proprietary version and five copies of the public version of rebuttal briefs must be submitted to the Assistant Secretary no later than May 26, 1989. An interested party may make an affirmative presentation at the public hearing only on arguments included in that party's case brief, and may make a rebuttal presentation only on arguments included in the party's rebuttal brief. Written arguments should be submitted in accordance with section 353.38 of the Commerce Department's regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.38) and will be considered if received within the time limits in this notice.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

April 24, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Adminstration.

FR Doc. 89-10285 Filed 4-28-89; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. C-614-501]

Low-Fuming Brazing Copper Rod and Wire from New Zealand; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on low-fuming brazing copper rod and wire from New Zealand. We preliminarily determine the total bounty or grant to be 0.12 percent *ad valorem* for the period August 1, 1987 through July 31, 1988, a rate we consider to be *de minimis*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Ilene Hersher, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 6, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 34341) the final results of its last administrative review of the countervailing duty order on low-fuming brazing copper rod and wire from New Zealand (50 FR 31638, August 5, 1985). On August 8, 1988, the respondent, McKechnie Bros. (N.Z.) Ltd. ("MMP"), requested an administrative review of the order. We published the notice of initiation on September 27, 1988 (53 FR 37618). The Department has now conducted that administrative review in accordance with section 751(a) of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of New Zealand low-fuming brazing copper rod and wire, principally of copper and zinc alloy ("brass"), of varied dimensions in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated. The chemical composition of the products under investigation is defined by Copper Development Association standards 680 and 681. During the period of review, such merchandise was classifiable under items 612.6205, 612.7220 and 653.1500 of the Tariff Schedules of the United States Annotated. Such merchandise is currently classifiable under HTS item numbers 7407.2150, 7408.2100, 8311.3060 and 8311.9000.

The review covers the period August 1, 1987 through July 31, 1988 and 17 programs. MMP was the only known exporter of low-fuming brazing copper rod and wire ("LFB") to the United States during the period of review.

Analysis of Programs

(1) *EMDTI.* Under the Export Market Development Taxation Incentive ("EMDTI"), established in the 1979 Amendment to the Income Tax Act of 1976, exporters may receive tax credits for a certain percentage of their export market development expenditures. Qualifying expenditures include those incurred principally for seeking and developing new markets, retaining existing markets, and obtaining market information. An exporter who takes advantage of this tax credit may not deduct the qualifying expenditures as ordinary business expenses in calculating taxable income. The normal corporate tax rate in New Zealand in the period covered by the tax return filed during the review period was 48 percent, and the tax credit was 69 percent of the total qualifying expenditures. Because this tax credit is limited to exporters, we preliminarily determine that it confers an export bounty or grant. MMP claimed a 69 percent EMDTI tax credit on qualifying expenditures relating to LFB exports to the United States on its tax return filed in the review period.

Since exporters may claim the tax credits but may not deduct the expenditures in calculating taxable

income, the net benefit to the exporters is 21 percent of the qualifying expenditures. To calculate the benefit, we compared the difference in the tax liability between claiming 69 percent of the expenditures as a tax credit and deducting those expenditures as ordinary business expenses.

Therefore, we took 21 percent of MMP's qualifying expenditures relating to LFB reports to the United States and allocated that amount over the f.o.b. value of exports of this merchandise to the United States during the period of review. On the basis, we preliminarily determine the benefit from this program to be 0.12 percent *ad volorem* for the period August 1, 1987 through July 31, 1988.

(2) *Other Programs.* We also examined the following programs and preliminarily determine that MMP did not use them during the review period:

(a) Exemption from Import Duties and Sales Taxes
(b) Export Credits from the Development Finance Corporation
(c) Export Investment Allowance
(d) Export Performance Taxation Incentive
(e) Export Production Assistance Scheme
(f) Export Programme Grant Scheme
(g) Export Programme Suspensory Loan Scheme
(h) Export Promotion from the Export Imprest Corporation
(i) Export Suspensory Loan Scheme
(j) Increased Exports Taxation Incentives
(k) Individual Export Programme
(l) Industrial Development Plan Investment Allowance
(m) Regional Development Investigation Grant Scheme
(n) Regional Development Investment Incentives
(o) Regional Investment Allowance
(p) Research and Development Assistance

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be 0.12 percent *ad valorem* for the period August 1, 1987 through July 31, 1988. The Department considers any rate less than 0.50 percent to be *de minimis.*

The Department intends to instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after August 1, 1987 and on or before July 31, 1988.

Further, the Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, and any request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days from the date of publication or the following workday. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §355.22 of the Commerce Regulations published in the **Federal Register** on December 27, 1988 (53 FR 52354) (to be codified at 19 CFR 355.22).

Timothy N. Bergan,

Acting Assistant Secretary, Import Administration.

April 21, 1989.

[FR Doc. 89-10286 Filed 4-26-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Endangered Marine Mammals: Issuance of Permit; LGL, Ltd., Environmental Research Associations (P273E)

On January 9, 1989, notice was published in the **Federal Register** (54 FR 656) that an application had been filed by LGL, Ltd., Environmental Research Associates, 22 Fisher Street, P.O. Box 457, King City, Ontario, LOG 1KO, Canada, to take by harassment, in the Alaskan Beaufort Sea, 800 bowhead whales (*Balaena mysticetus*) and 600 white (beluga) whales (*Delphinapterus leucas),* during their spring migrations in 1989, for scientific research.

Notice is hereby given that on April 24, 1989 as authorized by the provisions of the Marine Mammal Protection Act (MMPA;16 U.S.C. 1361 *et seq.)* and the Endangered Species Act (ESA;16 U.S.C. 1531 *et seq.*), the National Marine Fisheries Service (NOAA Fisheries) issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the ESA is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the Permit; (3) and will be consistent with the purposes and policies set forth in section 2 of the ESA.

This Permit was also issued in accordance with and is subject to Parts 220–222 and 216 of Title 50 CFR, the NOAA Fisheries regulations governing endangered species permits and the regulations governing the taking and importing of marine mammals.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and habitat Programs, NOAA Fisheries, 1335 East-West Hwy., Rm 7330, Silver Spring, Maryland 90210; and

Alaska Region, NOAA Fisheries, 709 West 9th Street, Federal Building, Juneau, Alaska 98802.

Date: April 24, 1989.

Nancy Foster,

Director, Office of Protected Resources, and Habitat Programs, NOAA Fisheries.

[FR Doc. 89-10279 Filed 4-28-89; 8:45 am]

BILLING CODE 3510-22

Patent and Trademark Office

Public Advisory Committee for Trademark Affairs Meeting

AGENCY: Patent and Trademark Office.

ACTION: Notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the open meeting of the Public Advisory Committee for Trademark Affairs.

DATE: The Public Advisory Committee for Trademark Affairs will meet from 10:00 a.m. until 4:00 p.m. on June 6, 1989.

Place: U.S. Patent and Trademark Office, 2121 Crystal Drive, Crystal Park 2, Room 912, Arlington, Virginia.

Status: The meeting will be open to public observation; approximately twelve (12) seats will be available for the public on a first-come-first-served basis. Members of the public will be permitted to make oral comments of three (3) minutes each. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed. Copies of the minutes will be available upon request.

Matters to be Considered: The agenda for the meeting is as follows:

(1) The Role of the Public Advisory Committee for Trademark Affairs.
(2) Finance.
(3) Automation.
(4) Trademark Application Examination and Registration Maintenance.
(5) Implementation of Trademark Law Revision Act of 1988.

CONTACT PERSON FOR MORE INFORMATION: For further information, contact Carlisle E. Walters, Office of the Assistant Commissioner for Trademarks, Room CPK2–910, Patent and Trademark Office, Washington, DC 20231. Telephone: (703) 557–7464.

Jeffrey M. Samuels,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks.

[FR Doc. 89–10392 Filed 4–28–89; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a revision to an information collection requirement in the FAR that was previously approved by OMB. The change, which reduces the burden estimate, results from a clarification to Part 46, Quality Assurance, to more clearly define the circumstances under which the Government should rely on inspection and testing by the contractor when acquiring commercial or off-the-shelf supplies.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Roger Schwartz, Office of Federal Acquisition and Regulatory Policy, (202) 523–4746.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* Supplies and services acquired under Government contracts must conform to the contract's quality and quantity requirements. FAR Part 46 prescribes inspection, acceptance, warranty, and other measures associated with quality requirements. Standard clauses related to inspection (a) require the contractor to provide and maintain an inspection system that is acceptable to the Government, (b) give the Government the right to make inspections and test while work is in process; and (c) require the contractor to keep complete, and make available to the Government, records of its inspection work. A clarification to Part 46 more clearly defines the circumstances under which the Government should rely on inspection and testing by the contractor when acquiring commercial or off-the-shelf supplies. The information is used to assure that supplies and services provided under Government contracts conform to contract requirements.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 950; responses per respondent, 1; total annual responses, 950; hours per response, .25; and total response burden hours, 237.5.

Obtaining Copies of Proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523–4755. Please cite OMB Control No. 9000–0077, Quality Assurance.

Dated: April 24, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89–10335 Filed 4–28–89; 8:45 am]

BILLING CODE 6820–JC–M

Office of the Secretary

Catchment Area Management

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of U.S. Army catchment area management demonstrations.

SUMMARY: The Assistant Secretary of Defense for Health Affairs has delegated authority to the Department of the Army to conduct Catchment Area Management demonstrations at Fort Sill, Oklahoma and Fort Carson, Colorado beginning 1 June, 1989. This project under the provisions of Chapter 55, Title 10, section 1092, will test the feasibility of giving the Medical Treatment Facility Commander both the authority and responsibility for all health care delivery within his catchment area. By controlling both the Operation and Maintenance, Army (OMA) and the projected Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) budgets, it is anticipated that the Commander can enhance both the quality and quantity of health care delivery within the catchment area while containing costs. The purpose of the CAM is to demonstrate that the escalating cost of CHAMPUS-funded civilian health care provided to CHAMPUS beneficiaries within an Army MTF catchment area can be contained at a level less than the currently forecasted amount by giving the MTF commander authority to provide for alternate expenditures using the catchment area's budgeted CHAMPUS funds. An independent evaluation of this demonstration will be conducted by a contractor who will perform administrative research, data collection, analysis, and evaluative reporting services to determine the degree to which health care services at the demonstration sites are being provided in a manner which meets the stated objectives of the demonstration. The objectives of the demonstrations are to (1) contain the rate of growth of government health care expenditures, (2) improve accessibility to health care services, (3) improve beneficiary and provider satisfaction with the availability and accessibility of health care services, (4) maintain the quality of care provided to the CHAMPUS beneficiary population.

EFFECTIVE DATE: Implementation starting date of this demonstration is 1 June 1989.

FOR FURTHER INFORMATION CONTACT: Major Paul Mouritsen, Office of The Army Surgeon General, Program, Analysis and Evaluation Division, DASG-RMP, Skyline 5, 5111 Leesburg Pike, Falls Church, VA 22041–3258, telephone (202) 756–0273.

SUPPLEMENTARY INFORMATION:

I. Background

Until recently, there was no mechanism to convert savings in CHAMPUS workload into increased resources in the MTF. In FY88, the CHAMPUS appropriation was allocated to the individual Service and each Service is responsible for the total CHAMPUS bill for care provided to its beneficiaries. In an attempt to evaluate the Services' assertion that they could effectively manage these funds and provide necessary medical care within the projected CHAMPUS budget, Congress directed in the FY88 Defense Authorization Act that each of the Services conduct a demonstration of catchment area management in at least

one area. During the demonstration all normal CHAMPUS requirements apply except those that are specifically identified herein as subject to demonstration deviation.

II. What the Demonstration is Designed to Test

Catchment Area Management is based on the premise that the local MTF commander is responsible for all medical care provided to the eligible DOD beneficiary population within a radius of approximately 40 miles of the MTF. To fulfill that responsibility, the commander will be given both the funds normally allocated to operate the MTF, and the funds projected to be spent for civilian care under CHAMPUS. At the same time, he will be relieved of some regulatory restrictions that impede his ability to select the most cost-effective options in delivering care to the beneficiary population. The demonstration will test whether, by merging the CHAMPUS and direct care dollars, the MTF commander can provide an enhanced level of services while maintaining quality and not exceed the combined MTF OMA and CHAMPUS costs currently predicted to be incurred in the absence of this demonstration. A Health Care Finder function and enrollment feature are mandatory elements in the CAM demonstration.

III. Key Features of Each Site

The Fort Sill demonstration will be organized around the existing Family Practice model. The Health Care Finder function will be decentralized to the five family practice clinics, with central coordination provided by the Catchment Area Management project office. Enhancements to encourage enrollment will include an enhanced optometry benefit and a reduction of the standard CHAMPUS deductible and cost share. The enhanced optometry benefit given to CAM enrollees at Fort Sill consists of an annual eye examination and prescription for eye glasses as required. The eye examination is composed of a screening by the technician and an examination by the optometrist. The technician will conduct a galucoma test using a NCT (noncontactonometer), and near vision acuity and distance visual acuity tests using eye charts. Once the screening is completed, the optometrist will see the patient and evaluate the physical health and condition of the eyes as well as complete a refraction when indicated during the screening exam.

The second enhancement is a reduction of the standard CHAMPUS deductible and copayment. Under the CAM demonstration, if an enrolled beneficiary is required to receive care outside the MTF, the costs to the member are as follows:

AD/Family members	Retiree's family members/others
Outpatient—No deductible 15 percent copayment. Inpatient—Subsistence or $25 whichever is greater.	No deductible 20 percent copayment. 20 percent or $210 per day whichever is less.

Health care services will be expanded through the use of Partnership Agreements with individual and group providers from outside the catchment area and through other service contracts and fee for service agreements. Beneficiaries must elect to enroll as a family unit. Enrollment may be accomplished at any time. Use of Standard CHAMPUS is always an alternative to enrollment in the demonstration project. However, once enrolled, a family must use medical resources provided by the program. Disenrollment is authorized during the entire month of October for each year of the demonstration. Disenrollment is an option when a grievance is submitted to the MTF Commander and he validates the complaint. Families will also be disenrolled when they move out of the catchment area or lose eligibility. For care provided to beneficiaries outside of the CAM area, Standard CHAMPUS will apply. Standard CHAMPUS claims will not be honored by the Fiscal Intermediary for program enrollees. Separate FI procedures will identify catchment area enrollee claims, preauthorized claims and preauthorized out of catchment area claims. Enrollees will receive non-emergency primary care appointments within seven days. Claims processing will be done by the fiscal intermediary.

Only CHAMPUS eligible beneficiaries may enroll in the CAM. The Health Care Finder (HCF) will be responsible for having all referrals reviewed and appointed as required by the appropriate clinic in the MTF. If the referral is for outside the MTF, utilization will be approved by the Deputy Commander for Clinical Services (DCCS) and the HCF will schedule the appointment with the appropriate preferred provider. The HCF will then notify the beneficiary as to the time and date of the appointment.

The Fort Carson demonstration is focused on maximizing the use of the MTF through the use of personal and non-personal contracts, partnership agreements, and control of enrolled beneficiary referrals. The first enrollment incentive will include a reduction of the standard CHAMPUS deductible and copayment. Under the CAM demonstration, if an enrolled beneficiary is required to receive care outside the MTF, the costs to the member are:

AD/Family members	Retiree's family members/others
Outpatient—No deductible 15 percent copayment. Inpatient—No change from Standard CHAMPUS.	No deductible 20 percent copayment. 20 percent or $210 per day whichever is less.

Services not available at the MTF will be obtained from the Alternate Health Care Delivery System in the community at rates negotiated by the MTF. The Fort Carson MTF catchment area incorporates a large overlap with the US Air Force Academy MTF catchment area. Enrollment in Fort Carson's Evans Army Community Hospital Plan commits the beneficiary to seeking care from Evans ACH, the Air Force Academy Hospital, or Peterson AFB Health Clinic as the first avenue in the integrated health care system, and commits Evans ACH to finding health care for the enrollee from either Evans ACH, another DoD Facility or from the Alternate Health Care Delivery System. All beneficiaries in the overlap will be eligible to enroll in the Fort Carson CAM demonstration. Fort Carson will assume responsibility for all CHAMPUS payments within the overlap area with a concurrent adjustment of CHAMPUS funding between the Services. The second enrollment incentive, Psychiatric partial hospitalization, will be opened to all beneficiaries on a total catchment area basis. Partial psychiatric hospitalization is an alternative to inpatient treatment in which a patient attends treatment for a 12 hour period or less and does not occupy an overnight bed. Twenty-four hours or partial psychiatric hospitalization will equate to one day of inpatient psychiatric care. An enrollee may accrue a total of 60 days of either inpatient psychiatric care, partial psychiatric hospitalization or a combination thereof, as long as the total combination (inpatient and partial) does not exceed 60 days. For enrollees, partial psychiatric hospitalization will be processed as outpatient care with no deductible and the special enrollee outpatient copayment. The extension of psychiatric care beyond 60 days may be applied under existing OCHAMPUS review, as with Standard CHAMPUS. Administration and management of the CAM demonstration will be through the

newly created Patient Services Division which incorporates elements of the Clinical Support Division, the Patient Administration Division, the Health Care Finder function, and all liaison with the contractors and the CHAMPUS FI. All CHAMPUS claims will be processed by the contract provider. For those who enroll in the system, the CHAMPUS outpatient deductible will be waived. As part of the enrollment agreement, enrollees will not be reimbursed for any Standard CHAMPUS use within the catchment area, should they decide to seek care outside of their plan, unless preauthorization has been received from the plan. Disenrollment is authorized anytime. However, once disenrolled, a beneficiary may not enroll again until the next scheduled enrollment period. Enrollment is only open to beneficiaries who reside within the catchment area. The plan covers preauthoriztion or emergency claims within the catchment area. Claims generated by enrollees outside the catchment area will be paid under the provisions of Standard CHAMPUS. As with the Fort Sill plan, preauthorization of care outside the MTF will be done by the HCF. The Fort Carson plan includes part of the Patient Services Division concept, Project CARE (Coordinate Appropriate Resources Effectively), another OCHAMPUS demonstration that provides for individual case management for high cost patients where alternatives to hospitalization may prove to be more cost effective.

Both demonstrations alter the normally applicable cost-sharing requirements in the CHAMPUS regulation, DOD 6010.8–R, Chapter 4, Section F. In addition to reduced cost share requirements, the additional discounts available from the preferred providers will further reduce the actual beneficiary cost share. All network providers will accept the discounted CHAMPUS-determined allowable change as payment in full, so that the beneficiary's financial responsibility will be limited to the copayment.

IV. Programs Savings

The Department of the Army anticipates that the Catchment Area Management Demonstration will provide an enhanced level of services at discounted rates which will result in more health care being obtained with no increase in the combined CHAMPUS and direct care budgets. Savings depend on the percentage of beneficiaries who enroll in the plans and the number of preferred providers who are enticed to participate. It is possible that additional savings may result from non-network providers reducing fees to remain competitive with the preferred provider network and from including the discounted payment rates in the calculations of new CHAMPUS prevailing charge profiles for these states beginning with the next scheduled update of state prevailing charges.

V. Duration

The legislative authority for the CAM demonstration become effective Oct. 1, 1987. Actual implementation will begin on June 1, 1989 and will continue for at least two years from the date services are initiated at each demonstration site.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 25, 1989.

[FR Doc. 89–10383 Filed 4–28–89; 8:45 am]

BILLING CODE 3910–01–M

Defense Policy Board Advisory Committee

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session on 17–18 May 1989 in the Pentagon, Washington, DC.

The mission of the Defense Policy Board is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning major matters of defense policy. At this meeting the Board will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this Defense Policy Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

April 25, 1989.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 89–10384 Filed 4–28–89; 8:45 am]

BILLING CODE 3810–01

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 26, 1989.

The USAF Scientific Advisory Board Ad Hoc Committee on Conventional Munitions will meet on 23–25 May, 1989 at the Naval Weapons Center, China Lake, CA.

The purpose of this meeting is to gather information on Navy requirements and technological advances in conventional munitions. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89–10348 Filed 4–28–89; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Availability of the Draft Environmental Impact Statement (DEIS) for the Construction and Operation of a Chemical Munitions Disposal Facility at Tooele Army Depot, Utah

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: This announces the Notice of Availability (NOA) of the DEIS on the potential impact of the design, construction, operation and closure of the proposed chemical agent demilitarization facility at Tooele Army Depot, Utah. The proposed facility will be used to demilitarize all chemical agents and munitions currently stored at the Tooele Army Depot. The DEIS examines the potential impacts of on-site incineration and the "no action" alternatives. The "no action" alternative is considered to be deferral of demilitarization with continued storage of the agents and munitions at Tooele Army Depot.

SUPPLEMENTARY INFORMATION: In its Record of Decision (53 FR, No. 38, pp. 5816–17) for the Final Programmatic Environmental Impact Statement on the Chemical Stockpile Disposal Program, the Department of the Army selected on-site disposal by incineration at all eight chemical munitions storage sites within the continental United States as the method by which it will destroy its lethal chemical stockpile. The Department of the Army published a Notice of Intent on August 3, 1988 (53 FR, No. 149, pp. 29255–29256) which provided notice that, pursuant to the National Environmental Policy Act (NEPA) and implementing regulations, it was preparing a DEIS for the Tooele chemical munitions disposal facility.

The Department of the Army prepared an EIS to assess the site-specific health and environmental impacts of on-site incineration of chemical agents and munitions at Tooele Army Depot. The DEIS for Tooele is now available for comment. Copies may be obtained by writing the Program Manager for Chemical Demilitarization, ATTN: SAIL–PMI (Ms. Marilyn Tischbin), Aberdeen Proving Ground, Maryland 21010–5401. These comments must be received by June 20, 1989, for consideration in the preparation of the Final Tooele EIS. During the public comment period, a public hearing will be scheduled, if necessary.

Additional Information

The Environmental Protection Agency (EPA) will also publish a Notice of Availability for this DEIS in the Federal Register.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA(I&L).

[FR Doc. 89–10323 Filed 4–28–89; 8:45 am]

BILLING CODE 3710–08–M

Military Traffic Management Command; Military Personal Property Symposium; Meeting

Announcement is made of meeting of the Military Personal Property Symposium. This meeting will be held on 25 May 1989 at the Sheraton Crystal City Hotel, Arlington, Virginia, and will convene at 0830 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of this symposium is to provide a public forum for the discussion of matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, *Attn:* MTPP–M, at telephone number 756–1600, between 0800–1530 hours. Topics to be discussed should be received on or before 8 May 1989.

Date: April 18, 1989.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 89–10385 Filed 4–28–89; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Space Task Force will meet May 15–16, 1989 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to assess the Navy's potential role in space. The entire agenda for the meeting will consist of discussions of key issues regarding space exploration in support of U.S. national security, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

This notice is being published late because operational necessity constitutes an exceptional circumstance, not allowing for 15 days' notice of this meeting.

For further information concerning this meeting, contact Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Date: April 26, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89–10454 Filed 4–28–89; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board.

ACTION: Amendment to notice of partially closed meeting.

SUMMARY: This amends the notice of a partially closed meeting of the National Assessment Governing Board published on Thursday April 20, 1989 in Vol. 54, No. 75, page 15973. In addition to the closed session of the National Assessment Governing Board scheduled to begin at 12:15 p.m. and end at 2:00 p.m. on May 12, 1989, the Executive Committee of the Board will meet in closed session on May 12 from 7:00 p.m. to 9:00 p.m. to discuss qualifications of potential nominees for vacancies on the Board. Discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session and will relate solely to the personnel rules and practices of an agency. Such matters are protected by exemptions (2) and (6) of section 552b(c) of Title 5 U.S.C.

Dated: April 25, 1989.

Bruno V. Manno,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89–10262 Filed 4–28–89; 8:45 am]

BILLING CODE 4000–01–M

Office of Postsecondary Education

Stafford Loan Program, SLS Program, PLUS Program, and Consolidation Loan Program; Special Allowance

AGENCY: Department of Education.

ACTION: Notice of special allowance for quarter ending March 31, 1989.

The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Stafford Loan Program (formerly the Guaranteed Student Loan Program), the Supplemental Loans for Students (SLS) Program, the PLUS Program or the Consolidation Loan Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087–1).

Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087–1(b)(2)(B), for the quarter ending March 31, 1989, the special allowance will be paid at the following rates:

Applicable interest rate (percent)	Annual special allowance rate (percent)	Special allowance rate (percent) for quarter ending March 31, 1989
I. Stafford, PLUS or Consolidation loans made prior to October 1, 1981:		
7	5.375	1.34375
9	3.375	0.84375

Applicable interest rate (percent)	Annual special allowance rate (percent)	Special allowance rate (percent) for quarter ending March 31, 1989
II. Stafford, SLS or PLUS loans made on or after October 1, 1981, but prior to November 16, 1986, for periods of enrollment beginning prior to November 16, 1986; Consolidation loans made on or after October 1, 1981, but prior to November 16, 1986:		
7	5.37	1.3425
8	4.37	1.0925
9	3.37	0.8425
12	0.37	0.0925
14	0.00	0.00
III. Stafford loans made on or after November 16, 1986, or made for periods of enrollment beginning on or after November 16, 1986; SLS or PLUS loans made at a fixed rate of interest either on or after November 16, 1986, or for periods of enrollment beginning on or after November 16, 1986; Consolidation loans made on or after November 16, 1986:		
7	5.12	1.28
8	4.12	1.03
9	3.12	0.78
10	2.12	0.53
11	1.12	0.28
12	0.12	0.03
13	0.00	0.00
14	0.00	0.00

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate, by making the following four calculations:

(a) Step 1. Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies (8.87 percent for the quarter ending March 31, 1989);

(b) Step 2. Subtract from that average the applicable interest rate of loans for which a holder is requesting payment;

(c) Step 3. (1) Add 3.5 percent of the remainder, and, in the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent; or

(2) Add 3.25 percent in the case of (1) Stafford loans made on or after November 16, 1986, or made for periods of enrollment beginning on or after November 16, 1986, (ii) SLS or PLUS loans made at a fixed rate of interest either on or after November 16, 1986, or made for periods of enrollment beginning on or after November 16, 1986, or (iii) Consolidation loans made on or after November 16, 1986; and

(d) Step 4. Divide the resulting percent in Step 3 (either (c)(1) or (c)(2), as applicable by four.

FOR FURTHER INFORMATION CONTACT: Ralph B. Madden, Program Analyst, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 732–4242.

Dated: April 6, 1989.

James B. Williams,

Acting Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

[FR Doc. 89–10303 Filed 4–28–89; 8:45 am]

BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Handicapped Children's Early Education Program et al.; Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities.

SUMMARY: The Secretary proposes funding priorities for fiscal year 1990 for the following:

Handicapped Children's Early Education Program, 84.024
Educational Media Research, Production, Distribution, and Training Program, 84.026
Postsecondary Education Programs for Handicapped Persons, 84.078
Programs for Severely Handicapped Children, 84.086
Secondary Education and Transitional Services for Handicapped Youth Program, 84.158
Handicapped Special Studies Program, 84.159
Technology, Educational Media and Materials for the Handicapped Program, 84.180.

These seven programs are administered by the Office of Special Education Programs. To ensure wide and effective use of program funds, the Secretary proposes to select from among these program priorities in order to fund the areas of greatest need for fiscal year 1990. A separate competition will be established for each priority that is selected.

DATES: Comments must be received on or before May 31, 1989 for all programs except Handicapped Special Studies, for which comments must be received on or before July 31, 1989.

ADDRESS: Comments should be addressed to the following individuals at the Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094—M/S2313), Washington, DC 20202. Joseph Clair for 84.024, 84.026, 84.086, and 84.158. Linda Glidewell for 84.159 and 84.180.

FOR FURTHER INFORMATION CONTACT: Individuals listed above at the following phone numbers: Joseph Clair, (202) 732–4503; or Linda Glidewell, (202) 732–1099.

SUPPLEMENTARY INFORMATION: This notice represents a consolidated notice of fiscal year 1990 proposed priorities for discretionary grant programs administered by the Office of Special Education Programs. Publication of these priorities does not preclude the Secretary from publishing additional priorities, nor is there any limitation for the Secretary to fund only these priorities. Following is a summary list of proposed priorities included in this announcement:

Handicapped Children's Early Education Program, 84.024

(1) In-service training programs for related services personnel
(2) Research on early childhood program features

Education Media Research, Production, Distribution and Training Program, 84.026

(1) Closed-captioned national news and public information
(2) Closed-captioned syndicated television programming
(3) Closed-captioned children's programs

Postsecondary Education Programs for Handicapped Persons, 84.078

(1) Postsecondary demonstration projects

Programs for Severely Handicapped Children, 84.086

(1) Training of educators of students with multiple handicaps that include auditory and visual impairments

Secondary Education and Transitional Services for Handicapped Youth Program, 84.158

(1) Institute on intervention effectiveness
(2) Demonstration projects to identify and teach skills necessary for self-determination

Handicapped Special Studies Program, 84.159

(1) State agency/Federal evaluation studies projects
(2) Study of anticipated services for students with handicaps existing from school

Technology, Educational Media and Materials for the Handicapped Program, 84.180

(1) Designs for multi-media instruction for educating children with handicaps

On January 26, 1989 final priorities for fiscal years 1989 and 1990 were published in the **Federal Register** for the following programs (except Research in Education of the Handicapped) at 54 FR 3938. On September 29, 1988 proposed priorities for fiscal years 1989 and 1990 were published in the **Federal Register** for the Research in Education of the Handicapped program at 53 FR 38254. It is expected that the following priorities which were included in those publications will be selected in fiscal year 1990 in addition to the priorities proposed in this notice:

Research in Education of the Handicapped, 84.023

(1) Small grants program
(2) Research on general education social studies or language arts curricula
(3) Research on the delivery of services to students with handicaps from non-standard English, limited English proficiency (including mono-lingual) and/or non-dominant cultural groups
(4) Interventions to support junior high school-aged students with handicaps who are at risk of dropping out of school
(5) Initial career awards

Handicapped Children's Early Education Program, 84.024

(1) Nondirected demonstrations
(2) Multi-disciplinary training programs for child care personnel
(3) Information management of services for infants and toddlers
(4) Nondirected experimental projects
(5) State or multi-State outreach projects

Educational Media Research, Production, Distribution and Training, 84.026

(1) Closed captioned local and regional news

Programs for Severely Handicapped Persons, 84.086

(1) State-wide systems change
(2) Innovations for meeting special problems of children with severe handicaps in the context of regular education settings
(3) Validated practices: children with severe handicaps
(4) Validated practices: children with deaf-blindness
(5) Utilization of innovative practices for children with severe handicaps
(6) Utilization of innovative practices for children with deaf-blindness

Secondary Education and Transitional Services for Handicapped Youth Program, 84.158

(1) Training and employment models for youth with handicaps
(2) Family networking

Title of Program: Handicapped Children's Early Education Program.

CFDA No.: 84.024.

Purpose: To provide Federal support for a variety of activities designed to address the special problems of infants, toddlers, and children with handicaps, from birth through age eight, and their families, and to assist State and local entities in expanding and improving programs and services for those infants, toddlers, and children and their families. Activities include demonstration, outreach, experimental, research and training projects, and research institutes.

Proposed Priorities: The Secretary proposes to establish the following funding priorities for the Handicapped Children's Early Education Program, CFDA No. 84.024. In accordance with the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities: that is, the Secretary proposes to select for funding only those applications proposing projects that meet these priorities.

Priority 1. In-service Training Programs for Related Service Personnel. (CFDA No. 84.024)

This priority supports projects that develop, demonstrate and evaluate in-service training models (and accompanying materials) that will prepare related service personnel to provide, coordinate, or enhance early intervention services to infants and toddlers with handicaps and/or related services to preschool-aged children with handicaps. Model projects must provide inservice training for professionals and paraprofessionals who are already engaged in the provision of related services but who have not been trained to serve infants and toddlers with handicaps and/or preschoolers with handicaps. Projects must identify existing infant/toddler, preschool or child care programs, that will serve as training sites and obtain their commitment prior to submission of the application. The model may target related service providers (e.g., occupational therapists, speech therapists, physical therapists, nurses) in the corporate or private-for-profit sector as well as in the not-for-profit public or private sector. The model developed by the project must be based on a conceptual framework that identifies the existing roles and responsibilities of the individuals to be trained, the changes required in those roles to serve infants, toddlers, or preschool children with handicaps, and the skills needed to implement the new roles. The model must directly train personnel to provide, coordinate, or enhance early intervention or related services to infants, toddlers, or preschool children with handicaps in integrated community based programs. Early intervention or related services must be delivered within the center-based program. Inservice training procedures and materials must address the importance of coordinating early intervention or related services, as appropriate, with the special education service staff and/or direct care staff as well as with the family. In addition to initial training the model must include an array of follow-up and support activities that insures that personnel participating in the training master and implement services to meet the needs of infants, toddlers, and preschool children with handicaps. Projects must also evaluate the inservice training model through direct assessment of participant skills following the training and after a period of time. At least some measures must be based on direct observation in the service setting using standardized observational rating techniques. Models must be consistent with personnel standards and certification/licensure requirements in their States.

The Secretary particularly invites applications from agencies or organizations that are or will be involved with certification and/or accreditation groups, State or private agencies responsible for Statewide inservice training programs. However, projects that meet this invitational priority will not receive a competitive preference over other projects that develop, demonstrate, and evaluate inservice models that will prepare professionals and paraprofessionals to provide related services to preschool-aged children with handicaps.

Priority 2. Research on Early Childhood Program Features (CFDA 84.024)

To provide effective and replicable services for handicapped infants and preschool-aged children, research is needed to identify the most effective methods and materials for promoting infants', toddlers' and children's progress in developmental language domains and developmental motor domains. Presently, much of the available information on the

effectiveness of service is limited to entire programs; little information is available on the comparative effectiveness of different program components for promoting, for example, language development of handicapped children. Yet many professionals who are planning to establish a service program prefer to review and assemble components from several programs rather than to adopt an entire program. Similarly, many professionals who are now operating a service program desire to replace certain components of their program with more effective ones. There currently are available several well-defined program components for promoting language development of young children with handicaps and several well-defined components for promoting motor development of young children with handicaps. These components vary significantly in such matters as conceptual/theoretical bases, instructional procedures and instructional materials. Although much is known about their components, information is generally not available regarding their relative effectiveness as indexed by a variety of measures of child progress.

This priority supports projects that use a variety of measures of child progress to compare the effectiveness of several (minimum of 3) program components for promoting (1) language development or (2) motor development of infants, toddlers, and children with handicaps, within the age range of birth through five years. These components must be well designed sets of instructional goals and procedures that can be incorporated within planned or existing infant/toddler early intervention programs or preschool programs of varying types. The components selected must be compared in multiple studies and in different types of existing early intervention or preschool programs. Projects must fully address the components that will be studied, the justification for their selection, and the existing early intervention or preschool programs in which they will be studied. In conducting the studies, projects must monitor the amount and quality of implementation of the components, as well as the infants', toddlers', and children's experiences in other components of the program. Included within the research activities must be a plan for conducting studies to determine whether the initial findings can be replicated, and a plan for documenting the costs and other resources necessary to incorporate the components in different kinds of preschool or early intervention programs. The goal of these research projects is to provide information about the relative effects of the components studied, and to provide to professionals replicable components that can be incorporated in new or existing infant or preschool programs.

Final reports submitted by projects funded under this priority must include both the specific findings of the project as well as general principles that have been learned or tested in conducting the studies. Quantifiable information from project evaluation activities must also be included along with precise information regarding the procedures for implementing the interventions and the contexts in which they were evaluated as well as available cost information. The Secretary intends to make four awards under ths priority: two in language development and two in motor development.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period in Room 4092, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Address: Comments should be addressed to: Joseph Clair, Office of Special Education Programs, Department of Education, Division of Educational Services, 400 Maryland Avenue SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202.

Contact: James Hamilton, Telephone (202) 732–1084; or Joseph Clair, Telephone: (202) 732–4503

Program Authority: 20 U.S.C. 1424.

Title of Program: Educational Media Research, Production, Distribution, and Training.

CFDA No.: 84.026.

Purpose: To promote the educational advancement of persons with handicaps by providing assistance for: (a) Conducting research in the use of educational media and technology for persons with handicaps; (b) producing and distributing educational media for the use of persons with handicaps, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of persons with handicaps; and (c) training persons in the use of educational media for the instruction of persons with handicaps.

Proposed Priorities: The Secretary proposes to establish the following priorities for the Educational Media Research, Production, Distribution, and Training program, CFDA No. 84.026. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary proposes to select for funding only those applications proposing projects that meet these priorities. The Secretary particularly invites comments regarding the most efficient and effective approach for dividing the workscope of each captioning priority among multiple projects to assure that efforts of funded projects are not duplicated.

Priority 1: Closed-Captioned National News and Public Information (CFDA No. 84.026)

The purpose of this priority is to support one or more cooperative agreements for closed-captioned real-time national news and public information programming, so that persons with hearing impairments can have access to up-to-date national, morning, evening and weekend news as well as information concerning current events and other significant public information. Projects funded under this priority must:

(1) Include criteria for selecting news programs for captioning;

(2) Include a number of television hours to be captioned and a specific method to be used for each hour—real-time, computer assisted, teleprompting, etc.;

(3) Include how they will provide real-time captioning of simultaneously aired programs (two or more live network programs in the same time-slot);

(4) Provide a type and use of back-up systems that will ensure successful, timely captioning services; and

(5) Obtain willingness of major networks to permit captioning of their programs.

Priority 2: Closed-Captioned Syndicated Television Progamming (CFDA No. 84.026)

The purpose of this priority is to support one or more cooperative agreements for closed-captioned syndicated television programming. Projects funded under this priority must:

(1) Include criteria for selecting programs for captioning;

(2) Include a number of television hours to be captioned and a specific

method to be used for each hour—off-line, teleprompting, etc.; and

(3) Provide a type and use of back-up systems that will ensure successful, timely captioning services.

Priority 3: Closed-Captioned Children's Programs (CFDA No. 84.026)

The purpose of this priority is to support one or more cooperative agreements for close-caption national, syndicated, and public broadcasting programs, so that children who are deaf or hearing impaired will have access to selected children's programs. Projects funded under this priority must:

(1) Include criteria for selecting programs for captioning;

(2) Include a number of television hours to be captioned and a specific method to be used for each hour—real-time, off-line, teleprompting, etc.;

(3) Provide a type and use of back-up systems that will ensure successful, timely captioning service; and

(4) Obtain willingness of major networks to permit captioning of their programs.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the contact person named in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 4092, Switzer Building, 330 C Street SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Address: Comments should be addressed to: Joseph Clair, Regulations Coordinator, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3511 M/S 3409), Washington, DC 20202.x

Contact: Ernest E. Hairston, Telephone: (202) 732–1177, or Joseph Clair (202) 732–4503.

Program Authority: 20 U.S.C. 1451, 1452.

Title of Program: Postsecondary Education Programs for Handicapped Persons.

CFDA No.: 84.078.

Purpose: To develop, operate, and disseminate specially designed model programs of postsecondary, vocational, technical, and continuing, or adult education for individuals with handicapping conditions.

Proposed Priority: The Secretary proposes to establish the following funding priority for the Postsecondary Education Programs for Handicapped Persons, CFDA No. 84.078. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities; that is, the Secretary will select for funding only those applications proposing projects that meet this priority.

Priority 1: Postsecondary Demonstration Projects (CFDA No. 84.078)

This priority supports model projects which provide individuals with disabilities other than deafness with adapted or other specially designed programs that coordinate, facilitate, and promote the provision of appropriate educational experiences for these individuals alongside their nondisabled peers. These projects are to be targeted to improve the vocational outcomes of youths and adults who are in need of additional education and training after high school in order to secure and maintain competitive employment. Projects under this priority must accomplish the following tasks:

(1) Locate and serve youths and adults with disabilities who are in need of continued educational services, working cooperatively with secondary schools, as appropriate.

(2) Achieve appropriate job placements for persons with disabilities served by the project through individualized educational interventions, i.e., short- and long-term training, using existing or establishing new cooperative arrangements among and between schools, vocational rehabilitation agencies and potential employers.

(3) Provide follow-up and follow-along activities for persons with disabilities served by the project who are placed in jobs.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priority to the address in this notice.

All comments submitted in response to this priority will be available for public inspection during and after the comment period in Room 4092, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Address: Comments should be addressed to: Joseph Clair, Office of Special Education Programs, Department of Education, Division of Educational Services, 400 Maryland Avenue SW. (Switzer Building, Room 3094 M/S 2313), Washington, DC 20202.

Contact: Dr. Joseph Rosenstein; Telephone: (202) 732–1176; or Joseph Clair, Telephone: (202) 732–4503.

Program Authority: 20 U.S.C. 1424a.

Title of Program: Programs for Severely Handicapped Children

CFDA No.: 84.086.

Purpose: To provide Federal financial assistance for demonstration or development, research, training, and dissemination activities for severely handicapped, including deaf-blind, children and youth.

Proposed Priority: The Secretary proposes to establish the following funding priority for the Program for Severely Handicapped Children, CFDA No. 84.086. In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priority; that is, the Secretary will select for funding only those applications proposing projects that meet this priority.

Priority 1: Training of Educators of Students with Multiple Handicaps that Include Auditory and Visual Handicaps (CFDA 84.086)

This priority would establish a project to develop, evaluate and disseminate new or improved curricula and materials for the inservice training and self-study use of special education personnel to deliver educational services that meet the unique needs of children and youth with multiple handicaps, that include severe auditory and visual handicaps. In particular the project shall develop, evaluate, and disseminate curricula and materials related to the development of communication and mobility skills by students with multiple handicaps that include severe auditory and visual handicaps in integrated community-based settings. The project is to produce replicable training curricula that have been validated at community-based sites selected in cooperative with State educational agencies and grantees of State and Multi-State Deaf-Blind projects funded under section 622 of Part C, EHA. The final materials must be developed for broad application, including the provision of inservice or self-study use by the State and Multi-State Deaf-Blind projects and by existing training programs that currently prepare specialists in the education of handicapped of severely and multiply handicapped children and youth.

In developing new or improved training curricula and materials, the project is expected to work with institutions of higher education and

other agencies that have nationally recognized programs for training personnel to educate children and youth with multiple handicaps that include severe auditory and visual handicaps in integrated community-based programs.

To take advantage of current best practices, the project shall examine the curricula and materials related to communication and mobility skills now being implemented in exemplary training programs and in relevant demonstration and research projects and use these as a point of departure in the project's curricular material development program.

The project must develop curricula and materials that focus on equipping educational service providers with the knowledge base and techniques for most effectively serving children and youth with multiple handicaps that include severe auditory and visual handicaps who represent a wide range of cognitive and functional capacities, and who are provided services in a variety of community-based settings. The curricula and materials must also develop trainee skills in working with parents and families, interacting with professionals from other disciplines, determining when other specialists must be consulted, and accessing emerging information and research findings in the trainees's own and related disciplinary areas.

The project shall conduct a series of evaluation studies of the different versions of the training materials using community-based sites selected in cooperation with State educational agencies and grantees of State and Multi-State Deaf Blind projects funded under section 622 of Part C, EHA.

In addition to addressing other goals and objectives established for the evaluation, curricula and material must be evaluated with respect to their effectiveness in inservice and self-study applications.

The Secretary will approve one cooperative agreement with a project period of 48 months subject to the requirements of 34 CFR 75.253(a) for continuation awards.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priority to the address in this notice.

All comments submitted in response to this proposed priority will be available for public inspection during and after the comment period, in Room 4026, Switzer Building, 330 C Street SW., Washington, DC., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Address: Comments should be addressed to: Joseph Clair, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202.

Contact: Sarah Conlon, Telephone: 732–1157; or Joseph Clair, 732–4503.

Program Authority: 20 U.S.C. 1424.

Title of Program: Secondary Education and Transitional Services for Handicapped Youth Program.

CFDA No.: 84.158.

Purpose: To assist handicapped youth in the transition from secondary school to postsecondary environments such as competitive or supported employment and to ensure that secondary special education and transitional services result in competitive or supported employment to handicapped youth.

Proposed Priorities: The Secretary proposes to establish the following funding priorities for the Secondary Education and Transitional Services Program, CFDA No. 84.158. In accordance with the Education Department General Administration Regulations (EDGAR) at 34 CFR 74.105(c)(3), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priorities: that is, the Secretary proposes to select for funding only those applications proposing projects that meet these priorities.

Priority 1. Institute on Intervention Effectiveness (CFDA No. 84.158)

This priority supports a cooperative agreement to establish a secondary and transition research and evaluation institute in intervention effectiveness. The project funded under this priority must:

(1) Conduct research and analyze evaluation data regarding the efficacy of different program interventions in assisting students with disabilities to make an effective transition from school to adult and community life;

(2) Provide technical assistance related to program evaluation for the projects funded by the Office of Special Education Programs in the area of secondary and transition services;

(3) Provide technical assistance to education agencies and organizations interested in implementing selected model secondary and transition services; and

(4) Conduct policy research to determine the strategies that might promote programs and services that are responsive to the needs of handicapped youth.

Major Institute Activities

Research. The research activities of this institute will be designed to yield new or improved interventions, or features of interventions, that will assist handicapped youth in making the transition from school to the adult and community life. The specific investigations are to be derived from the institute's annual review and synthesis of the professional literature, especially the literature on efficacy of secondary and transitional services; from analysis of the secondary and transitional services funded by the Office of Special Education Programs; and from analysis of findings reported by related research efforts (e.g., the Congressionally mandated longitudinal study, Field Initiated Research projects, etc.). However, projects must include themes of research that will comprise the initial focus of the research as well as the specific investigations that will be conducted during the first year of funding. The research themes must be based on a conceptual framework that uses theory and research to identify factors that affect the successful transition of different groups of secondary-aged students with handicaps into adult and community life and intervention features that positively influence those factors. The research investigations conducted by the institute must (1) be designed to both extend the practical knowledge base regarding effective interventions by developing and testing new interventions, as well as to compare and validate promising current practices that have not been extensively tested or evaluated; (2) be applied rather than basic, and take place in typical educational, employment, or community settings; and (3) include policy research to determine strategies that promote responsive programs and services.

Evaluation. The evaluation activities of the institute will consist of several levels of data collection and analysis. First, the institute will collect data from each of the Secondary and Transitional Program projects and Postsecondary Program projects funded by the Office of Special Education Programs and conduct analyses of aggregated data. To the extent appropriate, the institute will conduct meta-analyses of intervention effects of the projects or subsets of the projects. Second, the institute will analyze each project in terms of intervention objectives, approaches and target populations, and findings. The institute will then contrast the approaches and effectiveness of the projects, clustering them for analytic

purposes if appropriate. Third, the institute will gather other data (e.g., national and Statewide data on employment status, independent living status, etc.) on secondary education and transitional services *outcomes* for nonhandicapped and handicapped groups that can serve as benchmarks for comparing the effects of current and future model demonstration projects. Fourth, the institute will analyze and select instruments for measuring student characteristics and skills that will serve as a benchmark or baseline against which present and future evaluation and program development efforts can be compared. Fifth, the institute will make recommendations regarding areas requiring additional research or demonstration efforts to verify findings and areas in which new research or demonstration should be initiated.

Technical Assistance. The institute will provide technical assistance to projects to improve the evaluation of their activities. This technical assistance will include information pertaining to program documentation methods; study design; selection of measurement instruments; data collection methods; procedures to insure an objective, unbiased evaluation study; data analysis procedures; and formats for reporting the results of a program evaluation.

Technical assistance will also be provided to other educational agencies and organizations that fit into the general evaluation design for the institute's research and evaluation activities and that agree to on-going data collection and analysis to determine the effectiveness of the services implemented.

Technical assistance will be provided in several ways. The institute will prepare a single, general purpose evaluation document that will be distributed to all project directors. The document will address each of the areas described above, and will contain specific evaluation principles, procedures and examples drawn from secondary/transitional programs. The institute will also analyze the evaluation plan, as found in the original grant application, proposed by each project and tailor evaluation technical assistance for each project. Additionally, the institute will encourage, and respond to, requests from the model demonstration projects regarding evaluation technical assistance. Technical assistance will be provided through no more than 10 on-site visits and three workshops during a given 12 month period; the less expensive mechanisms (mail, telephone, annual meetings) will be the predominant methods of providing technical assistance.

In order to plan for the provision of technical assistance, the institute will conduct an informal telephone assessment of all project directors and/or project evaluators each year. The technical assistance needs will then be coordinated with the institute's technical assistance resources in order to develop an overall technical assistance plan (including a description of the technical assistance needs of each project) for the 12-month period.

In conducting the technical assistance activities, the institute will periodically revise/improve any written materials (including the general purpose evaluation document) that are developed on the basis of feedback from the projects.

In carrying out its research and development activities, the institute must provide research training and experience for at least 10 graduate students annually.

The Secretary will approve one cooperative agreement with a project period of 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the institute for the last two years of the project period, in addition to considering factors in 34 CFR 75.253(a), the Secretary will also consider the recommendation of a review team consisting of three external experts selected by the Secretary and designated Federal program officials. The services of the review team are to be performed during the last half of the institute's second year, and will replace that year's annual evaluation that the recipient is required to perform under 34 CFR 75.590. During all other years of the project, the recipient must comply with 34 CFR 75.590. Costs associated with the services to be performed by the three external members of the review team are to be incorporated into the applicant's proposed budget. In developing its recommendation, the review team will consider, among other factors, the following:

(1) The timeliness and the effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the recipient of the cooperative agreement; and

(2) The degree to which the institute's research design and methodological procedures demonstrate the potential for producing significant new knowledge and products.

Priority 2: Demonstration Projects to Identify and Teach Skills Necessary for Self-Determination (CFDA No. 84.158)

This priority supports model projects that identify the skills and characteristics necessary for self-determination, as well as the in-school and out-of-school experiences that lead to the development of self-determination. Self-determination refers to the attitudes and abilities that lead individuals to define goals for themselves and to take the initiative in achieving those goals. Some of the personal characteristics associated with self-determination are: assertiveness, creativity, and self-advocacy. Projects must involve youth with disabilities, their families, and adults with disabilities in investigating (1) the types of experiences and responsibilities that would appear to be important in developing the skills and characteristics necessary for self-determination; and (2) the range of opportunities or potential opportunities in-school and out-of-school that could provide these experiences. Projects must then develop strategies to systematically involve youth with disabilities in the types of activities that foster assertiveness, creativity, self-advocacy, and other skills associated with self-determination. Projects must also develop and test strategies to assist families and service providers in understanding the importance of self-determination for students with a range of disabilities and to accept and support changes in roles and responsibilities as youth with disabilities exercise self-determination skills. Projects must include students with a range of disabilities and must involve adults with disabilities in the transition process as information resources, role models, and advocates.

Projects funded under this priority must evaluate the success of the project in developing self-determination skills among youth with disabilities. Objective measures must be included as well as the perceptions of the youth participants, their families, and adults with disabilities who have been involved in the project activities.

Final reports submitted by projects funded under this priority must provide both specific information regarding project outcomes as well as general findings and principles learned regarding the development of self-determination skills. Quantifiable information from project activities must be included along with precise information as to the skills and experiences identified as important to

the development of self-determination, the procedures for the interventions, the contexts in which the interventions were implemented, and the range of participants.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 4092, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Address: Comments should be addressed to Joseph Clair, Division of Education Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094 M/S 2313), Washington, DC 20202.

Contact: William Halloran, Telephone: (202) 732–1119 or Joseph Clair, Telephone: (202) 732–4503.

Program Authority: 20 U.S.C. 1425.

Title of Program: Handicapped Special Studies Program.

CFDA No: 84.159.

Purpose: To support studies to evaluate the impact of the Education of the Handicapped Act (EHA), including efforts to provide a free appropriate public education and early intervention services to infants, toddlers, children and youth with handicaps. The results of these studies must be included in the annual report submitted to the Congress by the Department.

Proposed Priorities: Under section 618(c), the Secretary is expressly required to submit to the appropriate committees of each House of the Congress and publish in the Federal Register for review and comment proposed annual priorities for evaluations conducted under section 618.

The Secretary proposes priorities under the Handicapped Special Studies Program. In accordance with the Education Department General Administrative Regulatons (EDGAR) at 34 CFR 75.105(c)(1), the Secretary proposes under priority 1 to invite applications for cooperative agreements to support certain types of studies. Priority 2 will also be implemented through a cooperative agreement. However, in accordance with 34 CFR 75.105(c)(3) of EDGAR, the Secretary will give an absolute priority to applications that respond to priority 2. That is, the Secretary will select for funding only those applications proposing projects that meet this priority (*See* 34 CFR 75.105(c)(3)).

Priority 1. State Agency/Federal Evaluation Studies Projects (CFDA No. 84.159)

The purpose of this priority is to support evaluation studies by State agencies to assess the impact and effectiveness of activities assisted under the Education of the Handicapped Act. Within this priority, the Secretary particularly invites studies that: (1) Develop descriptors for characterizing preschool children with handicaps; and (2) examine the impact of various aspects of educational reform (e.g., increased graduation requirements, use of minimum competency testing to determine graduation eligibility, increased academic/curricular requirements, more rigorous promotion policies) on special education.

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(1), applications for studies described in items (1) and (2) will not receive a competitive or absolute preference over other applications that propose evaluation studies to assess the impact and effectiveness of activities assisted under the Education of the Handicapped Act.

Priority 2. Study of Anticipated Services for Students with Hanicaps Exiting From School. (CFDA 84.159)

The purpose of this priority is to implement study designs for identifying performance indicators of exiting students with handicaps that determine adult services needs. The study designs were developed in FY 1988 through cooperative agreements under CFDA 84.159B, *Study of Anticipated Services for Students with Handicaps Exiting From School.* The purpose of the FY 1988 studies was to develop designs by which schools could provide relevant student performance characteristics of in-school and out-of-school functioning to adult service agencies for the purpose of planning anticipated services needed by exiting students with handicaps. In addition to the development of outcome indicators, these FY 1988 studies will develop alternative methods of measurement for each indicator and alternative strategies for collecting data on a State-by-State basis, including an analysis of sampling issues, instrument administration, data verification and data aggregation. The FY 1990 study will conduct a field test of selected deigns to examine the overall study design, methodology, instrumentation, and reporting plan. Finally, the study will implement the data collection, analysis, and reporting phases of this study.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priorities to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3522, Switzer Building, 330 "C" Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Address: Comments should be addressed to: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3094–M/S 2313), Washington, DC 20202.

Contact: Linda Glidewell, Telephone: (202) 732–1099.

Program Authority: 20 U.S.C. 1418.

Title of Program: Technology, Educational Media, and Materials for the Handicapped Program.

CFDA No: 84.180.

Purpose: The purpose of this program is to support projects and centers for advancing the availability, quality, use, and effectiveness of technology, educational media, and materials in the education of children and youth with handicaps and the provision of early intervention services to infants and toddlers with handicaps. In creating a new Part G, Congress expressed the intent that the projects and centers tunded under that Part should be primarily for the purpose of enhancing research and development advances and efforts being undertaken by the public or private sector, and to provide necessary linkages to make more efficient and effective the flow from research and development to application.

Proposed Priority: The Secretary proposes to establish the following priority for fiscal year 1990 for the Technology, Educational Media, and Materials for the Handicapped Program (CFDA No. 84.180). In accordance with the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.105(c)(3)), the Secretary proposes to give an absolute preference under this program to applications that respond to the following priority; that is, the Secretary proposes to select for funding only those applications proposing projects that meet this priority.

Priority 1. Designs for Multi-Media Instruction for Educating Children with Handicaps. (CFDA No. 84.180)

Technology has emerged which can integrate text, audio, and visual information. The technologies that make the integration of multi-media possible are optical storage and computers. Multi-media learning will significantly change the nature of teaching and learning opportunities and in so doing classroom management, environments, and climates. While prototypic applications are being developed, current designs are focused on expanding the technology itself, rather than on its practical use and implementation in educational settings. This priority supports the development and evaluation of multi-media designs which incorporate critical instructional design features related to educating infants, toddlers, children, and youth with handicaps including the use of multi-media by their teachers. These design prototypes must provide the knowledge needed for computer enhanced multi-media learning to be transferred from experimental applications to pragmatic use in advancing the education of children with handicaps. Projects must include design features critical for multi-media educational materials to address the learning characteristics of children with handicaps and fit the realities inherent to teacher preparation and classroom management.

Projects must select and justify content appropriate for illustrating the learner and teacher design features that will contribute to the effective use of multi-media materials for educating children with handicaps. Projects must include: development and research methodologies consistent with substantiating the prototypic design features being recommended; a conceptual, theoretical and research-based plan; and participation by experts, special educators, multi-media experts, and practitioners. The final report must highlight the design features, empirically support their significance, and provide direction for future product development.

Invitation to Comment: Interested persons are invited to submit comments and recommendations regarding the proposed priority to the address in this notice.

All comments submitted in response to these proposed priorities will be available for public inspection during and after the comment period, in Room 3529, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Address: Comments should be addressed to Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3094–M/S 2313), Washington, DC 20203.

Contact: Linda Glidewell, Telephone: (202) 732–1099.

Program Authority: 20 U.S.C. 1461.

Intergovernmental Review

These programs (except the Handicapped Special Studies program) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Dated: April 3, 1989.

Lauro F. Cavazos,

Secretary of Education.

Catolog of Federal Domestic Assistance Numbers: 85.024, Handicapped Children's Early Education Program; 84.026, Educational Media Research, Production Distribution, and Training Program; 84.078, Postsecondary Education Programs for Handicapped Persons; 84.086, Programs for Severely Handicapped Children; 84.158, Secondary Education and Transitional Services for Handicapped Youth Program; 84.159, Handicapped Special Studies Program; 84.180, Technology, Educational Media and Materials for the Handicapped Program.

[FR Doc. 89–10302 Filed 4–28–89; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Amendment to the Proposal To Readopt the 1987 Transmission Rates

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of amended extension of 1987 transmission rates proposal; opportunity for public review and comment.

SUMMARY: After publication of BPA's proposal to readopt its 1987 Transmission Rates (54 FR 7825), BPA experienced significant deviations from expected weather and water conditions. These changes caused BPA to reassess the analysis supporting the proposal, resulting in a delay from the previous schedule.

The reassessment is complete, and BPA has determined that the changes in expectations have not significantly affected its determination that current transmission rate schedules will produce sufficient revenue for BPA to meet its statutory requirements and financial objectives for Fiscal Years (FY) 1990 and 1991. Therefore, BPA continues to propose to extend its 1987 rates by readopting its 1987 rate schedules as its 1989 transmission rate schedules to be effective through FY 1990 and 1991. Because of the delay, BPA has revised the previous schedule of events. The updated schedule is listed below.

ADDRESSES: Written comments by participants should be submitted by May 31, 1989 but will be accepted until the close of all hearings or as otherwise ordered by the Hearings Officer. All previous requirements of the **Federal Register** notice continue unchanged. Comments should be submitted to the Public Involvement Manager—ALP, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Cunningham Byrnes at the above address or by phone at 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 243, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Robert N. Laffel, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, Room 307, 301 Yakima Street, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, Suite 400, 201 Queen Anne Avenue, Seattle, Washington 98109–1030, 206–442–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 West Poplar, Walla Walla, Washington 99362, 509–522–6225.

Mr. Floyd Actis, Acting Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Thomas H. Blankenship, Boise District Manager, Room 494, 550 West Fort Street, Boise, Idaho 83724, 208–334–9137.

SUPPLEMENTARY INFORMATION:

Amendment Schedule. The following is the revised proposed schedule. A final schedule will be established by the Hearing Officer at the Prehearing Conference.

May 1, 1989—Initial studies available at BPA's Public Information Center, 905 NE. 11th, 1st Floor, Portland, Oregon.
May 8, 1989—Deadline for interventions to be filed with Hearing Clerk at the address listed under Procedural Information below.
May 8, 1989—Technical Session to discuss studies and testimony.
May 11, 1989—9 a.m. deadline for filing and serving opposition to all intervention requests.
May 12, 1989—Prehearing Conference to set schedule and act on petitions to intervene and motions.
May 31, 1989—Participants' written comments due.
No Later Than July 31, 1989—Final Record of Decision.

Procedural Information. The information on procedural rules has not changed from the February notice except for the dates, but is summarized here for the convenience of those who may wish to participate. Potential parties and participants should also review the February 23, 1989, notice.

Persons wishing to become a formal "party" to the proceedings must notify BPA in writing of their intention to do so in accordance with requirements stated in this notice. The petitions to intervene must be received by May 8, 1989. Those who have previously filed an intervention petition in this proceeding need not file again. Petitions should be addressed as follows: Honorable Dean F. Ratzman, Hearing Officer, c/o John Ciminello—APR, Hearing Clerk, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. In addition, a copy of the intervention must be served on BPA's Office of General Counsel/APR, P.O. Box 3621, Portland, Oregon 97208. Any opposition to a petition to intervene must be filed and served no later than 24 hours before the May 12, 1989, Prehearing Conference. Persons who have been denied party status in any past BPA rate proceeding shall continue to be denied party status unless they establish a significant change of circumstances on their petition.

BPA will prefile the studies and testimony of its witnesses on May 1, 1989. Copies will be available in the Public Information Center and will be mailed to all parties to the 1987 proceeding.

A Prehearing Conference will be held before the Hearing Officer at 9 a.m. on May 12, 1989, in the new BPA Hearing Room, 1002 NE. Holladay, second floor, Portland, Oregon. Registration for the Prehearing Conference will begin at 8:30 a.m. The Hearing Officer will act on all intervention petitions and oppositions to intervention petitions, rule on any motions, establish additional procedures, establish a service list, establish a procedural schedule, and consolidate parties with similar interests for purposes of filing jointly sponsored testimony and briefs as are determined necessary and for expediting any necessary cross examination. A notice of the dates and times of any hearings will be mailed to all parties of record. Objections to orders made by the Hearing Officer at the Prehearing Conference must be made in person or through a representative at the Prehearing Conference.

Persons seeking to become parties should not wait until the Prehearing Conference to obtain copies of the studies. Rather, potential parties should obtain the studies as soon as they are available so that they are conversant with them at the time of the Prehearing Conference.

Parties appearing at the Prehearing Conference shall be required to state whether they will oppose BPA's rate proposal, provided that BPA will have first offered satisfactory assurance that no substantive or procedural precedent shall arise by virtue of the substance, manner, or form of BPA's or any other party's action in connection with the rate proposal, and that the extended rates suffer the same entire or partial legality as the 1987 transmission rates. The May 8, 1989, technical session is provided to assist parties in their evaulation of BPA's proposal.

Supporting Studies. The studies that have been prepared to support the proposed rates will be available for examination on May 1, 1989, at BPA's Public Information Center, BPA Headquarters Building, first floor, 905 NE. 11th, Portland, Oregon. The studies will be mailed to all parties to BPA's 1987 rate case and will be available at the Prehearing Conference. The studies are:

1. Revenue Requirement Study and Technical Documentation.
2. Revenue Forecast Study.

To request either of the studies by telephone, call BPA's document request line: 800–841–5867 for Oregon; 800–624–9495 for Washington, Idaho, Montana, California, Wyoming, Utah, and Nevada. Other callers should use 503–230–3478. Please request the study by its above title. Also state whether you require the accompanying technical documentation; otherwise the study alone will be provided. (For example, ask for the "Revenue Requirement Study and Technical Document.")

Issued in Portland, Oregon, on April 14, 1989.

James J. Jura,

Administrator.

[FR Doc. 89–10414 Filed 4–28–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER89–254–000, et al.]

Niagara Mohawk Power Corp., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 25, 1989.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. ER89–254–000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) April 17, 1989 tendered for filing supplemental information regarding an agreement between Niagara Mohawk and New England Power Company dated November 1, 1988.

The November 1, 1988 agreement is to provide for the sale by Niagara Mohawk Power Corporation of firm capacity and related energy to New England Power Company. The terms of this agreement and the period during which the purchase of Capacity and Energy can occur shall commence on November 1, 1988 and shall continue until April 30, 1989.

Copies of this filing were served upon New England Power Company and the New York State Public Service Commission.

Comment date: May 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER89–306–00]

Take notice that on April 17, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing, as a supplement to its March 30, 1989 filing in Docket No. ER89–306–000, a modified version of California Public Utilities Commission (CPUC) Decision No. 88–12–083 which was modified by the CPUC in Decision No. 89–03–062.

Copies of this filing have been served upon the City and County of San Francisco and the California Public Utilities Commission.

Comment date: May 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER89-307-00]

Take notice that on April 17, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing, as a supplement to its March 30, 1989 filing in Docket No. ER89-307-000, an executed copy of the Agreement between City of Santa Clara, California, and PG&E to Implement the Performance-Based Rate Settlement for Diablo Canyon Nuclear Power Plant (Implementation Agreement). PG&E also submitted a revised version of California Public Utilities Commission (CPUC) Decision No. 88-12-083 which was modified by the CPUC in Decision No. 89-03-062.

PG&E states that the City of Santa Clara has shown its concurrence by its execution of the Implementation Agreement.

Copies of this filing have been served upon the City of Santa Clara and the California Public Utilities Commission.

Comment date: May 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Power & Light Company

[Docket No. ER89-326-00]

Take notice that on March 30, 1989, Pennsylvania Power & Light Company (PP&L) tendered for filing its Annual Report showing the development charges for billings to UGI Corporation.

Comment date: May 9, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Power & Light Company

[Docket No. ER89-337-00]

Take notice that Pennsylvania Power & Light Company (PP&L) on April 11, 1989, tendered for filing supplements to power purchase agreements with the Boroughs of Watsontown, Duncannon, Blakely, Weatherly, Schuylkill Haven, Perkasie, St. Clarir, Catawissa, Ephrata, Lehighton, Hatfield, Mifflinburg, Quakertown, Kutztown, Olyphant, Landsdale, and to Sullivan County REA and Citizens' Electric Company of Lewisburg. The supplements incorporate into the power purchase agreements provisions agreed to in the settlement agreement in Docket No. ER88-545-000, which was accepted for filing by letter-order of November 15, 1988. The supplements effect no change in the rate level under the settlement agreement.

Comment date: May 9, 1989, in accordance with Standard Paragraph end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10287 Filed 4-28-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1234-000, et al.]

Northwest Pipeline Corp., et al.; Natural Gas Certificate Filings

April 24, 1989.

Take notice that the following filings have been made with the Commission:

1. Northwest Pipeline Corporation

[Docket No. CP89-1234-000]

Take notice that on April 18, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1234-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Chevron U.S.A. Inc. (Chevron), a producer, under the blanket certificate issued in Docket No. CP86-578-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest states that pursuant to a transportation agreement dated January 27, 1989, as amended January 27, 1989, and March 30, 1989, under its Rate Schedule TI-1, it proposes to transport up to 35,000 MMBtu per day equivalent of natural gas for Chevron. Northwest states that it would transport the gas through its system from the Birch Creek receipt point in Sublette County, Wyoming, to the Opal Plant delivery point located in Lincoln County, Wyoming.

Northwest advises that service under § 284.223(a) commenced March 1, 1989, as reported in Docket No. ST89-2934-000 (filed April 3, 1989). Northwest further advises that it would transport 25,000 MMBtu on an average day and 9,000,000 MMBtu annually.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP89-1230-000]

Take notice that on April 17, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-1230-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide transportation for the City of Garnett, Kansas (Garnett), under WNG's blanket certificate issued in Docket No. CP86-631-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG requests authorization to transport, on an interruptible basis, up to a maximum of 3,000 MMBtu of natural gas per day for Garnett from various receipt points in Kansas, Missouri, Oklahoma, Texas and Wyoming to various delivery points on WNG's pipeline system located in Kansas. WNG anticipates transporting 685 MMBtu on an average day and 250,025 MMBtu on an annual basis.

WNG states that the transportation of natural gas for Garnett commenced on March 17, 1989, as reported in Docket No. ST89-2807-000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to WNG in Docket No. CP86-631-000. WNG proposes to continue this service in accordance with §§ 284.221 and 284.223 of the Commission's Regulations.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Colorado Interstate Gas

[Docket No. CP89-1241-000]

Take notice that on April 19, 1989, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-1241-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas for Helmerich & Payne, Inc. (Helmerich & Payne), a producer, under CIG's blanket certificate issued in Docket No. CP86-589-000, *et al.*, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the

request which is on file with the Commission and open to public inspection.

CIG proposes to transport up to 15,000 Mcf of natural gas per day, on an interruptible basis, for Helmerich & Payne pursuant to a transportation service agreement dated February 1, 1989. It is stated that CIG would receive gas from an existing point of receipt on its system in Kansas and redeliver the subject gas, less fuel gas and lost and unaccounted-for gas, for the account of Helmerich & Payne in Kearny County, Kansas. CIG further states that the estimated average daily and annual quantities would be 7,500 Mcf and 2,740 MMcf, respectively. CIG states that service commenced on March 10, 1989, under the 120-day automatic provisions of § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–2786–000.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Company

[Docket No. CP89–1238–000]

Take notice that on April 19, 1989, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP89–1238–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Cabot Gas Supply Corporation (Cabot), a shipper of natural gas, under its blanket certificate issued in Docket No. CP86–1238–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso requests authorization to transport, on an interruptible basis, 10,550 MMBtu on an average day and up to a maximum of 105,500 MMBtu of natural gas per day for Cabot from any point of receipt on El Paso's system for delivery to four specific points located in the state of Texas. The transportation agreement dated February 10, 1989, and has a primary term of one year and shall continue in effect month-to-month thereafter until terminated by either party upon at least 14 days written notice. El Paso anticipates transporting an annual volume of 3,850,750 dt based upon average day volumes.

El Paso states that the transportation of natural gas for Cabot commenced March 1, 1989, as reported in Docket No. ST89–2904–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Southern Natural Gas Company

[Docket No. CP89–1236–000]

Take notice that on April 18, 1989, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP89–1236–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Centran Corporation (Centran), a marketer, under the blanket certificate issued in Docket No. CP88–316–000, pursuant to section 7 of the National Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Southern states that pursuant to a service agreement dated February 13, 1989, under its Rate Schedule IT, it proposes to transport up to 1,000 MMBtu per day equivalent of natural gas for Centran. Southern states that it would transport the gas from various receipt points in Texas, Louisiana, offshore Texas, offshore Louisiana, Mississippi and Alabama, and would deliver the gas to various delivery points in Georgia.

Southern advises that service under § 284.223(a) commenced March 2, 1989, as reported in Docket No. ST89–2698–000. Southern further advises that it would transport 1,000 MMBtu on an average day and 365,000 MMBtu annually.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP89–1231–000]

Take notice that on April 18, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–1231–000 a request pursuant to §§ 157.205 and 284.223(b) of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis for Superior Natural Gas Corporation and Walter Oil and Gas Corporation (Superior/Walter), a marketer and a producer of natural gas, respectively, under its blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the National Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that it proposes to transport natural gas for Superior/Walter between receipt points in offshore Louisiana and offshore Texas and delivery points in Louisiana.

Natural further states that the maximum daily, average daily and annual quantities that it would transport for Superior/Walter would be 25,000 MMBtu equivalent of natural gas (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS), 10,000 MMBtu equivalent of natural gas and 3,650,000 MMBtu equivalent of natural gas, respectively.

Natural indicates that in a filing made with the Commission on April 18, 1989, it reported in Docket No. ST89–3081 that transportation service for Superior/Walter had begun on February 1, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Northwest Pipeline Corporation

[Docket No. CP89–1213–000]

Take notice that on April 14, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–1213–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for the account of Puget Sound Power & Light Company (Puget Sound), an end user of natural gas, under Northwest's blanket certificate issued in Docket No. CP86–578–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to transport up to 150,000 MMBtu of natural gas on a peak day, 150,000 MMBtu on an average day and 55,000,000 MMBtu on an annual basis for Puget Sound. Northwest states that it would perform the transportation service for Puget Sound under Northwest's Rate Schedule TI–1 of a primary term continuing until December 31, 1989, and continue on a monthly basis thereafter, subject to termination upon 30 days notice. Northwest indicates that it would transport the gas from any transportation receipt point on its system to any transportation delivery point on its system.

It is explained that the service has commenced under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–2780–000. Northwest indicates that no new

facilities would be necessary to provide the subject service.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Southern Natural Gas Company

[Docket No. CP89–1232–000]

Take notice that on April 18, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, pursuant to its blanket certificate of public convenience and necessity issued in Docket No. CP82–406–000, filed in Docket No. CP89–1232–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act for authorization to construct, install and operate an additional point of delivery for the City of Carterville (Carterville), an existing customer.

Specifically, Southern states that it provides natural gas service to Carterville at an existing point of delivery (Carterville No. 1) in Floyd County, Georgia, as specified in the Service Agreement between Southern and Carterville dated September 8, 1969. Southern proposes to operate a second point of delivery (Carterville No. 2) at Mile Post 47.0 on its Rome-Calhoun Lines in Floyd County, Georgia.

Southern plans to construct, install and operate a new meter station and appurtenant facilities at the new point of delivery, the total cost of which is estimated to be $215,000. Carterville has agreed to reimburse Southern for the cost of these facilities. The contract delivery pressure at Carterville No. 2 will be 300 psig.

Southern explains that the total volumes to be delivered to Cartersville after the installation of Cartersville No. 2 will not exceed the total volumes authorized in the Service Agreement. The construction and operation of the new point of delivery will not result in any termination of service and will have a de minimus impact on Southern's peak day and annual deliveries.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Northern Natural Gas Company Division of Enron Corp.

[Docket No. CP89–1209–000]

Take notice that on April 14, 1989, Northern Natural Gas Company, Division of Enron Corp., (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP89–1209–000, a request pursuant to Northern's blanket authority granted on September 1, 1982, at Docket No. CP89–401–000 and §§ 157.205 and 157.212 of the Commission's Rules and Regulations for authority to realign certain volumes and modify two existing delivery points, all to accommodate natural gas deliveries for Midwest Gas, A Division of Iowa Public Service Company (Midwest).

Northern is proposing, at Midwest's request, to realign CD–1 firm sales service by reducing firm entitlements for five communities and increasing firm entitlements for five communities served by Midwest. Also, Northern is proposing to realign SS–1 firm sales service by reducing firm entitlements for one community and increasing firm entitlements for seven communities served by Midwest. To provide the requested realignment, Northern will make modifications to two existing delivery points located at Anoka No. 1A and Ham Lake No. 1, Minnesota. These modifications will consist of replacing the existing meters with larger capacity meters at both locations. The proposed realignment of entitlements will not affect the total level of firm sales service provided by Northern to Midwest under either Rate Schedule CD–1 or SS–1.

Comment date: May 15, 1989, in accordance with Standard Paragraph F at the end of this notice.

10. United Gas Pipe Line Company

[Docket No. CP89–1246–000]

Take notice that on April 19, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1246–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service on behalf of Phoenix Gas Pipeline Company (Phoenix), an intrastate pipeline company, under its blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that it proposes to transport natural gas on behalf of Phoenix from various points of receipt located in Texas, Mississippi and Louisiana to various points of delivery located in Louisiana, Texas, Mississippi, Alabama and Florida.

United further states that the maximum daily, average daily and annual quantities that it would transport on behalf of Phoenix would be 103,000 MMBtu equivalent, 103,000 MMBtu equivalent and 37,595,000 MMBtu equivalent of natural gas, respectively.

United indicates that in Docket No. ST89–2982, filed with the Commission on April 7, 1989, it reported that transportation service for Phoenix had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: June 8, 1989 in accordance with Standard Paragraph G at the end of the notice.

11. United Gas Pipe Line Company

[Docket No. CP89–1244–000]

Take notice that on April 19, 1989, United Gas Pipe Line Company (United), P.O. box 1478, Houston, Texas 77152–1478, filed in Docket No. CP89–1244–000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of LaSER Marketing Company (LaSER), a marketer of natural gas, under United's blanket certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport, on an interruptible basis, up to 618,000 MMBtu per day for LaSER. United states that construction of facilities would not be required to provide the proposed service.

United further states that the maximum day, average day, and annual transportation volumes would be approximately 618,000 MMBtu, 618,000 MMBtu and 225,570,000 MMBtu respectively.

United advises that service under § 284.223(a) commenced February 22, 1989, as reported in Docket No. ST89–2988.

Comment date: June 8, 1989 in accordance with Standard Paragraph G at the end of the notice.

12. Southern Natural Gas Company

[Docket No. CP89–1243–000]

Take notice that on April 19, 1989, Southern Natural Gas Company (Southern) P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP89–1243–000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223) of the Commission's Regulations under the Natural Gas Act for authority to provide transportation service for Atlantic Steel Company (Atlantic Steel), an end user of natural gas, under Southern's blanket transportation certificate which was issued by Commission order on May 5, 1989, in Docket No. CP89–316–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern states that it will receive the gas from various points in, offshore Louisiana and the states of Texas, Louisiana, Mississippi and Alabama for

delivery to Atlantic Steel in Fulton and Floyd counties, Georgia.

Southern proposes to transport on an interruptible basis up to 10,000 MMBtu of gas equivalent on a peak day and 5,500 MMBtu on an average day and approximately, 2,007,500 MMBtu of gas annually. Southern states that the transportation service commenced under the 120-day automatic authorization of § 284.223(a) of the Commission's Regulations on March 2, 1989, pursuant to a transportation agreement dated February 13, 1989. Southern notified the Commission of the commencement of the transportation service in Docket No. ST89–2659–000 on March 15, 1989.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Texas Gas Transmission Corporation

[Docket No. CP89–1216–000]

Take notice that on April 17, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–1216–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Carless Resources, Inc. (Carless), under Texas Gas' blanket certificate issued in Docket No. CP88–686–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement dated November 4, 1988, Texas Gas requests authorization to transport up to 5,000 MMBtu of natural gas per day for Carless. Texas Gas states that the agreement provides for it to receive the gas a various existing points of receipt along its system and deliver the gas to two existing points of delivery located in Warren County, Ohio. Carless estimates that the average day and annual transportation quantities would be 2,000 and 750,000 MMBtu, respectively. Texas Gas advises that the service commenced March 1, 1989, as reported in Docket No. ST89–2575–000, under § 284.223(a) of the Commission Regulations.

Comment date: June 8, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–10288 Filed 4–28–89; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP89–1237–000, et al.]

Trunkline Gas Co., et al.; Natural Gas Certificate Filings

April 25, 1989.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP89–1237–000]

Take notice that on April 19, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP89–1237–000, an application pursuant to section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder for permission and approval to abandon firm transportation service it provides to Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Trunkline states that it currently provides up to 60,000 Mcf per day of firm transportation service to Texas Eastern. It is further stated that Texas Eastern has provided Trunkline a notice of cancellation, dated July 21, 1988, in accordance with Article VI of the transportation agreement dated October 19, 1982. Trunkline states that only the firm transportation service is being discontinued, and that there will be no abandonment of any facilities. upon receipt of the abandonment authorization, Trunkline would cancel Rate Schedule T–80 of its Federal Energy Regulatory Commission Gas Tariff, Original volume No. 2, it is stated.

Comment date: May 16, 1989, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–1199–000]

Take notice that on April 12, 1989, Tennessee Gas Pipeline Company (Tennessee), 1010 Milam, Houston, Texas 77002, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP89–1199–000 a joint application pursuant to section 7(b) of the Natural Gas Act, requesting permission and approval to abandon a transportation service performed by Tennessee for Transco and an exchange of natural gas between Tennessee and Transco, all as more fully set forth in the application which is on file with the

Commission and open to public inspection.

Tennessee and Transco state that the transportation and exchange of natural gas were authorized by Commission order issued Janauary 2, 1989, in Docket No. CP80–373, and pursuant to an agreement dated March 21, 1980. It is asserted that Tennessee was authorized to transport gas for Transco from offshore gas supplies to onshore interconnections between Tennessee and Transco. It is further asserted that Transco was authorized to exchange offshore gas suppplies with Tennessee. It is explained that both pipelines have made alternate arrangements for gaining access to their gas supplies under their respective blanket certificates issued pursuant to § 284.221 of the Commission's Regulations. It is explained that Transco notified Tennessee of its intent to terminate the agreement of March 21, 1980, at the end of its primary term, November 1, 1988. Tennessee and Transco request that the abandonment authorization be made effective retroactive to November 1, 1988.

Comment date: May 16, 1989, in accordance with Standard Paragraph F at the end of this notice.

3. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–1240–000]

Take notice that on April 19, 1989, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP89–1240–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Coastal Gas Marketing Company (Coastal), a marketer of natural gas, under its blanket certificate issued in Docket No. CP88–328–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco states that it would receive the gas at an existing point of receipt at Eunice, Acadia Parish, Louisiana, and would redeliver the gas for Coastal at an existing interconnection located in Appomattox County, Virginia.

Transco further states that the maximum daily, average daily and annual quantities that it would transport for Coastal would be 30,000 dt equivalent of natural gas, 22,000 dt equivalent of natural gas and 8,030,000 dt equivalent of natural gas, respectively.

Transco indicates that in a filing made with the Commission in Docket No. ST89–2952, it reported that transportation service for Coastal commenced on March 10, 1989 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: June 9, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP89–1245–000]

Take notice that on April 19, 1989, United Gas Pipe Line Company, (United) P.O. Box 1478, Houston, Texas, 77251–1478 filed in Docket No. CP89–1245–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of LaSER Marketing Company (LaSER), under its blanket authorization issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for LaSER, a marketer of natural gas, pursuant to a gas transportation service agreement under Rate Schedule ITS dated October 1, 1988, as amended on February 2, 1989 (Contract No. T1–21–1876). The term of the transportation agreement is for a primary term of one month from the first delivery of gas and shall continue in effect for successive one month terms thereafter until terminated upon 30 days written notice. United proposes to transport on a peak day up to 103,000 MMBtu; on an average day up to 103,000 MMBtu; and on an annual basis 31,595,000 MMBtu for LaSER. United proposes to receive the subject gas from various exiting points of receipt on its system for transportation to existing points of delivery on its system. The proposed rate to be charged is 39.91 cents per Mcf pursuant to Rate Schedule ITS. United indicates that it would be using existing facilities to provide the proposed transportation service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. United commenced such self-implementing service on February 17, 1989, as reported in Docket No. ST89–2980–000.

Comment date: June 9, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Southern Natural Gas Company

[Docket No. CP89–1254–000]

Take notice that on April 20, 1989, Southern Natural Gas Company (Southern), P.O. Box 2463, Birmingham, Alabama 35202–2563, filed in Docket No. CP89–1254–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide three interruptible transportation services for Graham Energy Marketing Corporation (Graham), a marketer, under the blanket certificate issued in Docket No. CP88–316–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Southern states that pursuant to three service agreements dated February 6, 1989, (contained in Exhibit C, D, and E, respectively, of the application) under its Rate Schedule IT, it proposes to transport under each agreement up to 75,000 MMBtu per day equivalent of natural gas for Graham. Southern states that it would transport the gas from various receipt points in Texas, Louisiana, offshore Texas, offshore Louisiana, Mississippi and Alabama, and would deliver the gas to various delivery points as summarized below.

Exhibit containing agreement	Location of delivery points	Date service commenced	Reported in docket No.
C	Warren Co., MS	3/2/89	ST89–2690
D	AL and GA	3/3/89	ST89–2692
E	GA	3/2/89	ST89–2701

Southern states that service under § 284.223(a) commenced and was reported as shown above. Southern advises that, under contracts contained in Exhibits D and E, it would transport 60,000 MMBtu on an average day and 21,900,000 MMBtu annually. Southern further advises that under the contract contained in Exhibit C it would transport 11,250 MMBtu on an average day and 4,106,250 MMBtu annually.

Comment date: June 9, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest

in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the application to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10289 Filed 4-28-89; 8:45 am]

BILLING CODE 6717-01-M

Texas Gas Transmission Corp. Request Under Blanket Authorization

April 25, 1989.

Take notice that on April 17, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-1217-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, for authorization to transport, on a interruptible basis, natural gas under its blanket certificate issued in Docket No. CP88-686-000, pursuant to section 7 of the Natural Gas Act for Diamond Shamrock Offshore Partners Limited Partnership, who has identified the ultimate end-user as Consolidated Edison Co. of New York, as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to transport up to a maximum daily quantity of 12,000 MMBtu on a peak day and average day, and estimates the annual volume to be 4,380,000 MMbtu.

Texas Gas explains that service commenced March 1, 1989, under § 284.223(a) of the Commission's regulations, as reported in Docket No. ST89-2578-000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10290 Filed 4-28-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1249-00]

United Gas Pipe Line Co.; Request Under Blanket Authorization

April 25, 1989.

Take notice that on April 19, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide interruptible transportation service on behalf of Sun Operating Limited Partnership (Sun), as producer of natural gas, under United's blanket certificate issued in Docket No. CP-88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Pursuant to a gas transportation agreement dated October 19, 1988, as amended March 2, 1989, United proposes to transport up to 61,800 MMBtu of natural gas per day, on an interruptible basis, for Sun. United states that such gas would be transported from various existing receipt points along its system in Louisiana and Texas to various existing delivery points along its system in Alabama, Florida, Louisiana, and Mississippi. Sun has informed United that it expects to have the full 61,899 MMBtu transported on an average day and, based thereon, estimates that the annual transportation quantity would be 22,557,000 MMBtu. United advises that the transportation service commenced on March 20, 1989, as reported in Docket No. ST89-2983-000, pursuant to § 284.223(a) of the Commission's Regulations.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-10291 Filed 4-28-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1235-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

Apirl 25, 1989.

Take notice that on April 18, 1989, United States Pipe Line Company, P.O.

Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1235–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service on behalf of Vista Chemical Company (Vista), an end-user, under its blanket certificate issued in Docket No. CP89–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that pursuant to an Interruptible Gas Transportation Agreement dated February 17, 1989, it would transport a maximum daily quantity of 24,720 MMBtu for Vista. United further states that the estimated average daily and annual quantities to be transported would be 24,700 MMBtu and 9,022,800 MMBtu, respectively. United indicates that it would receive the natural gas at various existing points on its system in Louisiana and would redeliver the natural gas in Louisiana.

United Sates that it commenced the transportation of natural gas for Vista on March 1, 1989, as reported in Docket No. ST89–2929–000, pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time withdrawn for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89–10292 Filed 4–28–89; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 89–11–NG]

Canterra Natural Gas Inc.; Application To Extend Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for extension of blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 17, 1989, of an application filed by Canterra Natural Gas Inc. (CNG) requesting that the blanket import authorization previously granted in DOE/ERA Opinion and Order No. 127 (Order 127), issued May 29, 1986 (ERA Docket No. 86–16–NG), be amended to extend its term for two years commencing August 14, 1989, and ending August 13, 1991. CNG's current authorization expires August 13, 1989. That blanket authorization allows CNG to import up to 25 Bcf per year of Canadian natural gas.

The application is filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. 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 May 31, 1989.

FOR FURTHER INFORMATION:

Larine Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H–087, 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: CNG, a Delaware corporation with its principal place of business in Pittsburgh, Pennsylvania, is a direct wholly-owned subsidiary of Husky (U.S.A.), Inc. CNG requests authority to continue to import Canadian gas from affiliated producing entities and a variety of other suppliers located in Canada for sales to U.S. customers on both a short-term and spot basis. CNG would import the gas for its own account, as well as for the accounts of suppliers or others participating in a particular transaction.

The specific terms of each import and sale would continue to be negotiated on an individual basis, including price and volume. CNG intends to use existing pipeline facilities to transport its gas supplies. CNG also states that it would continue to file quarterly reports giving details of the individual transactions. Prior quarterly reports indicate that CNG's first delivery began on August 14, 1987, and that approximately 1,745 MMcf of natural gas has been imported under Order 127 through December 1988.

In support of its application, CNG asserts that the proposed extension of its existing blanket import authorization is not inconsistent with the public interest since the extension requested would allow CNG to continue to make its imported gas available to U.S. purchasers under contract terms that will be competitive in their market areas and that will remain competitive throughout the contract period.

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.

NEPPA Compliance

The DOE has determined that compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. March 27, 1989, the DOE published in the Federal Register (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating that the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

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 the proceeding and to have the written comments considered as the 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 intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m., e.s.t., May 31, 1989.

It is intended that a decisional record on the application will be developed through responses to this 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 written 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 in 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, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on 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 CNG's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, 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, April 21, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89–10412 Filed 4–28–89; 8:45 am]

BILLING CODE 6450–01–M

[FE-Docket No. 89–16–LNG]

Distrigas Corp.; Application to Import Liquefied Natural Gas From Algeria

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application to import liquefied natural gas from Algeria.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 27, 1989, of an application filed by Distrigas Corporation (Distrigas) to import liquefied natural gas (LNG) from Algeria. Distrigas' application requests authoirzation to import up to 17 cargoes of LNG annually (125,000 dubic meters per ship) until a total of 48 cargoes have been imported. The total amount of LNG to be improted would be 144 million MMBtus or approximately 140 Bcf, which Distrigas anticipates would be imported within three to five years.

The LNG would be purchased from Sonatrading Amsterdam B.V. (Sonatrading), a wholly owned subsidiary of Sonatrach, the Alergian national energy corporation, and sold to Distrigas' affiliate, Distrigas of Massachusetts (DOMAC), at DOMAC's existing LNG terminaling facilities in Everett, Massachusetts. DOMAC would resell the LNG to a variety of current and new customers pursuant to rate schedules approved by the Federal Energy Regulatory Commission.

The application is filed pursuant to section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments should be filed no later than 4:30 p.m., e.d.t., on May 31, 1989.

FOR FURTHER INFORMATION CONTACT:

Lot Cooke, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H–087, Washington, DC 20585, (202) 586–8116.

Michael Skinker, 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: Distrigas is a wholly owned subsidiary of Cabot Corporation, a Delaware corporation. Currently, Distrigas is authorized by DOE/ERA Opinion and Order No. 271, issued on Spetember 16, 1988, to import up to 17 cargoes of LNG per year through October 1, 2003, pursuant to an amendment (referred to as Amendment No. 3) to the firm's 1976 sales and purchase agreement with its Algerian supplier, Sonatrach. Amendment No. 3 includes a make-up provision which allows Distrigas to extend the contract term for up to five years in order to import any cargoes not taken during the normal contract term. The imported LNG is sold to DOMAC for resale at whatever price the negotiated contracts between DOMAC and its customers yield.

On December 11, 1988, Distrigas and Sonatrach entered into a separate sales and purchase agreement (the December 1988 agreement) which forms the basis of this import application. The December 1988 agreement proivdes for the sale by Sonatrading to Distrigas of a minimum of eight and a maximum of 17 cargoes of LNG per contract year (March 15 through March 14), until the total 48 cargoes have been imported.

The December 1988 agreement establishes the price of the LNG, F.O.B. Algeria, to be paid to Sonatrading at the higher of: (1) The reference price, which is 63 percent of a price derived from a formula utilizing the price of alternative fuels, (2) the minimum price, which varies on a seasonal basis from a low of $1.35 from March 15, 1989, through October 14, 1989, to a high of $1.70 after October 14, 1991, or (3) 63 percent of the actual sales price received by DOMAC.

Although the December 1988 agreement calls for Distrigas to take a minimum of eight cargoes of LNG during a contract year, it is not obligated to take any cargoes if, ten days prior to shipping, the reference price is lower than the minimum price. Also, if either the reference price is lower than the minimum price. Also, if either the reference price or the minimum price is higher than the prevailing market price (which is defined as 63.24 percent of the commodity price for natural gas delivered to major gas distribution companies in the New England market area), Distrigas is not obligated to purchase any cargoes of LNG unless Sonatrading is willing to sell the LNG at the prevailing market price.

To the extent that Distrigas takes less than 17 cargoes of LNG during a contract year, it has the right to purchase additional quantities of LNG in succeeding year(s) until the total of such

additional purchases equals the amount by which the original purchases were less than the17 cargoes of LNG.

The December 1988 agreement also provides a mechanism for distinguishing between LNG imported and purchased pursuant to Amendment No. 3 and the December 1988 agreement. The highest priced 120,000 MMBtu's per day of LNG sold by DOMAC will be attributed to Amendment No. 3, and any remaining lower priced sales will be assumed to have been made under the December 1988 agreement.

In support of its application, Distrigas asserts that availability of the proposed imports will serve the public interest since they can provide a market-responsive source of LNG to the Northeastern U.S., especially during the winter peaking season. In addition Distrigas contends that the import arrangement provides a reliable and secure source of supply. All parties should be aware that the application would be conditioned on the filing of quarterly reports giving details of individual transactions.

NEPA Compliance

The DOE has determined that compliance with the National Environmentalk Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, can be accomplished by means of a categorical exclusion. On March 27, 1989, the DOE published in the **Federal Register** (54 FR 12474) a notice of amendments to its guidelines for compliance with NEPA. In that notice, the DOE added to its list of categorical exclusions the approval of disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the DOE's action is not a major Federal action under NEPA. Unless the DOE receives comments indicating the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

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 the proceeding and to have the written comments considered as the 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 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 intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., e.d.t., May 31, 1989.

It is intended that a decisional record will be developed on the application through responses to this 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 written comments should explain why they are necessary. Any reqeust 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 in 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 trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to the decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on 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 Distrigas' application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 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, April 20, 1989.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 89-10413 Filed 4-28-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3563-9]

Modification of NPDES General Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) and in State Waters of Alaska: Beaufort Sea II

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed modification of NPDES general permit.

SUMMARY: The Regional Administrator, Region 10, (the Region) is proposing to modify the National Pollutant Discharge Elimination System (NPDES) general permit for the Beaufort Sea (No. AKG284100, hereafter known as the Beaufort Sea II general permit) which appeared in the **Federal Register** on September 28, 1988 (53 FR 37948). The Beaufort Sea II general permit authorizes discharges from offshore operations in all areas offered for lease by the U.S. Department of Interior's Minerals Management Service (MMS) during Federal Lease Sale 97.

The Region proposes to modify the Beaufort Sea II general permit by extending its coverage to also include all areas now covered by the initial Beaufort Sea general permit. (No. AKG23400, 49 FR 23734, June 7, 1984), which expires on May 30, 1989. The expiring general permit authorizes discharges from offshore facilities in areas offered and leased by (1) MMS during Federal Lease Sales 71 and 87, (2) the State of Alaska in State Lease Sales 36, 39, 43, and 43A, and (3) MMS or the State of Alaska in Federal/State Lease Sale BF and contigious inshore state lease sales. Since the expiring general permit covers nearshore areas, EPA also is proposed to prohibit discharge within 1000 meter of river mouths or deltas during unstable or broken ice or open water conditions ("the 1000 meter discharge prohibition").

These proposed modifications would not effect facililties that are now covered by the Beaufort Sea II permit.

The area covered by the expiring Beaufort Sea permit overlaps with, is adjacent to, or is nearly adjacent to the area covered by the Beaufort Sea II general permit. The expiring Beaufort

Sea permit addresses the same types of operations, discharges, and operating conditions as the Beaufort Sea II general permit. Therefore, the Agency believes that the area now covered by the expiring general permit (NO. AKG284000) will be more appropriately controlled under the Beaufort Sea II general permit (No. AKG284100) than under individual permits or a separate NPDES general permit.

A new administrative record has been developed to support the proposed modifications.

The notice of the Beaufort Sea II general permit (53 FR 37846, September 28, 1988) set forth the principal facts and the signficant factual, legal, and policy questions considered in the development of the terms and conditions of the original permit. The basis for the proposed modifications is given in the fact sheet published below.

Public Comments: Interested persons may submit comments on the permit to EPA Region 10, at the address below. Comments must be received by the regional office by May 31, 1989. The Region is seeking comments only on the conditions of the Beaufort Sea II permit and the proposed 1000 meter discharge prohibition as they apply to the facilities in areas now proposed to be added to geographic coverage of the permit. The Region is not reopening or proposing to modify any permit conditions that are currently applicable to facilities covered by the existing Beaufort Sea II general permit (i.e., areas offered for sale under Lease Sale 97).

PUBLIC HEARING: A public hearing on the proposed permit modification is tentatively scheduled to be held at the Federal Building, Room 137, 222 W. 7th, Anchorage, Alaska on May 31, 1989 at 3 p.m. Persons interested in making a statement at the hearing must contact Anne Dailey at (206) 442–2110 by 2:00 p.m. on May 17, 1989. The public hearing will be canceled if insufficient interest is expressed. Interested persons may contact Anne Dailey between the hours of 8:30 a.m. and 4:00 p.m. through May 26, 1989 to confirm that the hearing will take place. At the hearing interested persons may submit oral or written statements concerning the proposed permit modification. Written statements may also be submitted by mail.

ADDRESS: The administrative record for the proposed modifications to the Beaufort Sea II permit is available for public review at EPA, Region 10, Ocean Programs Section, at the address listed below. Comments should be sent to: Environmental Protection Agency, Region 10, Attn: Ocean Programs Section, WD–137, 1200 Sixth Avenue, Seattle, Washington, 98101.

FOR FURTHER INFORMATION CONTACT: Anne Dailey, Region 10, at the above address or telephone (206) 442–2110. Copies of today's notice and the permit may be obtained by writing to the above address or by calling Kris Flint at (206) 442–8155.

Supplemental Information and Fact Sheet

Organization of This Notice

I. Background
II. Proposed Modifications to the General Permit
III. Other Legal Requirements
A. Oil Spill Requirements.
B. Endangered Species Act
C. Coastal Zone Management Act
D. Marine Protection, Research and Sanctuaries Act
E. State Water Quality Standards and State Certification
F. Executive Order 12291
G. Paperwork Reduction Act
H. Regulatory Flexibility Act
Figure 1—Offshore Areas Offered for Sale Under Federal Sale 97
Figure 2—Areas Covered by the Expiring Beaufort Sea Permit
References
Appendix A—List of Changes Made in the Proposed Modifications

I. Background

The existing Beaufort Sea II general NPDES permit (No. AKG284100) authorizes discharges from offshore oil and gas facilities operating in areas leased by Minerals Management Service (MMS) in Federal Lease Sale 97 (Figure 1). Region 10 proposes to make two modifications to the Beaufort Sea II general permit. The Region proposes to modify the permit to include the geographical area covered by the expiring general permit (No. AKG28400, 49 FR 23734, June 7, 1984) for the Beaufort Sea (Figure 2). The area covered by the expiring permit overlaps with, is adjacent to, or is nearly adjacent to the area covered by the Beaufort Sea II general permit. Since the expiring general permit covers nearshore areas, EPA is also proposing a prohibition on discharge within 1000 meters of river mouths or deltas during unstable or broken ice or open water conditions. Appendix A includes the language or the proposed modification to the general permit.

II. Proposed Modifications to the General Permit

The Director of a NPDES permit program may modify a NPDES permit upon receipt of new information not available at the time of permit issuance, and if the new information would have justified the application of different conditions at the time of issuance (40 CFR 122.62(a)(2)). Region 10 recently was informed by the Alaska Oil and Gas Association about upcoming exploration activities planned for 1989 in the lease sale areas covered by the expiring Beaufort Sea general permit. Had the Region been aware of this information at the time of issuance of the Beaufort Sea II general permit, the area of coverage would have been expanded to include these areas.

The Beaufort Sea II general NPDES permit (No. AKG284100) authorizes discharges from offshore oil and gas facilities in the area offered for lease in the Beaufort Sea under the Federal Lease Sale 97 (Figure 1). EPA proposes to modify the geographic area covered by this general permit to include authorization to discharge on the tracts covered by the expiring Beaufort Sea permit, No. AKG284000 (Figure 2). This modification would continue authorization to discharge from oil and gas operations in areas which overlap, are adjacent to, or nearly adjacent to those areas already covered by the Beaufort Sea II general permit.

The fact sheet accompanying the issuance of the Beaufort Sea II general permit (53 FR 37846, September 28, 1988) set forth the principal facts and the significant factual, legal, and policy questions considered in the development of the terms and conditions of the permit. EPA believes that these terms and conditions are also appropriate, with the exception of the provision described in the following paragraph, for the areas covered by the expiring Beaufort Sea permit.

EPA has extensively studied the nearshore zone of the Alaskan Beaufort Sea in two Ocean Discharge Criteria Evaluations (Jones & Stokes, 1983, 1984). These evaluations show that these nearshore areas provide important feeding and migratory habitat for a large number of species including fish, waterfowl, and mammals (52 FR 36624, September 30, 1987). Further, these areas provide essential feeding and preferred habitat for species of major importance for subsistance and commercial fisheries (ibid.). Therefore, the Region determined that special conditions should apply to areas within 1000 meters of river mouths or deltas (ibid). The draft Beaufort Sea II permit prohibited discharge within 1000 meters of river mouths or deltas during unstable or broken ice or open water; this condition was deleted from the final Beaufort Sea II general permit because all areas of Lease Sale 97 are more than 1000 meters from river mouths or deltas. Since such areas are covered by the

expiring Beaufort Sea general permit, a provision prohibiting discharge within 1000 meters of river mouths or deltas during unstable or broken ice or open water conditions (Part II.B.3.e.) has been included in the proposed modified Beaufort Sea II general permit.

Since the Beaufort Sea II permit contains conditions appropriate for shallow waters, the effluent limitations, monitoring requirements, and operating conditions imposed on drilling muds and cuttings and the other discharges covered by the Beaufort Sea II general permit will not cause unreasonable degradation of the marine environment.

All provisions of the existing general permit will remain in effect until modified.

III. Other Legal Requirements

A. Oil Spill Requirements

Section 311 of the Act prohibits the discharge of oil and hazardous materials in harmful quantities. Routine discharges specifically controlled by the permits are excluded from the provisions of section 311. However, these permit modifications do not preclude the institution of legal action or relieve permitees from any responsibilities, liabilities, or penalties for other, unauthorized discharges of oil and hazardous materials which are covered by section 311 of the Act.

B. Endangered Species Act

Based on information in the Final Ocean Discharge Criteria Evaluations and in the Final Environmental Impact Statements prepared for the lease sales covered by the expiring Beaufort Sea and Beaufort Sea II general permits, Region 10 has concluded that this proposed permit modification is not likely to adversely affect any endangered or threatened species nor adversely affect its critical habitat. Region 10 is requesting written concurrence from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Region 10 will consult with the services as appropriate, depending upon the outcome of the request for concurrence, and otherwise will comply with the requirements of section 7 of the Endangered Species Act before issuing the final permit modification.

C. Coastal Zone Management Act

EPA has determined that the activities authorized by this modification are consistent with local and state Coastal Management Plans. The proposed modification and consistency determinations will be submitted to the State of Alaska for state interagency review at the time of public notice. The requirements for State Coastal Zone Management Review and approval must be satisfied before the modification may be issued.

D. Marine Protection, Research and Sanctuaries Act

No marine sanctuaries as designated by this Act exist in the vicinity of the permit areas.

E. State Water Quality Standards and State Certification

Since state waters are included in the area covered by the expiring Beaufort Sea general permit, the provisions of section 401 regarding certification of compliance with state water quality standards apply.

F. Executive Order 12291

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that order.

G. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in these draft modifications under the Paperwork Reduction Act of 1980, 44 USC 3501 et seq. Most of the information collection requirements have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act. The final modifications will explain how the information collection requirements respond to any OMB or public comments.

H. Regulatory Flexibility Act

After review of the facts presented in the notice of intent printed above, I hereby certify, pursuant to the provision of 5 USC § 605(b), that these permit modifications will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulated parties have greater than 500 employees and are not classified as small businesses under the Small Business Administration regulations established at 49 FR 5024 *et seq.* (February 9, 1984). These facilities are classified as Major Group 13—Oil and Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Dated: April 25, 1989.

Robie G. Russell,

Regional Administrator, Region 10.

References

Jones & Stokes Associates. 1983. Final ocean discharge criteria evaluation, Diapir Field, OCS lease sale 71. Prepared for U.S. Environmental Protection Agency. Region 10. March 21, 1983. 160 pp. plus appendices.

Jones & Stokes Associates. 1984. Final ocean discharge criteria evaluation, Diapir Field, OCS lease sale 87 and state lease sales 39, 43, and 43a. Prepared for U.S. Environmental Protection Agency. Region 10. July 24, 1984. 137 pp. plus appendices.

BILLING CODE 6560-50-M

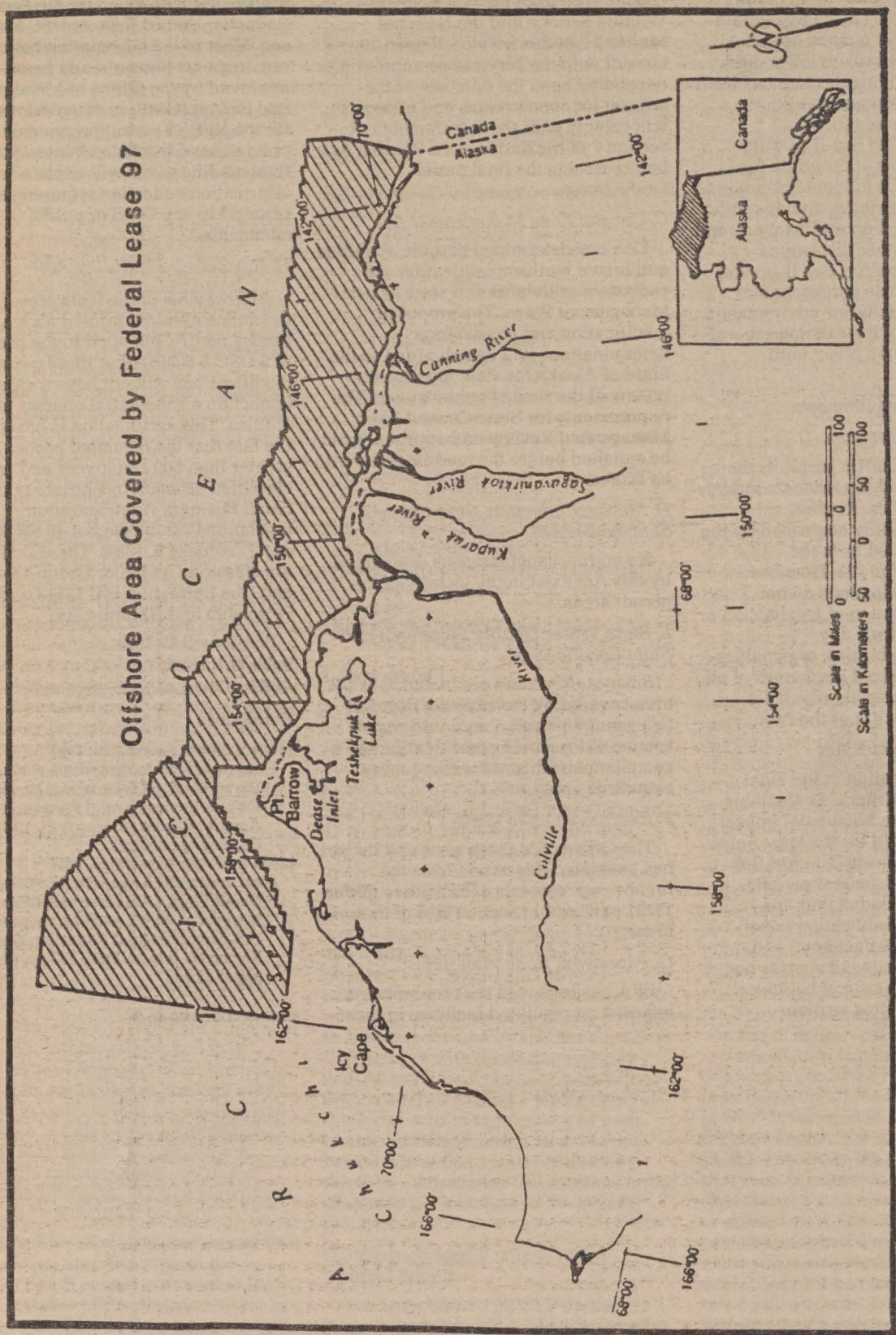


FIGURE 1: OFFSHORE AREAS OFFERED FOR SALE UNDER FEDERAL LEASE SALE 97

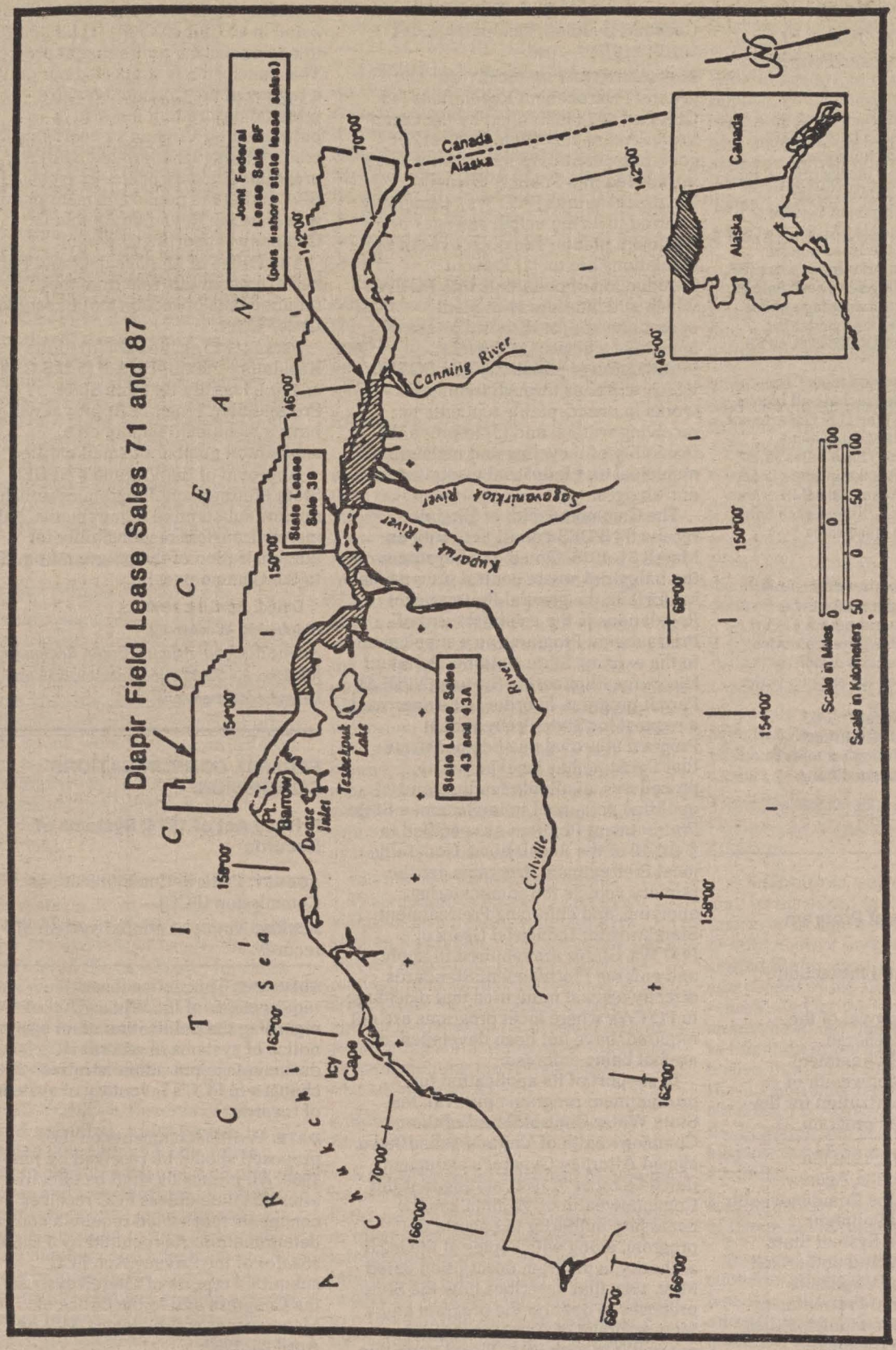


FIGURE 2: AREAS COVERED BY THE EXPIRING BEAUFORT SEA PERMIT (AKG284000)

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Appendix A

Beaufort Sea II General Permit—List of Changes Made in Proposed Permit Modification

Preamble, third paragraph:

The existing permit reads (53 FR 37853, September 28, 1988): "The authorized discharge sites include all blocks offered for lease from the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sale 97 (Beaufort and Chukchi seas). Some of the lease blocks offered but not leased in prior lease sales (BF, 71, and 87) may be reoffered in Lease Sale 97. In this case, EPA will grant coverage under this general permit rather than under the previous general permit (AKG284000, 49 FR 23734, June 7, 1984)."

The modified permit would read: "The authorized discharge sites include all blocks offered for lease from (1) the U.S. Department of the Interior's Minerals Management Service (MMS) in Federal Lease Sales 71, 87, and 97, (2) the State of Alaska in State Lease Sales 36, 39, 43, and 43A, and (3) MMS or the State of Alaska in Federal/State Lease Sale BF and contiguous state lease sales.

Part II.B.3.e.:

This provision was not part of the final Beaufort Sea II general permit, but was included in the draft general permit at Part II.B.3.b. and read: "Discharge is prohibited within 1000 m of river mouths or deltas during unstable or broken ice or open water conditions.

The modified permit would read: "Discharge is prohibited within 1000 m of river mouths or deltas during unstable or broken ice or open water conditions.

[FR Doc. 89-10407 Filed 4-28-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3564-8]

Virginia's Pretreatment Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the National Pollutant Discharge Elimination System Pretreatment Program of the Commonwealth of Virginia and the authorization for the State to administer the program.

SUMMARY: On April 14, 1989 the Environmental Protection Agency, Region III, approved the Commonwealth of Virginia's National Pollutant Discharge Elimination System State Pretreatment Program and authorized the Commonwealth of Virginia to administer the National Pretreatment Program as it applies to municipalities and industries within the State.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Cox, Permits Enforcement Branch, (3WM55), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; 215/597-7099.

SUPPLEMENTARY INFORMATION: The general Pretreatment Regulations (40 CFR Part 403), mandated by the Clean Water Act of 1977 (Pub. L. 95-217), govern the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs), commonly referred to as municipal sewage treatment plants. The objectives of the regulations are to: (1) Prevent introduction of pollutants into POTWs which will interfere with plant operations and/or disposal or use of municipal sludges; (2) Prevent introduction of pollutants into POTWs which will pass through treatment works in unacceptable amounts to receiving waters; and (3) Improve the feasibility of recycling and reclaiming municipal and industrial wastewaters and sludges.

The Commonwealth of Virginia received NPDES permit authority on March 31, 1975. One of the keystones of the industrial waste control program as set forth in the general Pretreatment Regulations is the establishment of Pretreatment Programs as a supplement to the existing State National Pollutant Discharge Elimination System (NPDES) Permit program. In order to be approved, a request for State Pretreatment Program approval must demonstrate that the State has legal authority, procedures, available funding, and qualified personnel to implement a State Pretreatment Program as specified in § 403.10 of the Regulations. Generally, local Pretreatment Programs are the primary vehicle for administering, applying, and enforcing Pretreatment Standards for Industrial Users of POTWs. States are required to apply and enforce Pretreatment Standards directly against industries that discharge to POTWs where local programs are not required, have not been developed, or are not being enforced.

In support of its application for pretreatment program approval, the State Water Control Board of the Commonwealth of Virginia submitted a signed Attorney General's statement, dated October 3, 1988, stating that the Commonwealth of Virginia has the necessary authority to operate the program, along with copies of the legal authority, a program description dated May, 1988 that describes how the State proposes to operate the program and a Memorandum of Agreement to be entered into with EPA. Based upon this information, EPA has concluded that the Commonwealth has the necessary legal authority, procedures and resources, including the procedures and resources listed in 40 CFR 403.10(f) (1) (2) and (3), to administer the pretreatment program. This conclusion is supported not only by a review of the Commonwealth's program description but also is buttressed by Virginia's experience in administering its approved NPDES program. The only comment received by EPA during the public comment period was from the Reynolds Aluminum Company supporting approval.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this State Pretreatment Program Approval will not have a significant impact on a substantial number of small entities.

Approval of the Virginia's NPDES State Pretreatment Program establishes no new substantive requirements, but merely transfers responsibility for administration of the program from EPA to the Commonwealth.

Dated: April 14, 1989.

Stephen R. Wassersug,

Acting Regional Administrator, Region III.

[FR Doc. 89-10406 Filed 4-28-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act of 1974; Systems of Records

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of altered system of records.

SUMMARY: This notice meets the requirements of the Privacy Act of 1974 regarding the publication of an agency's notice of systems of records. It documents minor administrative changes to FCC's inventory of systems of records.

DATE: Written comments on the proposed should be received by June 30, 1989. All proposals shall be effective after this date unless FCC receives comments that would require a contrary determination. As required by 5 U.S.C. 552a(o) of the Privacy Act, FCC submitted reports of altered systems to the Congress and to the Office of Management and Budget (OMB) on April 25, 1989.

ADDRESS: Comments should be mailed to Terry D. Johnson, Privacy Act Officer, Information Resources Branch, Room

416, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554. Written comments will be available for inspection at the above address between 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Terry D. Johnson, Privacy Act Officer, Information Resources Branch, Room 416, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554, (202) 632–7513.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), this document sets forth notice of the existence and character of the systems of records maintained by the FCC. This agency previously gave complete notice of its systems of records by publication in the **Federal Register** on September 2, 1988, 53 FR 34149. This notice is a summary of more detailed information which may be viewed at the location and hours given in the "ADDRESS" section above.

Prefatory Statement

Minor Corrections and Changes

This document reflects minor administrative charges such as location of the records and revised statute citations. None of these administrative changes alter the purposes for which the systems created, nor do they meet other criteria which would require an Altered System report under the Privacy Act and OMB Circular No. A–130. Therefore, comments are not being solicited for these minor non-substantive changes/corrections.

Altered Systems of Records

Two systems of records are being substantially revised. As required by the Privacy Act and OMB Circular No. A–130 an Altered System Report for these systems was submitted on April 25, 1989, to the Office of Management and Budget, the President of the Senate, and the Speaker of the House.

The proposed modifications are as follows:

For FCC/OMC–6, Records of money received, refunded, and returned; categories of individuals covered is revised to clarify inclusion of employee advances and unauthorized telephone call reimsursements; categories of records is amended to include Social Security numbers and telephone numbers of individuals, and include administrative changes; routine uses are expanded to include accounting for employee advances and to include disclosure to "debt collection agencies" when under contract to the FCC; and finally a new category is added to revise of general disclosure authority to "consumer reporting agencies" pursuant to 5 U.S.C. 552a (b) (12).

It should be noted that the general disclosure authority to "consumer reporting agencies" has been determined by the Office of Management and Budget in their Memorandum dated July 5, 1983, not to be subject to public comment. This revision will therefore take effect immediately upon publication of this notice.

For FCC/OGC–2, Attorney Misconduct Files; blanket routine use No. 1 is replacing the previous language, and routine referral to appropriate bar associations charged with investigating alleged misconduct is being added.

Blanket Routine Uses

The Commission has previously established general or "blanket" routine uses that may be made of the information in its system of records. They are reprinted here for ease of reference in reading the altered systems revised by this notice. The following blanket routine uses may be applied to, and incorporated by reference into, every record system maintained within the Commission. The extent of their application is indicated by listing of the blanket routine use numbers in each individual system notice. These blanket routine uses are published in this manner in order to avoid unnecessary repetition and in the interest of simplicity and economy, rather than repeating them in each individual system of records notice:

Routine Use-Law Enforcement

Where there is an indication of a violation or potential violation of a statute, regulation, rule, or violation of a statute, regulation, rule, or order, the relevent records may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violaltion or for enforcing or implementing the statute, rule, regulation, or order.

2. Routine Use-Disclosure When Requesting Information

A record may be disclosed to request information from a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as licenses, if necessary to obtain information relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Routine Use-Disclosure of Requested Information to a Federal Agency

A record may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

4. Routine Use-Congressional Inquiries

A record on an individual in a system of records may be disclosed to a congressional office in response to an inquiry the individual has made to the congressional office.

5. Routine Use-Disclosure to the General Services Administration (GSA) and the National Archives and Records Administration (NARA)

A record from a system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

6. Routine Use-Disclosure to a Court or Administrative Body

A record on an individual in a system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body.

7. Routine Use-Disclosure to the Department of Justice or a Court for Litigation

A record from a system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when: (a) The United States, the Commission, a component of the Commission, or, when represented by the Government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Commission determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

8. Routine Use-Disclosure to the Office of Personnel Management (OPM)

A record in a system of records which concerns information on pay leave, benefits, retirement deductions, and any other pertinent information, may be disclosed to the Office of Personnel Management in order for it to carry out its legally authorized Government-wide functions and duties.

FCC/OMD-6

SYSTEM NAME:

Records of money received, refunded, and returned.

SYSTEM LOCATION:

1919 M Street NW., Washington, DC 20554; Route 116, Gettysburg, PA 17326; and Room 213, 140 Baltimore Street, Gettysburg, PA 17325.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and companies making payments to cover good acquired, forfeitures assessed, fees collected and services rendered; refunds for incorrect payments or overpayments; (including travel advances, advance sick leave and advance annual leave) billing and collection of bad checks; and miscellaneous monies received by the Commission (including reimbursement for unauthorized use of telephone services).

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, Social Security numbers, telephone numbers and addresses of individuals or companies, records of goods acquired or services rendered; forfeitures assessed and collected; amounts; dates; check numbers; locations; bank deposit information; transaction type information; United States Treasury deposit numbers; ship name and call sign; and information substantiating fees collected, refunds issued, and interest, penalties, and administrative charges assessed individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; Consolidated Omnibus Budget Reconciliation Act of 1985 and 31 U.S.C. 3302.

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

The primary uses of the records are (a) to account for all monies received by the Commission from the public and refunded to the public; (b) to compute vouchers to determine amounts claimed and reimbursed, and (c) to account for all advances given to employees. Disclosure outside the Commission may be made (a) to Federal, State or local Government agencies performing a tax, investigative or regulatory function; and (b) to "debt collection agencies" acting under the terms and conditions of a contractual agreement. Blanket Routine Uses No. 1 thru 7 of the Prefatory Statement are applicable to this system.

Disclosures to Consumer Reporting Agencies:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A (B) (12):

Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a (f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a) (3)).

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

STORAGE:

Paper, computer printout, microfilm, microfiche, magnetic disc, and magnetic tape.

RETRIEVABILITY:

By name and/or type of transaction; call sign; processing number, employer identification number, social security number, telephone number, soundex number, fee control number, payment, ID number or sequential number.

SAFEGUARDS:

Records are located in lockable metal file cabinets, metal vaults, and in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

RETENTION AND DISPOSAL:

Retained for one year following the end of the fiscal year; then transferred to the Federal Records Center and destroyed when 6 years and 3 months old.

SYSTEM MANAGER(S) AND ADDRESS:

Managing Director, Office of Managing Director, 1919 M Street NW., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager.

RECORD ACCESS PROCEDURE:

Address requests to the system manager.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Subject individual and/or company; Federal Reserve Bank; agent of subject or company; or Attorney-at-Law.

FCC/OGC-2

SYSTEM NAME:

Attorney Misconduct Files.

SYSTEM LOCATION:

1919 M Street, NW., Washington, DC 20554.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any attorney who appears in a representative capacity before the FCC and who is being charged with attorney misconduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, briefs, related Commission agenda items, ABA recommendations, investigative findings, complaints of attorney misconduct, memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Section 500(d)(2).

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

Record information is used by staff attorneys to prosecute a case for attorney misconduct before the administrative law judge and the Commission. Record information may be referred, as a routine use, to the appropriate bar association charged with the responsibility of investigating the alleged misconduct. Further, blanket routine use No. 1 of the Prefatory Statement is applicable to this system.

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

STORAGE:

File folders.

RETRIEVABILITY:

Records are retrieved by the name of the attorney charged with misconduct.

SAFEGUARDS:

Records are kept in file cabinets in offices that are secured at the end of each business day. Since only one or two staff persons routinely access this record system, unauthorized examination during business hours would be easily detected.

RETENTION AND DISPOSAL:

Destroyed 5 years after case closure.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Office of General Counsel, 1919 M Street, NW., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager.

RECORD ACCESS PROCEDURE:

Address requests to the system manager.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Letters from the public, pleadings, agenda items, intra-agency memoranda.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempt from Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the Privacy Act of 1974, 5 U.S.C. 552a, and from Sections 0.554—0.557 of the Commission's Rules because it is maintained for law enforcement purposes pursuant to subsection (k)(2) of the Act.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-10428 Filed 4-28-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension.

Title: Temporary Housing Post-Assistance Survey

Abstract: The Temporary Housing Post-Assistance Survey, FEMA Form 90-101, will be used to obtain information to (1) evaluate the effectiveness of providing assistance, (2) determine if the temporary housing needs are being met; and (3) identify the need for continuning disaster relief, rental, assistance, and temporary housing assistance.

Type of Respondents: Individuals or households.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1,000

Number of Respondents: 6,000

Estimated Average Burden Hours per Response: .17

Frequency of Response: Other. The program is only activated after a declaration of Federal disaster assistance.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Pamela Barr, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: April 24, 1989.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 89-10341 Filed 4-28-89; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 18]

Rebates and Other Malpractices in the Trans-Pacific Trades; Order

The Federal Maritime Commission has reason to believe that persons participating in the United States foreign commerce between ports and points in the United States and those in the Far East, more specifically, Japan, South Korea, Taiwan, Hong Kong, People's Republic of China, the Philippines, Indonesia, Singapore, and Thailand, ("Trans-Pacific Trades") may have obtained, or attempted to obtain, transportation of property at less or different compensation than the rates and charges shown in applicable tariffs or service contracts. The various unfair devices or means which appear to have been used include rebates, concessions, absorptions and allowances other than those set forth in applicable tariffs, misdeclarations and other similar practices, in violation of the prohibitions of section 10(a)(1) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1709(a)(1).

The Commission also has reason to believe that carriers operating in the United States foreign commerce between ports and points in the Trans-Pacific Trades directly or indirectly, may have provided, or allowed other persons to obtain, transportation of property at less or different compensation than the rates and charges show in applicable tariffs or service contracts. These actions also appear to have been accomplished by various unfair devices or means, such as rebates, concessions, absorptions and allowances other than those set forth in applicable tariffs, and through misdeclarations and other similar practices, in violation of the prohibitions of section 10(b) of the 1984 Act, 46 U.S.C. app. 1709(b).

If established, such violations are subject to civil penalties not to exceed $25,000 for each violation willfully and knowingly committed, pursuant to section 13(a) of the 1984 Act, 46 U.S.C. app. 1712(a). Additionally, carriers who rebate or commit other rate malpractices in contravention of their tariffs or service contracts may have their tariffs or their participation in conference tariffs suspended by the Commission pursuant to section 13(b)(1) of the 1984 Act, 46 U.S.C. app. 1712(b)(1).

In order to ensure the proper and effective administration and enforcement of the shipping statutes, the Commission is instituting a nonadjudicatory investigation to determine whether sufficient evidence exists to warrant informal compromise procedures or formal investigation and assessment proceedings for violations of the 1984 Act with regard to the transportation of property in the Trans-Pacific Trades.

Therefore, it is ordered, That pursuant to sections 10, 11 and 12 of the Shipping Act of 1984, 46 U.S.C. app. 1709, 1710 and 1711, and Part 502, Subpart R of Title 46 of the Code of Federal Regulations, 46 CFR 502.281, *et seq.*, a nonadjudicatory investigation is hereby instituted into the practices of carriers and other persons with respect to the possible payment of rebates and any other devices or means of providing, or allowing persons to obtain, transportation of property at less or different compensation than the rates and charges shown in applicable tariffs or service contracts, in the United States foreign commerce between ports and points in the Trans-Pacific Trades;

It is further ordered, That the Investigative Officer shall be Peter J. King of the Commission. The Investigative Officer shall be assisted by such staff members as may be assigned by the Commission's Managing Director and shall have full authority to hold public or non-public sessions, to resort to all compulsory process authorized by law (including the issuance of subpoenas ad testificandum and duces tecum), to administer oaths and to perform such other duties as may be necessary in accordance with the laws of the United States and the regulations of the Commission;

It is further ordered, That the Investigative Officer shall issue a report of findings and recommendations no later than one year after publication of this Order in the **Federal Register**, such

report to remain confidential unless and until the Commission rules otherwise;

It is further ordered, That this proceeding will remain in effect until discontinued by further Order of the Commission; and

It is further ordered, That notice of this Order be published in the **Federal Register.**

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-10415 Filed 4-28-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

April 25, 1989.

Background: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received by May 16, 1989.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Proposal to approve under OMB delegated authority the extension, without revision, of the following report:

1. *Report Title:* Report of Brokers Carrying Margin Accounts.
Agency Form Number: FR 2240.
OMB Docket Number: 7100-0001.
Frequency: Annually.
Reporters: Brokers and dealers.
Annual Reporting Hours: 351.
Estimated Average Hours per Response: 2.7.
Number of Respondents: 130.
Small businesses are affected.
General Description of Report: This information collection is mandatory (15 U.S.C. 78q(g)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This report is used to insure compliance of brokers and dealers with the Federal Reserve Margin Regulations and Security Credit as authorized by section 17 of the Securities and Exchange Act of 1934. This report collects certain balance sheet information from securities brokers and dealers carrying margin accounts and is used by the Federal Reserve to regulate securities credit extended by brokers.

Proposal to approve under OMB delegated authority the extension, with revision, of the following reports:

1. *Report Title:* Monthly Survey of Selected Deposits and the Annual Supplement to the Survey of Selected Deposits.
Agency Form Number: FR 2042 and FR 2042a.
OMB Docket Number: 7100-0066.
Frequency: Monthly and annually.
Reporters: Commercial banks and FDIC-insured savings banks.
Annual Reporting Hours: 22943.
Estimated Average Hours per Response: .9 to 3.25.
Number of Respondents: 575.
Small businesses are affected.
General Description of Report: This information collection is voluntary (12 U.S.C. 248(a)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This survey collects data monthly on amounts and offering rates paid on savings and retail time deposits, NOW accounts and MMDAs from a stratified sample of commercial and FDIC-insured savings banks. This survey also collects information annually on the fee and rate structure of NOW accounts and personal MMDAs; and collects data annually on the number of accounts. The information collected is used for the construction of the monetary aggregates and analysis of current monetary developments.

2. *Report Title:* Surveys of Terms of Bank Lending.
Agency Form Number: FR 2028A, A-s and B.
OMB Docket Number: 7100-0061.
Frequency: Quarterly.
Reporters: Commercial banks.
Annual Reporting Hours: 5896.
Estimated Average Hours per Response: .1 to 3.5.
Number of Respondents: 340.
Small businesses are affected.
General Description of Report: This information collection is voluntary (12 U.S.C. 248(a)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This survey collects information on the price and certain non-price terms of loans made to businesses and farmers by commercial banks. The information is used for analysis of developments in bank loan markets.

Board of Governors of the Federal Reserve System, April 25, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-10305 Filed 4-28-89; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of February 7-8, 1989

In accordance with § 271.5 of its Rules Regarding Availability of Information (12 CFR 271, *et seq.*), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 7-8, 1989.[1] The directive was

[1] Copies of the record of policy actions of the Committee for the meeting of February 7-8, 1989,

Continued

issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that, apart from the direct effects of the drought, economic activity has continued to expand at a fairly vigorous pace. After strong gains in the fourth quarter, total nonfarm payroll employment rose sharply in January, including a sizable increase in manufacturing. The civilian unemployment rate, at 5.4 percent in January, remained in the lower part of the range that has prevailed since the early spring of last year. Industrial production rose appreciably further in December and January. Housing starts declined somewhat in December but were up substantially on balance in the fourth quarter. Consumer spending advanced considerably in the fourth quarter, in part reflecting stronger sales of durable goods. Indicators of business capital spending suggest some weakening in recent months. The nominal U.S. merchandise trade deficit was slightly larger on average in October and November than in the third quarter. The latest information on prices suggests little change from recent trends, while wages have tended to accelerate.

The Federal funds rate and Treasury bill rates have risen since the Committee meeting in mid-December; other short-term interest rates are generally unchanged to somewhat lower. Bond yields have declined somewhat. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G–10 currencies rose substantially over the intermeeting period.

M2 and M3 weakened appreciably in January, especially M2. For the year 1988, M2 expanded at a rate a little below, and M3 at a rate around, the midpoint of the ranges established by the Committee. M1 has changed little on balance over the past several months; it grew about 4¼ percent in 1988. Expansion of total domestic nonfinancial debt appears to have moderated somewhat in 1988 to a pace around the midpoint of the Committee's monitoring range for the year.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at this meeting reaffirmed its decision of late June to lower the ranges for growth of M2 and M3 to 3 to 7 percent and 3½ to 7½ percent, respectively, measured from the fourth quarter of 1988 to the fourth quarter of 1989. The monitoring range for growth of total domestic nonfinancial debt was set at 6½ to 10½ percent for the year. The behavior of the monetary aggregates will continue to be evaluated in the light of movements in their velocities, developments in the economy and financial markets, and progress toward price level stability.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Taking account of indications of inflationary pressures, the strength of the business expansion, the behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, somewhat greater reserve restraint would, or slightly lesser reserve restraint might, be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from December through March at annual rates of about 2 and 3½ percent, respectively. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 7 to 11 percent.

By order of the Federal Open Market Committee, April 21, 1989.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 89–10306 Filed 4–28–89; 8:45 am]

BILLING CODE 6210-01-M

are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

Blairstown Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 18, 1989.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Blairstown Bancorp, Inc., Blairstown, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Benton County State Bank, Blairstown, Iowa.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. State Bankshares, Inc., Fargo, North Dakota; to become a bank holding company by acquiring 87.44 percent of the voting shares of State Bank of Fargo, North Dakota, and 92.54 percent of the voting shares of First State Bank of West Fargo, West Fargo, North Dakota.

Board of Governors of the Federal Reserve System, April 24, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–10298 Filed 4–28–89; 8:45 am]

BILLING CODE 6210-01-M

Compagnie Fianciere de Suez; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 1989.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Compagnie Financiere de Suez, Paris, France, and Banque Indosuez, Paris, France; to acquire Daniel Breen & Company, Houston, Texas, and thereby engage in providing portfolio investment advice pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 24, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10299 Filed 4-28-89; 8:45 am]

BILLING CODE 6210-01-M

First National Bancshares Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 255.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 1989.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Bancshares Corporation,* Jackson, Tennessee; to engage *de novo* in dealing in certificates of deposit issued by its subsidiary bank pursuant to § 225.25(b)(16) of the Board's Regulation Y.

2. *Liberty National Bancorp, Inc.,* Louisville, Kentucky; to expand the geographic scope of the following activities which have already been approved for its subsidiary, Liberty Financial Services, Inc., Louisville, Kentucky: making, acquiring, and servicing loans and other extensions of credit for its own account and for the account of others pursuant to § 225.25(b)(1); operating an industrial bank, Morris Plan bank or industrial loan company as authorized under state law pursuant to § 225.25(b)(2); acting as principal, agent or broker for insurance (including home mortgage redemption insurance pursuant to § 225.25(b)(8)(i); acting as agent or broker for insurance directly related to an extension of credit by a finance company that is a subsidiary of Applicant pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y. These activities will be conducted in the State of Kentucky and all states contiguous to Kentucky.

Board of Governors of the Federal Reserve System, April 24, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-10300 Filed 4-28-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Acquisitions of Shares of Banks or Bank Holding Companies; Francis Malone et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received no later than May 12, 1989.

A. **Federal Reserve bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Francis Malone, Oldham, South Dakota; to retain his increased ownership of 30.95 percent of the voting shares of the Consolidated Holding Company, Oldham, South Dakota, and thereby indirectly acquire American State Bank, Oldham, South Dakota.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Melvin Victor Federer, Cheyenne Wyoming; to acquire an additonal 1.55 percent for a total of 17.83; and Margie Federer, Trustee, to retain 0.93 percent of the voting shares of Equality Bankshares, Cheyenne, Wyoming, and thereby indirectly acquire The Equality State Bank, Cheyenne, Wyoming; Pioneer Bank of Evanston, Evanston, Wyoming; Equality Bank of Evansville, Evansville, Wyoming; and First State Bank of Lyman, Lyman, Wyoming.

2. Don E. Hylton, Overbrook, Kansas; to acquire an additional 0.61 percent of the voting shares of Overbrook Bankshares, Inc., Overbrook, Kansas, for a total of 18.96 precent and thereby indirectly acquire First Security Bank, Overbrook, Kansas.

3. Don E. Hylton, Overbrook, Kansas; to acquire an additonal 3.24 percent of the voting shares of Carbondale Bankshares, Inc., Carbondale, Kansas, for a total of 18.73 percent, and thereby indirectly acquire State Bank of Carbondale, Carbondale, Kansas.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Norman D. Oswald, Duncanville, Texas; to acquire 22.40 percent of the voting shares of Metroplex Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire Bent Tree National Bank, Addison, Texas; Bank of Los Colinas, N.A., Irving, Texas; and Gleneagles National Bank, Plano, Texas.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. Richard M. and Rebecca I. Adler Trust, Los Angeles, California; to acquire 14 percent of the voting shares of APSB Bancorp, Los Angeles, California, and thereby indirectly

acquire American Pacific State Bank, Los Angeles, California.

Board of Governors of the Federal Reserve System, April 24, 1989.

Jennifer J. Johnson

Associate Secretary of the Board.

[FR Doc. 89-10301 Filed 4-28-89; 8:45 a.m.]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 040389 AND 041489

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN Number	Date Terminated
Philip E. Kamins, VanLeer Group Foundation, Keyes Fibre Company	89-1247	04/03/89
Capital Holding Corporation, General Electric Company, Montgomery Ward Insurance Company	89-1301	04/03/89
International Semi-Tech Microelectronics, Inc., Bilzerian Partners Limited Partnership 1, The Singer Company	89-1315	04/03/89
Capital Holding Corporation, Bernard F. Brennan, Montgomery Ward Insurance Company	89-1327	04/03/89
DC Partners I, L.P., The Cherokee Group, The Cherokee Group	89-1363	04/03/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 040389 AND 041489—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN Number	Date Terminated
Philip D. Marella, Pinnacle Broadcasting Company, Inc., George G. Beasley, Beasley Broadcasting of South Carolina, Inc.	89-1391	04/03/89
Ronald O. Perelman, The Coleman Company, Inc, The Coleman Company, Inc.	89-1463	04/03/89
Contel Corporation, United Telecommunications, Inc., United telephone Company of Iowa	89-1098	04/05/89
United Telecommunications, Inc., Contel Corporation, Contel of Kansas, Inc. and The Kansas State Telephone	89-1099	04/05/89
Masco Industries, Inc., Frank L. and Virginia J. Warchol, Vacumet Finishing, Inc.	89-1277	04/05/89
Rite Aid Corporation, Imasco Limited, The Lane Drug Company	89-1266	04/06/89
NKC, Inc., MEH Affiliates, Inc., Methodist-Evangelical Hospital Foundation, Inc.	89-1296	04/06/89
Thermadyne Industries Corporation, Clarke Holdings Corporation, Clarke Holdings Corporation	89-1317	04/06/89
MAG Acquisition Corp., Thermadyne Industries, Inc., Thermadyne Industries, Inc.	89-1318	04/06/89
Clarke Holdings Corporation, MAG Acquisition Corp., MAG Acquisition Corp.	89-1319	04/06/89
Zephyr Medical Corporation, Nu-Med, Inc., Coast Plaza Medical Center, Inc.	89-1326	04/06/89
Soco Holdings Inc., NRM Energy Company, L.P., NRM Operating Company, L.P.	89-1348	04/06/89
Warburg, Pincus Capital Company, L.P., TF Investments, Inc., Allied Clinical Laboratories, Inc	89-1364	04/06/89
Becton Dickinson and Company, Marion Laboratories, Inc., Marion Laboratories, Inc. (Scientific Division)	89-0518	04/07/89
BSR International PLC, Emerson Electric Co., Electronics Components Business	89-1312	04/07/89
Emerson Electric Co., BSR International PLC, BSR International PLC	89-1313	04/07/89
Jean-Noel Bongrain, Alta-Dena Certified Dairy, Inc., Alta-Dena Certified Dairy, Inc	89-1337	04/07/89
Jean-Noel Bongrain, Alta-Dena Certified Dairy, L.P., Alta-Dena Certified Dairy, L.P	89-1338	04/07/89
Waste Management, Inc., ADT Limited, Ever-Green Corp.	89-1380	04/07/89
Kitz Corporation, CRICO Hotel Associates I, L.P., CRICO Hotel Associates I, L.P	89-1395	04/07/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 040389 AND 041489—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN Number	Date Terminated
SEI Corporation, National FSI, Inc., National FSI, Inc	89-1401	04/07/89
Zurich Insurance Company, American General Corporation, Maryland Casualty Company	89-1402	04/07/89
Tosco Corporation, John J. Lee, GP Acquisition Corp	89-1403	04/07/89
John J. Lee, GP Acquisition Corporation, GP Acquisition Corporation	89-1406	04/07/89
ARTRA GROUP Incorporated, Salomon Inc., Emerald Acquisition Corp	89-1410	04/07/89
Salomon Inc., Envirodyne Industries, Inc., Envirodyne Industries, Inc	89-1411	04/07/89
Prime Motor Inns, Inc., Servico, Inc., Servico, Inc.	89-1417	04/07/89
Bernard L. Schwartz, Loral Corporation, Aircraft Braking Systems Division ("ABS") & Engineered	89-1419	04/07/89
Southeast Banking Corporation, Freedom Savings and Loan Association, Freedom Savings and Loan Association	89-1421	04/07/89
VMS Capital Holdings Limited Partnership, CSX Corporation, Rockresorts, Inc., Rockresorts (U.K.), Caneel Bay	89-1423	04/07/89
The Standard Products Company, Jay C. Thompson and Dorrie A. Thompson, Holm Industries, Inc	89-1440	04/07/89
Cyprus Minerals Company, Bruce Scherling, Trustee/ Bankruptcy-Reserve Mining Company, Reserve Mining Company	89-1455	04/07/89
CS Holding, Credit Suisse, Credit Suisse	89-1332	04/10/89
Adam Young, c/o Young Broadcasting, Inc., Knight-Ridder, Inc., Knight-Ridder Broadcasting, Inc	89-1422	04/10/89
Kawasaki Steel Corporation, Armco, Inc., Eastern Steel Division	89-1298	04/11/89
Ronald O. Perelman, The Coleman Company, Inc., The Coleman Company, Inc.	89-1397	04/11/89
A. Jerrold Perenchio, Reco Land Corporation, Reco Land Corporation	89-1409	04/11/89
Bilzerian Partners Limited Partnership 1, International Semi-Tech Microelectronics Inc., Singer Furniture Company	89-1418	04/11/89
U.S. Resource Corporation, J. Crew Group, Inc., Popular Club Plan, Inc	89-1424	04/11/89
General Development Corporation, Ralph Mann, Glen Ivy Financial Group, Inc	89-1345	04/12/89
Jefferson Smurfit Group plc, Arturo Barreiro Gonzalez, Cartonera Nacional, Inc. and Packaging Unlimited, Inc	89-1433	04/12/89

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 040389 AND 041489—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN Number	Date Terminated
Leggett & Platt, Inc., Trust Under Will of Mac Levine, Webster Spring Co. Inc.	89-1302	04/13/89
Warner Communications Inc., Chris-Craft Industries, Inc., BHC, Inc	89-1303	04/13/89
Henkel KGaA, Quantum Chemical Corporation, Emery Division	89-1330	04/13/89
Masco Corporation, Universal Furniture Limited, Universal Furniture Limited	89-1355	04/13/89
General Motors Corporation, General Instrument Corporation, Sytek, Inc	89-1358	04/13/89
The Diana Corporation, Craig J. Walker (89-1399) and Richard V. Dobbs (89-1400), General Novelty Co., Inc	89-1399	04/13/89
The Diana Corporation, Richard V. Dobbs, General Novelty Co., Inc	89-1400	04/13/89
ASEA AB, Emerson Electric Co., Emerson Electric Co	89-1413	04/13/89
BBC Brown Boveri Ltd., Emerson Electric Co., Emerson Electric Co	89-1414	04/13/89
John Wiley & Sons, Inc., Mr. Alan R. Liss, Alan R. Liss, Inc	89-1432	04/13/89
LTU Lufttransport-Unternehmen GmbH & Co. KG, UAL Corporation, United Air Lines, Inc	89-1467	04/13/89
American Express Company, Vernon A. Davidson (and A.W. Kosloff), Apparel Marketing Industries, Inc	89-1441	04/14/89
American Express Company, Alan W. Kosloff, Apparel Marketing Industries, Inc.	89-1442	04/14/89
Famous Restaurants Inc., Imasco Limited, certain assets of Casa Lupita Restaurants, Inc	89-1444	04/14/89
Primerica Corporation, Control Data Corporation, ACTION Data Services	89-1465	04/14/89
The Retail Property Trust, Belz-Oak Court, Ltd., Southern Poplar Company	89-1470	04/14/89
David A. Sabey, Basil D. Vyzis, F&N Acquisition Corp	89-1487	04/14/89

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-10274 Filed 4-28-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Availability of Funds for Demonstration Grants to Determine the Feasibility of Linking Community-based Primary Care and Drug Abuse Treatment

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of available funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces the availability of approximately $9 million in Fiscal Year 1989 for grants to combat the spread of the human immunodeficiency virus (HIV) by expanding and improving health care service programs that integrate comprehensive primary health care and intravenous drug abuse treatment. The grants will be awarded under the provisions of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, 1989, Pub. L. 100-436, and section 301 of the Public Health Service Act, as amended.

The demonstration program, a collaborative effort of the Bureau of Health Care Delivery and Assistance (BHCDA), HRSA, and the National Institute on Drug Abuse (NIDA), Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), seeks to combat the spread of HIV, as well as HIV-associated morbidity and mortality, by increasing the capacity and improving the effectiveness of intravenous drug abuse treatment by joining primary health care and drug abuse treatment to form a comprehensive, integrated service delivery model. Intravenous drug abusers, their sexual partners and their children who are most at risk to incur infection or spread HIV comprise the target group.

For-profit or not-for-profit private organizations and public entities, including State and local governmental agencies, are eligible applicants. Priority consideration will be given to applicants who will best demonstrate integrative relationships between community-based primary health care organizations and drug abuse treatment programs for the delivery of primary health care to intravenous drug abusers. These integrative relationships should include close working relationships with local health departments.

DATE: To be considered, grant applications must be received by the Grants Management Officer by July 1, 1989. Applications shall be considered as meeting the deadline if they are either (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee.

A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be accepted as proof of timely mailing. Applications which do not meet the deadline will be considered late and will be returned to the applicant.

ADDRESS: Application kits (Form PHS 5161-1 with revised facesheet DHHS Form 424, as approved by the Office of Management and Budget under control number 0348-0006) may be obtained from, and completed applications should be mailed to, Grants Management Office, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Parklawn Building, Room 8A-17, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3476. For general information on this demonstration program, contact Joan Holloway, telephone (301) 443-8134.

SUPPLEMENTARY INFORMATION: The linking of comprehensive primary health care and drug abuse treatment can expand and improve the effectiveness of intravenous drug abuse treatment and reduce the spread of HIV and help prevent and control infectious diseases associated with HIV infection among IV drug abusers. This more comprehensive approach for the delivery of health care to individuals who suffer from addictive disorders offers intravenous drug abusers additional points of access into drug treatment and broadens their opportunities for health care during treatment or as part of an aftercare program. And it can greatly assist in efforts to reach other individuals who are at high risk for contracting or spreading HIV infection.

Various approaches for providing integrated services may be proposed. Some examples of service delivery models are:

- Provision of drug abuse treatment services within a wide variety of comprehensive primary health care settings;
- Provision of primary health care within drug abuse treatment programs; and
- Risk assessment to identify intravenous drug abusers within the population served by primary care providers, counseling and referral to drug abuse treatment programs for

specialty care, and followup in the primary health care setting.

Each grant may be approved for a project period of up to 3 years to cover the duration of the demonstration program. However, funding will be provided for 12-month budget periods, consistent with available appropriations. Currently, $9,015,000 is available for funding the first year of the demonstration program. HRSA anticipates that approximately 10 to 20 projects will be funded under this announcement. The range of project support may vary considerably, depending upon the number of individuals who will receive care through the integrated program and the treatment modalities chosen.

Applicants should note that priority consideration will be given to proposals for the delivery of care on an outpatient basis so that the greatest number of demonstration programs can be funded from the limited amount of funds available.

Grant Requirements

Grants must be used to deliver comprehensive primary health care and drug abuse treatment to intravenous drug abusers in an integrated manner. The program of services must be managed through team-oriented case management or similar care coordination systems to effectively integrate primary health care and drug abuse treatment. Grants will be limited to projects designed to target communities with high concentrations of intravenous drug abusers. Grantees must use community-based service components that are experienced in primary health care, drug abuse treatment, and case management delivery systems. (Community-based organizations are characterized by the significant participation of community or consumer members in the planning, management, monitoring and evaluation of the services provided to ensure that the program of care is culturally appropriate and accommodates the needs of special populations.)

Criteria for Evaluating Applications

Each application must contain a description of the purposes for which the applicant expects to expend the grant funds.

The description of purposes must include information relating to the programs and activities to be supported and the services to be provided, the number of individuals who will receive services under the grant, a description of intended expenditures, including the average costs of providing services to each individual, and a description of the manner in which primary health care and drug abuse treatment programs and activities will be linked.

The BHCDA will conduct an objective review of applications that are received and considered timely. In its review of applications for grant support, BHCDA will consider the extent to which an application addresses:

a. Experience of the applicant and community-based components in providing primary health care and drug abuse treatment services to high risk individuals;

b. Extent to which the program will demonstrate innovative approaches for linking primary health care and drug abuse treatment services;

c. Extent to which the program will offer new services to the target population through the integration of comprehensive primary health care and drug abuse treatment;

d. Extent to which grant resources will be used for the provision of services in a community-based setting;

e. Identification of the target population, the level of intravenous drug abuse, and the extent of need that is not being met;

f. The scope of primary health care services to be offered;

g. How the integration and delivery of comprehensive primary health care and drug abuse treatment will be accomplished;

h. Extent to which linkages between primary health care and drug abuse treatment services will be established and maintained;

i. Extent to which intravenous drug abusers will receive primary health care and drug abuse services;

j. Extent to which HIV/AIDS prevention will be provided on site, such as risk reduction counseling, HIV counseling and testing, partner notification, tuberculosis evaluation for IV drug abusers and preventive tuberculosis prophylaxis, contraceptive services for infected women, reinforcement of safe behavior in followup sessions with infected persons and their sex partners, which could include peer-group support, and diagnosis and treatment of sexually transmitted diseases;

k. the internal procedures the applicant will employ for program development and monitoring to ensure achievement of goals and financial management.

Award Critiera

Applicants will be judged on the quality of their design for linking services, their experience with community-based delivery systems, their ability to ensure client confidentiality, and the extent of the intravenous drug abuse problem in the area being served.

Other Award Information

The program is considered to be subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR Part 100. Grant awards will be made subject to the provisions of the Public Health Service Grants Policy Statement and to 45 CFR Parts 74 and 92. An independent evaluation of this linkage demonstration program will be conducted by ADAMHA in cooperation with HRSA. All grantees will be required to cooperate with the evaluation.

Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit will contain a listing of States which have chosen to set up a review system and will identify a point of contact in each State for the review.

Since 60 days are allowed for this review, applicants are advised to discuss projects with, and provide copies of their applications to, contact points as early as possible. At the latest, an applicant should provide the application to the State for review at the same time it is submitted to the BHCDA.

Catalog of Federal Domestic Assistance: In the OMB Catalog of Federal Domestic Assistance, this Demonstration Grant Program is listed as Number 13.177.

Dated: April 25, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-10327 Filed 4-28-89; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-919-09-4213-02]

Northern Alaska Advisory Council; Meeting

A public meeting of the Northern Alaska Advisory Council will be held at the BLM's Fairbanks Office Building on Thursday, June 1, 1989. The meeting will start at 8:30 a.m. and end at 5 p.m. Comments from the public will be accepted from 1 to 2 p.m.; written comments may be submitted.

During the meeting the Council will discuss BLM's recreation management program and 3809 surface management program in northern Alaska.

For information contact the Public Affairs Office, Bureau of Land Management, 1150 University Avenue,

Fairbanks, Alaska 99709, telephone (907) 474–2231.

M. Thomas Dean,

Designated District Manager, Northern Alaska Advisory Council.

April 20, 1989.

[FR Doc. 89–10192 Filed 4–28–89; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

[INT–DES–89–8]

AB Lateral Hydropower Facility, Uncompahgre Valley Hydropower Project, Colorado

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of public hearings, INT–DES–89–8.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a draft environmental impact statement (DEIS) for the AB Lateral Hydropower Facility, Uncompahgre Valley Hydropower Project, Colorado. This statement (INT–DES–89–8, dated April 19, 1989) was made available to the public on April 24, 1989.

The DEIS analyzes impacts of alternatives to develop hydropower facilities on the Uncompaghe Valley Reclamation Project in Montrose and Delta Counties, Colorado.

DATES: Public hearings will be held in Denver, Montrose, and Delta, Colorado, on May 30, 31, and June 1, 1989, respectively. Each hearing wil begin at 7 p.m. and will be scheduled to end at 9:30 p.m.

ADDRESSESS: The hearing in the Denver area will be held at: Sheraton Hotel and Conference Center, 360 Union Boulevard, Lakewood, Colorado. The hearing in Montrose will be held at: Colorado-Ute Conference Center, 1845 South Townsend Avenue, Montrose, Colorado. The hearing in Delta will be held at: Delta High School Cafetorium, 1400 Pioneer Road, Delta, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Sersland (Regional Environmental Officer, Upper Colorado Region, Salt Lake City, Utah), (801) 524–5580; or Mr. Steve McCall (Environmental Specialist, Grand Junction Projects Office, Grand Junction, Colorado), (303) 248–6105 (after May 15, call (303) 248–0600).

SUPPLEMENTARY INFORMATION: These hearings are designed to receive views and comments relating to the environmental impacts of the AB Lateral Facility from interested organizations and individuals. Oral statements at the hearings will be limited to a period of 10 minutes per speaker. Speakers cannot combinme times to obtain a longer oral presentation and will not be allowed to trade their scheduled time with somone else. However, the person authorized to conduct the hearings may allow speakers to provide additional oral comments after all persons wishing to comment have been heard.

Speakers will be scheduled according to their time preference, if any, requested by letter or telephone. Speakers not present when called will lose their privileges in the schedule order, and their names will be recalled at the end of the scheduled speakers. Requests for scheduled presentations will be accepted until 4 p.m. on May 25, 1989. Any subsequent requests will be handled on a first-come, first-served basis following the scheduled presentations at the hearing.

Organizations or individuals who would like to present statements at the hearing should contact the Projects Manager, Grand Junction Projects Office, Bureau of Reclamation, 2597 B 3/4 Road, P.O. Box 1889, Grand Junction, Colorado 81502, telephone (303) 248–6115, by letter or telephone, and announce their intentions to participate. After May 15, the address and telephone number will be 2764 Compass Drive, P.O. Box 60340, Grand Junction, Colorado, 81506, telephone (303) 248–0600. Written comments from those unable to attend and from those wishing to supplement their oral presentations at the hearings should be received by June 12, 1989, in order to be included in the hearing record.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 89–10330 Filed 4–28–89; 8:45 am]

BILLING CODE 4310–09–M

Diamond Fork System, Bonneville Unit, Central Utah Project, Utah

AGENCY: Bureau of Reclamation (USBR), Interior.

ACTION: Notice of availability of the draft supplement to the final environmental impact statement (DSFES): INT–DES 89–10.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (as amended), the Bureau of Reclamation (Reclamation) has prepared the DSFES for the Diamond Fork System, Bonneville Unit, Central Utah Project. The system would provide for conveyance of agricultural and municipal and industrial water for 12 counties in northern and central Utah. The DSFES addresses modifications to the project plan since the filing of the Final Environmental Impact Statement (INT–FES 84–30) in 1984.

ADDRESSES: Single copies of the DSFES may be obtained on request to the Regional Director or the Projects Manager at the addresses below:

Regional Director, Upper Colorado Region, P.O. Box 11568, Salt Lake City, UT 84147; Telephone: (801) 524–5580.

Projects Manager, Utah Projects Office, Bureau of Reclamation, 302 East 1860 South, Provo, UT 84603; Telephone: (801) 379–1000.

Copies of the DSFES are available for inspection at the following location:

Bureau of Reclamation, Environment and Planning Branch, U.S. Department of Interior, 18th and C Streets, NW., Room 7455, Washington, DC 20240; Telephone: (202) 343–4662.

Libraries

United States Department of the Interior, Natural Resources Library, 18th and C Streets, NW., Main Interior Building, Mail Stop 1151, Washington, DC 20240

Bureau of Reclamation, Denver Office Library, Denver Federal Center, 6th and Kipling, Building 67, Room 167, Denver, CO 80225

American Fork Library, American Fork, UT

Harold B. Lee Library, Brigham Young University, Provo, UT

Lehi City Library, Lehi, UT

Marriott Library, University of Utah, Salt Lake City, UT

Merrill Library, Utah State University, Logan, UT

Nightingale Memorial Library, Westminster College, Salt Lake City, UT

Orem City Library, Orem, UT

Payson City Library, Payson, UT

Pleasant Grove Library, Pleasant Grove, UT

Provo City Library, Provo, UT

Salt Lake City Public Library, Salt Lake City, UT

Southern Utah State College Library, Cedar City, UT

Spanish Fork Library, Spanish Fork, UT

Sprague Library, Salt Lake City, UT

Springville City Library, Springville, UT

Weber State College Library, Ogden, UT

FOR FURTHER INFORMATION CONTACT: Mr. Harold Sersland, (Regional Environmental Officer, Upper Colorado Region, Salt Lake City, UT), (801) 524–5580; or Dr. Wayne O. Deason (Manager, Environmental Services, Bureau of Reclamation, Denver, CO), (303) 236–9336; or Mr. Lee Swensen (Chief,

Environmental Staff, Utah Projects Office, Provo, UT), (801) 379–1150.

SUPPLEMENTARY INFORMATION: The DSFES presents modifications to the plan which was originally presented in the 1984 FES (INT–FES 84–30). Because of changing conditions, the recommended plan evaluated in the FES is no longer practical and has been reduced in size. The DSFES presents an analysis of impacts expected to result from three alternatives for the downsized system where the impacts would be different from the FES plan. Supplemental irrigation service has been added as a project purpose.

Date: April 26, 1989.

J. Austin Burke,

Acting Deputy Commissioner.

[FR Doc. 89–10382 Filed 4–28–89; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

National Registry of Natural Landmarks

AGENCY: National Park Service, Interior.

ACTION: Public notice and request for comment.

The area listed below appears to qualify for designation as a National Natural Landmark, in accordance with the provisions of 36 CFR Part 62. Pursuant to 62.4(d)(1) of 36 CFR 62, written comments concerning the potential designation of this area as a National Natural Landmark by the Secretary of the Interior may be forwarded to the Director, National Park Service (490), U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240. Written comments should be received no later than 60 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Charles M. McKinney III, Natural Landmarks Branch, Wildlife and Vegetation Division, (202) 343–8113.

Dated: April 26, 1989.

James M. Ridenour,

Director.

New Jersey

Bergen County

Norwood-Easthill Tract—This 470-acre tract is one of the best remaining examples of old-growth mixed-hardwood forest in the northern Piedmont Natural Region. It is all that remains of the old-growth forests which once blanketed the western slopes of New Jersey's Palisades. Norwood-Easthill abuts Palisades of the Hudson National Natural Landmark, designated in 1984, which is located along the western bank of the Hudson River from Sparkhill, New York, south 13 miles to below the George Washington Bridge in New Jersey. It is among the best examples of a thick diabase sill formation known in the United States. This proposed addition to the existing National Natural Landmark is located chiefly on private lands (410 acres), lands owned by the borough of Rockleigh (15 acres) and the Palisades Interstate Park Commission (45 acres).

[FR Doc. 89–10417 Filed 4–28–89; 8:45 am]

BILLING CODE 4310–70–M

UNITED STATES INFORMATION AGENCY

Bureau of Educational and Cultural Affairs; Grant Program; Winter Institute in American Studies.

Overview

Contingent upon the availability of funds, the Bureau of Educational and Cultural Affairs of the United States Information Agency (USIA) is soliciting proposals for a graduate-level American studies institute to take place from January 4 to February 17, 1990. Due date for receipt of proposals in COB June 25, 1989. The institute is designed for approximately 30 highly motivated secondary school educators in English language, American literature, government, history, society and culture and geography. Participants will come principally from countries in Latin America and Africa. USIA is asking for detailed proposals from institutions which have an acknowledged reputation in American Studies and related fields with special expertise in handling cross-cultural programs.

Objectives

The objective of the institute is to support and encourage the efforts of other countries to improve the quality of teaching about Ameican society and culture at the secondary level. The program should be designed for teacher educators and/or secondary-level classroom teachers with responsibilities in curriculum planning and course and materials development whose teaching assignments require a general up-to-date knowledge of American civilization and culture. Many of these educators will be involved in the teaching of English as a foreign language, though their academic preparation may be in the fields of American literature, government, history, society and culture, and geography.

Time Frame and General Description

The institute should be programmed to last approximately 45 days, beginning on or about Thursday, January 4 and ending on or about Saturday, February 17, 1990. The participants will arrive directly at the campus site from their home countries. The university program staff will be expected to make arrangements to have participants met upon arrival at the airport nearest the university campus. Few if any participants will have visited the United States previously. In view of this, an initial orientation to the U.S. and the campus should be considered an integral part of the institute and should be held on the first two or three days of the program. The applicant is asked to design a two-part program:

(a) A 4-week academic program at the university and

(b) A two-week escorted tour of two or more different regions of the United States.

The tour segment should be planned, arranged, and conducted by the Program Director and principal university staff and should be seen as an integral part of the program, complementing and reinforceing the academic material. It should not be a whirlwind tour of the U.S. In addition to two or three other cities, the tour should include a three-to-four-day visit to Washington, DC, at the end of the tour before participants depart for their home countries. Programming in Washington should include a half-day briefing session at the U.S. Information Agency.

Program Description

The institute should be a graduate level academic program aimed at improving the participant's understanding of American society and institutions and contemporary issues most relevant to shaping of these institutions. The program should provide an intellectual framework and an organizing principle for understanding and teaching about the U.S. For the purpose of the institute, American studies is understood to include aspects of American history, literature, society and culture, geography and political science. The institute should address the diversity and complexity of American contemporary life and the underlying unity of social and political institutions. The program should provide a basic overview of American institutions, current issues, and the social and political response to these issues. In addition, academic instruction should address a range of views of American values and character; social, economic

and literary history; geographical features; forms of creative expression; and education, religion, industry and technology. The academic program should maintain a relative balance among plenary sessions, lectures, workshops and practicums. Academic activities should reinforce and provide opportunities to clarify the central themes and objectives of the program. Lengthy lecture sessions should be avoided whenever possible, or associated with workshop or small group discussion periods. The proposal should include a detailed syllabus outlining the focus of the subject matter with specific readings required for each unit.

Activities should include an orientation to the U.S. and the university community, field trips to places of local interest, home stays with families in the area (other secondary educators if possible), and events which will bring the participants into contact with Americans from different walks of life. These encounters will give the participants a chance to experience American society, its institutions and language, and observe the variety of attitudes that constitute one of our country's most striking characteristics.

In addition to the substantive presentations and discussions about American society, the institute should focus upon pedagogical concerns, materials and curricular development in the context of teaching about the U.S. Samples of secondary school curricula, materials and topical bibliographies in American studies fields should be provided or developed during the program. It should be noted that these participants will not only come from several different disciplines but also from a variety of educational systems. Most systems have rigorous teacher training programs for certification, and classroom methods evaluated and approved by regional inspectors. Similarly, some systems require adherence to an assigned textbook while others allow significant flexibility to teachers in determining what materials they will use in presenting a lesson. The variety of approaches and experiences should provide the basis for interaction which will be both culturally and professionally stimulating to the entire group.

Program Administration

All programming and administrative logistics, management of the academic program and cultural tour will be the responsibility of the university. A project secretary and/or project assistant is required to carry out clerical and administrative duties required for the smooth operation of the institute during the program grant period, from the planning period to the completion of required reports to USIA. USIA will be responsible for all communications to and from the U.S. Information Agency posts abroad (USIS), which submit nominations to the Division for the Study of the U.S. and are responsible for all international travel arrangements for participants.

The USIA Program Officer will be available to offer any advice or guidance the university might find useful. To assist the university with programming facilitative services during the tour, there is a possibility of utilizing the programming and hospitality services of volunteer community groups across the country that are affiliated with the National Council for International Visitors, a nation-wide network that provides hospitality and program assistance to foreign visitors.

If your university decides to submit a proposal, it should provide a detailed plan in response to the needs and priorities outlined above. Applicants should draw imaginatively on the full range of resources offered by their universities but may involve outstanding professionals from other universities and organizations. The proposal must clearly demonstrate quality on-site management capabilities for both the residential and the tour programs. The overall effectiveness of the institute hinges upon good administrative and organizational capabilities to manage the interactions between foreign educators and Americans. The university shoud indicate the tour sites, not to exceed three cities in addition to Washington, DC.

Budget Guidelines

For your guidance, our experience with similar institutes indicates that the cost to organize and administer the 45-day academic and group tour segment of this Institute would range from $1,600–1,700 per person based on a group of 30 participants, excluding international and domestic air travel expenses and cost for room and board on campus, and hotel and meals on tour.

The proposal should provide a detailed line-item budget outlining specific expenditures and source(s) from which funds are anticipated. The budget should include any in-kind and cash contributions to the program from universities, contributions, cost-sharing, or private sector.

Included in the budget worksheet for each budget line-item should be an explanation detailing how costs were computed (in parentheses), *i.e.*, each salary line-item should include position title, annual salary, and per cent of effort used for this program.

The budget should include and elaborate on the following information:

I. University Costs

Administrative

(1) Salaries, benefits, and services (including support staff) for the program.

(2) Administrative costs, area ground transportation (including meeting participants at the airport nearest the campus upon arrival), office expenses, and any other costs covering the academic activities during the four-week university program.

Program

(1) Miscellaneous costs, such as honoraria, film rental, and educational support material on campus, etc.

(2) Group admission costs for all cultural and tour activities during the course of the on-site university institute and weekend tour(s).

(3) Escort tour costs: university escort travel and expenses such as per diem, ground transportation costs for group activities, admission to cultural and tour activities (excluding domestic air travel costs).

(4) Group ground transportation, including airport transfer buses to and from airports and other education group program costs during the tour (excluding domestic air travel costs).

Indirect Costs

(1) Please note that indirect costs for American studies institutes are limited to eight percent (8%). Indirect costs in excess of this amount should be shown as cost-sharing. Indirect costs should be calculated based on the above budget items only. Indirect costs are not allowed on domestic air travel and participant living and incidental expenses.

A copy of the indirect cost rate of the cognizant agency should be included.

II. Per Capita Participant Costs (Not Subject to Indirect Costs, Included as an Addendum to the Main Budget)

(1) Lodging and Meals: Each foreign participant will receive a per diem for the 45-day program. This should cover the costs of room, board and incidentals while on campus and during the tour which should be based on government allowable rates.

(2) Required books.

(3) Ground transportation for individual or small group special events on campus and during the tour (such as train or bus fares to and from campus and hotels) not included in the main

budget as a group project, only if applicable.

(4) Program and tour admission costs and other incidental costs for group activities on tour not included in the university program budget.

(5) Departure travel allowance not to exceed $70.

(6) A modest cultural allowance, not to exceed $100.

Domestic Air Travel

The university is required to book all domestic program tour flights through a U.S. carrier. If domestic air tickets are issued in the U.S., they should be booked and purchased through the Agency-approved Travel Management Center or a private travel agency using Government Transportation Requests, which allow access to government discount air fares. This applies to all domestic travel for university escorts and participants.

For Institutional Recipients of Previous Grants Only

If your university was funded for a similar program last year, the budget should include last year's detailed line-item budget. Significant differences for each item must be noted and justified.

Funding Arrangements

A USIA grant will be issued to the university selected to conduct the institute covering university administrative and program costs in item I and disbursement of participant living costs in item II above. Total participant living costs should be based on the per capita breakdown multiplied by the number of participants, estimated at 30. The university will disburse participant living costs and other authorized allowances approved by the program. As noted above, participant living costs are not subject to indirect costs.

International Travel

Round-trip international travel arrangements from home country to the campus and return from the last tour city (which may be Washington, DC) will be made and paid by USIA posts abroad. Participants will be given a modest travel allowance before departure from their home country. If a USIA post cannot issue U.S. dollars, the contracting institution may be requested to provide this allowance. The grant will be amended to cover such authorized costs.

Selecting Criteria

A panel of senior USIA officers experienced in American studies, the exchange of international educators, and foreign affairs will use the following criteria when evaluating proposals for selection:

(1) Quality and imaginative design of the institute;

(2) Quality, rigor, and appropriateness of proposed syllabus to goals of the institute;

(3) Clear evidence of the ability to deliver a substantive academic and pedagogical American studies program;

(4) Demonstrated high quality American studies programs—experience with foreign teachers is desirable;

(5) Provision for a useful evaluation at the conclusion of the institute;

(6) Evidence of strong on-site administrative and managerial capabilities for international visitors with specific discussion of how managerial and logistical arrangements will be undertaken;

(7) The experience of professionals and staff assigned to the program;

(8) The availability of local and state resources for the orientation and institute;

(9) A well-thought out and comprehensive cultural tour to complement the academic program;

(10) Cost-effectiveness.

Agreement Dates

The agreement period should begin one and a-half to two months prior to the beginning of the project date, January 4, for which period only minimal administrative assistance costs will be allowed. The termination date should include a 60 to 90 day period to cover the required end-of-project report.

Mailing of the Proposal

Applicants should submit ten copies each of a 500-word summary statement and a detailed proposal not to exceed 20 typed, double-spaced pages addressing the points outlined above and following the detailed budget guidelines. Interested institutions should request a USIA grant cover sheet, an Assurance of Compliance form, and Certification Regarding Drug-Free Workplace Requirements and Debarment at the address below. Final proposals along with the forms requested must be received in the Agency by COB June 25, 1989. The proposal package should be submitted to:

Office of the Associate Director, U.S. Information Agency, Office of Academic Programs, American Studies Branch, E/ASS Attn: Katherine Passias, Rm. 256, 301 4th St., SW., Washington, DC 20547, Phone (202) 485-2568.

Date April 27, 19898.

Barry Ballow,

Chief Division for the Study of the United States.

[FR Doc. 89-10494 Filed 4-28-89; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-3 (Sub-No. 75)]

Missouri Pacific Railroad Company; Abandonment—Between Weatherford and Mineral Wells in Parker and Palo Pinto Counties, TX; Findings

The Commission has found that the public convenience and necessity permit Missouri Pacific Railroad Company to abandon its 21.26-mile line of railroad between milepost 1.54 near Weatherford, and milepost 22.8, near Mineral Wells in Parker and Palo Pinto Counties, TX.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days from publication of this notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope: *Rail Section, AB-OFA.* Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: April 21, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips. Commissioner Lamboley commented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 89-10388 Filed 4-28-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on April 14, 1989, a

Consent Decree in *United States v. Hugo Key and Son, Inc.*, Civil Action No. 87–0214 P, was lodged with the United States District Court for the District of Rhode Island. The Consent Decree requires the Defendant to pay a civil penalty of $25,000 and obligates the Defendant to implement an Asbestos Control Program designed to prevent future violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and the National Emissions Standards for Hazardous Pollution for asbestos, 40 CFR Part 61, Subpart M.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assisant Attorney General, Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States v. Hugo Key and Son, Inc.*, D.J. Ref. No. 90–5–2–1–1025.

The Consent Decree may be examined at the office of the United States Attorney, District of Rhode Island, Westminster Square Building, 10 Dorrance, 10th Floor, Providence, Rhode Island, 02903; at the Region I Office of the Environmental Protection Agency, J.F.K. Federal Building, Suite 2203, Boston, Massachusetts, 02203; Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, 10th Street and Pennsylvnaia Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree can be obtained in person or by mail from the Department of Justice. In requesting a copy, please enclose a check in the amount of $4.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–10345 Filed 4–28–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Proposed Consent Decree Under the Toxic Substances Control Act

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that on March 30, 1989, a proposed Consent Decree in *United States v. City of Lawton, Oklahoma*, Civil Action No. CIV–89–554–T (D. Ok.) was lodged with the District of Oklahoma. The complaint filed by the United States alleged several violations of the Toxic Substances Control Act by the City of Lawton, Oklahoma. The complaint sought to impose injunctive relief and civil penalties. The proposed Consent Decree imposes injunctive relief and civil penalties for past violations.

The Department of Justice will review for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. 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 the *United States v. City of Lawton, Oklahoma*, Civil Action No. CIV–89–554–T (D. Ok.), D.J. # 90–5–1–1–2829.

The proposed Consent Decree may be examined at the Office of the United States Magistrate, Room 207, Federal Building, 5th and E Streets, Lawton, Oklahoma, 73501, and at the Region VI Office of the Environmental Protection Agency, Allied Bank Tower, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice Room 2630, 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.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–10347 Filed 4–28–89; 8:45 am]

BILLING CODE 4410–01–M

Consent Decree in Action To Compel Compliance With Clean Air Act's New Source Performance Standards

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Luz Engineering Corp.*, Civil Action No. CV 89–2334–RSWL(Tx), was lodged with the United States District Court for the Central District of California on April 18, 1989. The consent decree establishes a compliance schedule to bring Luz Engineering Corp. into compliance with the New Source Performance Standards under section 111 and 114 of the Clean Air Act, 42 U.S.C. 7411 and 7414, and the applicable regulations at 40 CFR Part 60, Subparts A and Da relating to Electric Utility Steam Generating Units For Which Construction Is Commenced After September 18, 1978. The consent decree calls for the Luz Engineering Corp. to comply with all NSPS requirements, including installation and proper testing of continuous emission monitoring systems ("CEMS") at each of its gas-fired steam generators used as a back-up power source for its solar energy electric generating stations. The consent decree also requires payment of a civil penalty of $110,000.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, DC 20530 and should refer to *United States* v. *Luz Engineering Corp.*, D.J. Ref. No. 90–5–2–1–1275.

The consent decree may be examined at the office of the United States Attorney, Central District of California, Room 1306, 312 North Spring Street, Los Angeles, California 90012 and at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. A copy may be obtained by mail by written request to the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice. In requesting a copy, please enclose a check in the amount of $1.40 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–10346 Filed 4–28–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on April 11, 1989, a proposed Consent Decree in *United States v. VLS Insulating Company, Inc.*, Civil Action 589–00160 (N.D. Indiana), was lodged with the United States District Court for the Northern District of Indiana. The proposed Consent Decree resolves a judicial enforcement action brought by the United States against VLS Insulating Company, Inc. ("VLS") under the Clean Air Act to enforce compliance with the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos, for the company's submittal of four deficient notices to the U.S. Environmental Protection Agency and the State of Indiana, prior to its removal of asbestos at five school renovation projects.

The proposed Consent Decree requires the company to immediately

achieve and maintain full compliance with the asbestos NESHAP and adhere to the specified format for notifications prior to asbestos stripping and removal operations. In addition, VLS has agreed to pay civil penalties of $10,000, and also agreed to pay stipulated penalties of $10,000 for any future notification violation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Washington, DC and should refer to *United States* v. *VLS Insulating Company, Inc.*, D.J. Ref. 90–5–2–1259.

The proposed Consent Decree may be examined at the office of the United States Attorney, Federal Building, 4th Floor, 507 State Street, Hammon, Indiana 46320–1577 and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1748, Tenth 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 $1.90 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 89–10344 Filed 4–28–89; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984; Disposal Alternatives for Spent FCCU Catalysts

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"), the members of Petroleum Environmental Research Forum ("PERF") who are participating in Project No. 87–04, titled "Disposal Alternatives for Spent FCCU Catalysts", have filed a written notification simultaneously with the Attorney General and the Federal Trade Commission on March 24, 1989, disclosing (1) the identities of the parties to Project No. 87–04 and (2) the nature and objectives of this project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified conditions. Pursuant to section 6(b) of the Act, the identities of the parties participating in Project No. 87–04 and its general area of planned activity are given below.

The current parties to this project are: Amoco Oil Company, B P America, Shell Oil Company, Chevron Research Company, and Radian Corporation (Contractor). The objectives of this project and its participants and the area of planned activity of this project are to investigate, as alternatives to land disposal, the use of spent fluid catalytic cracking catalyst from petroleum refining as a beneficial ingredient in cement, concrete and asphalt manufacture. Technical and environmental feasibility will be evaluated experimentally using a variety of samples of spent commercial catalysts.

Nonmembers of PERF may become participants in this project, and the parties intend to file additional written notification disclosing all changes in membership of this project. Information regarding participation in this project may be obtained from Mr. Gary J. Kizior, Amoco Research Center, P.O. Box 400, Naperville, Illinois 60566.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–10343 Filed 4–28–89; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research Act of 1984—Recording Industry Association of America

Notice is hereby given that on March 27, 1989, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Recording Industry Association of America, Inc., for itself and on behalf of its member companies, 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 provision 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 the venture and the venture's general area of planned activities are given below.

The parties to the venture are the Recording Industry Association of America, Inc., for itself and on behalf of its member companies and Bolt, Beranek and Newman Systems and Technologies Corporation ("BBN").

RIAA member companies are:

16th Avenue Records, Inc.
A&M Records, Inc.
Allegiance Records, Ltd.
Alshire International, Inc.
Ansonia Records, Inc.
Arista Records, Inc.
Atlantic Recording Corporation
Attack/Ambush Records
BMG Music, Inc.
Bee Gee Records
Big Time Records, Inc.
Birthright Records, Inc.
CBS Records Inc.
Capitol-EMI Music, Inc.
Chysalis Records, Inc.
Clarus Music, Ltd.
Curb Records
Dorian Records, Inc.
Elektra/Asylum/Nonesuch Record
Enigma Entertainment
GRP Records
Geffen Records
Global Pacific Records
IDR-Imagery Dick Records
Ice Records, Inc.
Island Records, Inc.
Jamie Records
Japet Records
Joey Records
LeMaste Corporation
M Records, Inc.
MCA Records, Inc.
MTM Music Group
Next Plateau Records
Pasha Music Organization
PolyGram Records, Inc.
Qwest Records
Scotti Bros. Industries, Inc.
Sire Records Company
Slash Records
Solar Records
Sound Feelings Records
Sparrow Corporation
Tabu Productions
Tommy Boy Music
Track Record Company
Walt Disney Records
Warner Bros. Records
Wizard of Harmony Records, Inc.

The general area of the venture's planned activity is research relating to the evaluation and development of an appropriate copyright protection and identification technology.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–10342 Filed 4–28–89; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

IMCO Services and Magcobar Drilling Fluids Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

IMCO Services

TA-W-21,285: Houston, Texas
TA-W-21,285A: All Locations in Colorado
TA-W-21,285B: All Locations in Alaska
TA-W-21,285C: All Other Locations in Texas

Magcobar Drilling Fluids

TA-W-21,289: Houston, Texas
TA-W-21,289A: All Locations in Colorado
TA-W-21,289B: All Locations in Alaska
TA-W-21,289C: All Other Locations in Texas

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on January 4, 1989 applicable to all workers of IMCO Services and Magcobar Drilling Fluids both of Houston, Texas.

Based on new information from the company, additional workers were separated from IMCO Services and Magcobar Drilling Fluids at various locations in the states of Texas, Colorado, and Alaska during the period applicable to the petitions. The notice, therefore is amended by including all locations in Texas, Colorado, and Alaska for both companies.

The amended notice applicable to TA-W-21,285 and TA-W-21,289 is hereby issued as follows:

All workers of IMCO Services, Houston, Texas and in all other locations in Texas and in the states of Colorado and Alaska and all workers of Magcobar Drilling Fluids, Houston, Texas and in all other locations in Texas and in the states of Colorado and Alaska who became totally or partially separated from employment on or after October 1, 1985 and before January 1, 1987 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 20th Day of April 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-10362 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

JHJ Drilling Co.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

JHJ Drilling Co.

TA-W-21,520: Houston, Texas
TA-W-21,520A: All Locations in Mississippi
TA-W-21,520B: All Locations in Louisiana
TA-W-21,520C: All Locations in Alabama
TA-W-21,520D: All Locations in Florida
TA-W-21,520E: All Other Locations in Texas

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 21, 1988 applicable to all workers of JHJ Drilling Company, Houston, Texas.

Based on new information from the company, additional workers were separated from JHJ Drilling Company, at various locations in the States of Mississippi, Louisiana, Texas, Alabama and Florida during the period applicable to the petition. The notice, therefore is amended by including all locations of JHJ Drilling Company.

The amended notice applicable to TA-W-21,520 is hereby issued as follows:

All workers of JHJ Drilling Company, Houston, Texas and all other locations in Texas and in the states of Mississippi, Louisiana, Alabama and Florida who became totally or partially separated from employment on or after October 1, 1985 and before January 31, 1986 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 20th day of April 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-10363 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,587]

Marie Fashions, Inc.; Paterson, New Jersey; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 14, 1986 in response to a worker petition received on September 19, 1986 which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Marie Fashions, Incorporated, Paterson, New Jersey.

The petitioning group of workers at Marie Fashions, Incorporated, Paterson, New Jersey did not work long enough to be eligible to apply for Trade Adjustment Assistance. According to Ms. Maria Spadavecchia, president, and confirmed by Ms. Christina Kerba, district manager for the International Ladies' Garment Workers, Union, the subject firm started in business in July 24, 1988 and closed permanently on December 31, 1988. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 18th day of April 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-10364 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,919; TA-W-22, 171]

Oilfield Testers Equipment Co., Morgan City, LA; Peterson Management Co., Midland, TX; Dismissal of Applications for Reconsideration

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of Trade Adjustment Assistance for workers at the Oilfield Testers & Equipment Company, Moran City, Louisiana and Peterson Management Company, Midland, Texas. The reviews indicated that the applications contained no new substantial information which would bear importantly on the Department's determinations. Therefore dismissal of the applications were issued.

TA-W-21,919; Oilfield Testers & Equipment Company, Morgan City, Louisiana (April 11, 1989)
TA-W-21,171; Peterson Management Company, Midland, Texas (April 14, 1989)

Signed at Washington, DC this 24th day of April 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-10365 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21, 465]

Penrod Drilling Corp., Dallas, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

Penrod Drilling Corp., Dallas, Texas

And Operating at the Following Locations:
TA-W-21,465A: Houma, Louisiana
TA-W-21,465B: Lafayette, Louisiana
TA-W-21,465C: All Locations in North Dakota
TA-W-21,465D: All Locations in Michigan
TA-W-21,465E: All Locations in Mississippi
TA-W-21,465F: All Locations in Alabama
TA-W-21,465G: All Locations in Florida

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 21, 1988 applicable to all workers of Penrod Drilling Corporation, headquartered in Dallas, Texas and operating in Houma and Lafayette, Louisiana.

Based on new information from the company, additional workers were separated from Penrod Drilling Corporation at various locations in the State of North Dakota, Michigan, Mississippi, Alabama and Florida during the period applicable to the petition. The notice, therefore, is amended by including all locations of Penrod Drilling Corporation.

The amended notice applicable to TA-W-21,456 is hereby issued as follows:

All workers of Penrod Drilling Corporation, headquartered in Dallas, Texas and operating in Houma, Louisiana and Lafayette, Louisiana and operating at various locations in North Dakota, Michigan, Mississippi, Alabama and Florida who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 19th day of April, 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-10366 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

Shelby Drilling Co.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

Shelby Drilling Company

TA-W-22,069: Englewood, Colorado
TA-W-22,069A: All Locations in Wyoming
TA-W-22,069B: All Locations in North Dakota
TA-W-22,069C: All Locations in Montana
TA-W-22,069D: All Locations in Utah

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 12, 1989 applicable to all workers of Shelby Drilling Company, Englewood, Colorado. An amended certification was issued on March 8, 1989 to include all the workers of Shelby Drilling in Wyoming. The amended certification was published in the **Federal Register** on March 15, 1989 (54 FR 10747).

Based on new information from the company, additional workers were separated from Shelby Drilling Company, at various locations in the States of North Dakota, Montana and Utah during the period applicable to the petition. The notice, therefore is amended by including all locations of Shelby Drilling.

The amended notice applicable to TA-W-22,069 is hereby issued as follows:

All workers of Shelby Drilling Company, Englewood, Colorado and all workers of Shelby Drilling Company in the States of Wyoming, North Dakota, Montana and Utah who became totally or partially separated from employment on or after October 1, 1985 and before January 1, 1989 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 18th day of April 1989.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 89-10367 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,204]

Witco Corp., Bradford, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Witco Corporation, Bradford, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-22,204; Witco, Corporation, Bradford, Pennsylvania (April 5, 1989)

Signed at Washington, DC this 24th day of April 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-10369 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-22,094 and TA-W-22-343]

Wurltech Inc., Corinth, MS and Box Pipe and Supply, Inc., Odessa, TX; Dismissal of Applications for Reconsideration

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of Trade Adjustment Assistance for workers at Wurltech, Incorporated, Corinth, Mississippi and Box Pipe and Supply, Incorporated, Odessa, Texas. The reviews indicated that the applications contained no new substantial information which would bear importantly on the Department's determinations. Therefore, dismissal of the applications were issued.

TA-W-22,094; Wurltech, Incorporated, Corinth, Mississippi (April 18, 1989)
TA-W-22,343; Box Pipe and Supply, Incorporated, Odessa, Texas (April 21, 1989)

Signed at Washington, DC this 24th day of April 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-10370 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21, 501 Oklahoma City, OK et al.]

Young Exploration Co. et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

Young Exploration Co.

TA-W-21,501: Oklahoma City, Oklahoma
TA-W-21,501A: All Locations in North Dakota
TA-W-21,501B: All Locations in Texas
TA-W-21,501C: All Locations in Mississippi

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 31, 1989 applicable to all workers of Young Exploration Company, Oklahoma City, Oklahoma.

Based on new information from the company, additional workers were separated from Young Exploration Company at various locations in the states of North Dakota, Texas and Mississippi during the period applicable to the petition. The notice, therefore is amended by including all locations in North Dakota, Texas and Mississippi for Young Exploration Company.

The amended notice applicable to TA-W-21,501 is hereby issued as follows:

All workers of Young Exploration Company, Oklahoma City, Oklahoma and in the states of North Dakota, Texas and Mississippi who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 21st Day of April 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89–10368 Filed 4–28–89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M–89–49–C]

Eastside Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Eastside Coal Company, Inc., P.O. Box 161, Silt, Colorado 81652 has filed a petition to modify the application of 30 CFR 75.209(a) (automated temporary roof support (ATRS) systems) to its Eastside Mine (I.D. No. 05–02421), located in Garfield County, Colorado. 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 ATRS systems be used with roof bolting machines and with continuous-mining machines with integral roof bolters.

2. The mine is unique in that the three developing entries are stacked one on top of the other and are slightly off-set because the coal seam being mined is on a 60° pitch. The entries have rock strata on each side and crosscuts cannot be developed for idle equipment. Raises have to be driven every 250 feet to connect entries for ventilation and ramps must be driven every 1,000 feet for equipment access. These conditions render the use of an ATRS equipped roof bolting machine impractical.

3. All personnel at the mine are required to be trained to install temporary top rib support before performing any top rib control work, and to work at all times under either temporary or permanent top rib support as required under the approved roof and rib control plan.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Date: April 24, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89–10371 Filed 4–28–89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M–89–3–M]

Eddy Potash, Inc., Petition for Modification of Application of Mandatory Safety Standard

Eddy Potash, Inc., P.O. Box 31, Carlsbad, New Mexico 88220 has filed a petition to modify the application of 30 CFR 57.12002 (controls and switches) to its Eddy Potash, Inc., Mine (I.D. No. 29–00173) located in Eddy County, New Mexico. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that electric equipment and circuits be provided with switches or other controls, and the switches or controls be of approved design and construction and be properly installed.

2. Approximately 425 sets are located throughout the mine, with all disconnects mounted at various heights to the mine ribs. Most of the disconnects are located out of the stream of the normal travelway, and the only personnel requiring access to the disconnects are electrical personnel performing maintenance.

3. As an alternate method, petitioner proposes that—

(a) In order to alert miners to a potential hazard and eliminate access, belting would be installed with signs stating "DANGER HIGH VOLTAGE 2300 VOLTS";

(b) The locations of the disconnects would be included in safety training for new employees and in the annual refresher training; and

(c) Safety huddles would be held periodically to remind employees where the disconnects are located.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Date: April 25, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89–10372 Filed 4–28–89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M–89–45–C]

Green River Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Green River Coal Company, Inc., Route 3, Box 284–A, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 9 Mine (I.D. No. 15–13469) located in Hopkins 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 examinations be made on a weekly basis of seals and of return entries in their entirety.

2. Excessive high humidity has caused massive roof falls at the entrance to the seals, making examination of the seals extremely hazardous. To remove the fall would subject miners to hazardous working conditions.

3. As an alternate method, petitioner proposes to establish a location out by the seals where a certified person would monitor the air.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Date: April 24, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89–10373 Filed 4–28–89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-55-C]

Kelly Energy Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Kelley Energy Company, Inc., Box 478, Clintwood, Virginia 24228-0478 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 44-06193) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine has a downhill slope and ranges from 46 to 48 inches in height. The lay of the bottom of the coal bed and the top of the coal bed are very uneven with an up and down effect and sliding from left to right.

3. The use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety because the cabs or canopies would:

(a) Shear and dislodge roof bolts;

(b) Reduce visibility of the operator; and

(c) Tear down check or line curtains, thereby disrupting ventilation.

4. For these reasons, petitioner requests a modification of the standard in mining heights less than 55 inches.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Date: April 25, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-10374 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-40-C]

Leeco, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Leeco, Inc., 100 Coal Drive, London, Kentucky 40741-8799 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Mine No. 62 (I.D. No. 15-16412), its Mine No. 63 (I.D. No. 15-16413), and its Mine No. 65 (I.D. No. 15-16522) all located in Perry 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 automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. In a separate petition (M-89-39-C), petitioner proposes to use the air in the belt entry to ventilate active working places.

3. As an alternate method, petitioner proposes to install an early warning fire detection system utilizing a low-level carbon monoxide (CO) detection system in all belt entries used as intake aircourses with specific conditions.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Dated: April 25, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-10375 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-57-C]

Mathies Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mathies Coal Company, Drawer D, Finleyville, Pennsylvania 15332 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mathies Mine (I.D. No. 36-00963) located in Washington County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a locked padlock be used to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines.

2. As an alternate method, petitioner proposes to use a metal retainer device which would be bolted to the battery receptacle. The plug would be secured by a hand-operated, spring-loaded pin which would be attached to the retainer device.

3. The metal retainer device would be easier to maintain than padlocks because there are no keys to be lost.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Dated: April 24, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-10376 Filed 4-28-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-36-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 301 North Memorial Drive, P.O. Box 373, St. Louis, Missouri 63166 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Camp No. 2 Mine (I.D. No. 15-02705) located in Union 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 examinations be made on a weekly basis of seals and of return entries in their entirety.

2. Requiring the 1st and 2nd North seals to be examined once each week would result in a diminution of safety.

3. As an alternate method, petitioner proposes to establish boreholes at specific locations where a certified person would monitor the seals. In

support of this request, petitioner states that:

(a) The boreholes would be monitored whenever persons are working underground; and

(b) The system for determining the methane levels in the mine atmosphere would be a part of the approved ventilation plan for the mine.

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, Wilson Boulevand, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Dated: April 24, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89–10377 Filed 4–28–89; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–89–56–C]

Utah Power & Light Co., Mining Division; Petition for Modification of Application of Mandatory Safety Standard

Utah Power & Light Company, Mining Division, P.O. Box 310, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Deer Creek Mine (I.D. No. 42–00121) located in Emergy County, Utah. 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 examinations be made on a weekly basis of seals, the return of each split of air and of return entries in their entirety.

2. Due to numerous roof falls, the potential of further ground movement and severely heaved floor many areas of the mine cannot be safely traveled.

3. As an alternate method, petitioner proposes to establish air quality monitoring stations where air entering and exiting the affected area would be monitored weekly.

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 Administraion, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 31, 1989. Copies of the petition are available for inspection at that address.

Date: April 25, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89–10378 Filed 4–28–89; 8:45 am]

BILLING CODE 4510–43–M

Occupational Safety and Health Administration

Employee Assistance Grant Program

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of grant program.

SUMMARY: The Occupational Safety and Health Administration is implementing a new national grant program to provide grants to nonprofit employers and employer representatives to enable employers to develop employee drug and alcohol abuse assistance programs. This notice describes the scope and objectives of the grant program, and provides information about obtaining a grant application. Applications should not be submitted without first obtaining the detailed grant application mentioned later in the notice.

Authority for this program may be found in section 2101 of the Anti-Drug Abuse Act of 1988.

DATE: Application packages must be received by June 30, 1989.

ADDRESSES: Grant applications must be submitted to the OSHA Regional Office for the state in which the applicant is located. A complete listing of Regional Offices can be found in the addendum at the end of the supplementary information section of this notice.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Program Description

The purpose of the Employee Assistance Grant Program is to provide grants to help employers establish new or expand existing employee assistance programs (EAP's) designed to assist employees with drug and/or alcohol abuse problems. Grants may be requested to establish new EAP's or to expand or augment existing EAP's. All grant requests must address drug and alcohol abuse. It is expected that grantees receiving financial support under this program will continue to provide the EAP services funded under this program after the grants expire.

EAP's for which grants are requested must contain, at a minimum, the following components: workplace substance abuse policy, supervisory training, employee orientation, drug and alcohol education and awareness, and assessment and referral.

Grant requests may target establishing or augmenting one component of the EAP, multiple components of the EAP or the entire EAP. However, if funding is targeted for only a portion of the required program components, the remaining components must still be present.

Grant recipients must assure that employee assistance services will be provided by individuals or organizations that meet all relevant licensure, accreditation, certification, and State or local requirements. Grant recipients must also agree to collect assessment and evaluation data as set forth in the grant application.

Grant recipients are required to provide a matching share. Grants may be requested for a period of up to three years. The matching share requirements are expressed as a percent of the total budget (Federal funds plus matching share): 25% the first year, 50% the second year, and 75% the third year.

The grant program will be administered in compliance with 29 CFR Part 27 and OMB Circulars A–87 and A–102 for State and local governments and with 41 CFR Part 29–70 and OMB Circulars A–21, A–110 and A–122 for other nonprofit organizations.

All applicants will be required to certify to a drug-free workplace in accordance with 29 CFR Part 98.

Eligible Applicants

Any nonprofit organization which is an employer or a representative of a group of employers, such as a chamber of commerce or a trade association, is eligible to apply for a grant.

Applicants will be required to submit a copy of their current tax exemption

from the Internal Revenue Service (IRS) or other documentary evidence of their nonprofit status. State and local government agencies are exempt from this requirement.

Allowable/Unallowable Activities

Grant funds may be used to develop an EAP for the employees of a nonprofit employer. They may also be used to develop an EAP for the employees of the employers represented by a nonprofit organization. Grant funds may not be used to develop an EAP for members of a nonprofit organization where those members are not employees of the organization or employees of employer members of the organization.

To assist potential applicants in determining the allowability of proposed programs, some examples follow.

Allowable

1. A nonprofit hospital which establishes or augments an EAP for its employees.
2. A chamber of commerce which adds EAP as a program option available to its member companies.
3. A State government agency which establishes an EAP for its employees.
4. A labor union which establishes an EAP for its employees.

Unallowable

1. A nonprofit professional association which develops an informational program for its members.
2. A trade association which develops EAP promotional program materials for its members.
3. A State government agency which develops and disseminates informational/promotional material for businesses within the state.
4. A labor union which develops an EAP for its members (as opposed to its employees).

Review Procedures and Criteria

Applications for grants solicited in this notice will be reviewed on a competitive basis by the Assistant Secretary of Labor for Occupational Safety and Health with assistance and advice from the Assistant Secretary of Labor for Policy.

The following factors, which are not ranked in order of importance, will be considered in evaluating grant applications.

1. Program

a. Programs which target large numbers of employers and/or employees.

b. Programs which include significant numbers of small (less than 100 employees) and medium (100 to 500 employees) sized businesses.

c. Programs which represent joint labor-management efforts.

d. Programs which contain or propose significant coordination and linkages with other community substance abuse programs.

e. Programs which encourage or assist employers in obtaining health benefits insurance coverage for substance abuse treatment.

f. Programs which demonstrate the availability of local resources to meet referral and treatment needs.

2. Administrative

a. Managerial expertise of the applicant as evidenced by the variety and complexity of current and/or recent programs it has administered.

b. Financial management capability of the applicant as evidenced by a recent report from an independent audit firm or a recent report from another independent organization qualified to render judgment concerning the soundness of the applicant's financial practices.

c. Evidence of the applicant's nonprofit status, preferably from the IRS.

3. Budget

a. The reasonableness of the budget in relation to the proposed program activities.

b. The proposed non-Federal share of a least 25% of the budget for the first program year.

c. The compliance of the budget with applicable Federal cost principles.

In addition to the preceeding factors, the Assistant Secretary will consider other factors, such as occupational and industrial areas covered and geographic mix of the proposals selected for funding.

Availability of Funds

There is $1.75 million available to support this program in fiscal year 1989. Because congressional appropriations for future years are not known, any application selected for award as a result of this announcement will be funded for 12 months. Incremental awards to grant recipents requesting longer than 12 months to complete their programs will be based on fund availability and the assessment of progress made in completing the work plan for prior grant periods.

Application Procedures

Those employers or employee representatives meeting the eligibility requirements which are interested in developing an employee alcohol and drug abuse assistance program may request a grant application package from the OSHA Regional Administrator for the state in which the organization is located. A list of the names, addresses, and geographic areas of responsibility of the Regional Administrators is in the addendum to this notice.

All applications must be received in the applicable OSHA Regional Office no later than 5 p.m. local time, June 30, 1989.

Following review and selection, those organizations selected as potential grant recipients will be notified by a representative of their OSHA Regional Administrator. An applicant whose proposal is not selected will also be notified in writing to that effect. Notice of selection as a potential grant recipient will not constitute approval of the grant application as submitted. Prior to actual grant award, representatives of the potential grant recipient and OSHA will enter into negotiations concerning such items as program components, funding levels, and administrative systems. If negotiations do not result in an acceptable grant, the Assistant Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Signed at Washington, DC, this 26th day of April, 1989.

Alan C. McMillan,

Acting Assistant Secretary of Labor.

Addendum

Region I

Regional Administrator, U.S. Department of Labor—OSHA, 133 Portland Street, Boston, Massachusetts 02114

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Region II

Regional Administrator, U.S. Department of Labor—OSHA, 201 Varick Street, Room 670, New York, New York 10014

New Jersey, New York, Puerto Rico, Virgin Islands

Region III

Regional Administrator, U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Region IV

Regional Administrator, U.S. Department of Labor—OSHA, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30367

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Region V

Regional Administrator, U.S. Department of Labor—OSHA, 230 South Dearborn Street, Room 3244, Chicago, Illinois 60604
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Region VI

Regional Administrator, U.S. Department of Labor—OSHA, 525 Griffin Street, Room 602, Dallas, Texas 75202
Arkansas, Louisana, New Mexico, Oklahoma, Texas

Region VII

Regional Administrator, U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106
Iowa, Kansas, Missouri, Nebraska

Region VIII

Regional Administrator, U.S. Department of Labor—OSHA, Federal Building, Room 1554, 1961 Stout Street, Denver, Colorado 80294
Colorado, Montana, North Dakota, South Dakota, Wyoming

Region IX

Regional Administrator, U.S. Department of Labor—OSHA, 71 Stevenson Street, Suite 415, San Francisco, California 94105
American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of the Pacific Islands

Region X

Regional Administrator, U.S. Department of Labor—OSHA, Federal Office Building, Room 6003, 909 First Avenue, Seattle, Washington 98174
Alaska, Idaho, Oregon, Washington

[FR Doc. 89-10328 Filed 4-28-89; 8:45 am]
BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-31]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC).

DATE AND TIME: May 16, 1989, 8:30 a.m. to 5:30 p.m., and May 17, 1989, 8:30 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Room 966, Building 1, Houston, Texas 77058.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code ADA-2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-8766.

SUPPLEMENTARY INFORMATION: The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Dr. John L. McLucas and is composed of 27 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, aerospace medicine, space science and applications, space systems and technology, space station, commercial programs, and history, as they relate to NASA's activities.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 50 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda:

May 16, 1989
8:30 a.m.—Introductory Remarks.
8:45 a.m.—Johnson Space Center Highlight Review.
1 p.m.—Committee Reports.
2:30 p.m.—Commercial Space Activities.
5:30 p.m.—Adjourn.

May 17, 1989
8:30 a.m.—Commercial Space Activities—Continued.
11:15 a.m.—Commercial Programs Advisory Committee.
12 Noon—Adjourn.

John W. Gaff,
Advisory Committee Management Officer, National Aeronautics and Space Administration.
April 25, 1989.

[FR Doc. 89-10326 Filed 4-28-89; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-264]

Environmental Assessment and Finding of No Significant Environmental Impact Regarding Proposed Renewal of Facility Operating License No. R-108; Dow Chemical Co.

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. R-108 for the Dow Chemical Company TRIGA Mark I research reactor located on the Dow Chemical Company site (the licensee) in Midland, Michigan.

Environmental Assessment

This Environmental Assessment is written in connection with the proposed renewal for 20 years of the facility operating license of the Dow Chemical Company TRIGA Mark I research reactor (DTRR) at Midland, Michigan, in response to a timely application from the licensee dated November 14, 1986, as supplemented on June 2, 1987, August 14, 1987, April 29, 1988, and January 10, 1989. The The proposed action would authorize continued operation of the reactor with an increase in authorized power level from 100 to 300 kilowatts (thermal). The facility has been in operation since Facility Operating License No. R-108 was issued in 1967. Currently there are no plans to change any of the structures or operating characteristics associated with the reactor during the renewal period requested by the licensee. The increase in power level will not require any additional equipment.

Need for the Proposed Action

The operating license for the facility was due to expire in December 1986. The proposed action is requried to authorize continued operation so that the facility can continue to be used in the licensee's mission of research.

Alternatives to the Proposed Action

An alternative to the proposed action that was considered was not renewing the operating license. This alternative would have led to cessation of operations, with a resulting change in status and a likely small impact on the environment. The other alternative was to renew the license without authorizing the increase in power level. This alternative would have led to a nearly identical impact on the environment as the proposed action.

Environmental Impact

The DTRR operates in an existing shielded pool of water inside an existing multiple-purpose building, so this licensing action would lead to no change in the physical environment.

Based on the review of the specific facility operating characteristics that are considered for potential impact on the environment, as set forth in the staff's Safety Evaluation Report (SER)[1] for this

[1] NUREG-12312, "Safety Evaluation Report Related to the Renewal of the Facility Operating License for the Research Reactor at the Dow Chemical Company.

action, it is concluded that renewal of this facility operating license at an increased power level will have an insignificant environmental impact. Although judged insignificant, operating features with the greatest potential environmental impact are summarized below.

Argon-41, a product from neutron irradiation of air during operation, is the principal airborne radioactive effluent from the DTRR during routine operations. Conservative calculations by the staff, based on the total amount of Ar-41 released from the reactor during a year, predict a maximum potential annual whole body dose of less than 1 millirem in unrestricted areas. Radiation exposure rates measured outside of the reactor facility building are consistent with this computation.

The staff has considered hypothetical credible accidents at the DTRR and has concluded that there is reasonable assurance that such accidents will not release a significant quantity of fission products from the fuel cladding and, therefore, will not cause significant radiological hazard to the environment or the public.

This conclusion is based on the following:

(a) The excess reactivity available under the technical specifications is insufficient to support a reactor transient generating enough energy to cause overheating of the fuel or loss of integrity of the cladding,

(b) At a thermal power level of 300 kilowatts, the inventory of fission products in the fuel cannot generate sufficient radioactive decay heat to cause fuel damage even in the hypothetical event of instantaneous total loss of collant, and

(c) The hypothetical loss of integrity of the cladding of the maximum irradiated fuel rod will not lead to radiation exposures in the unrestricted environment that exceed guideline values of 10 CFR Part 20.

In addition to the analyses in the SER summarized above, the environmental impact associated with operation of research reactors has been generically evaluated by the staff and is discussed in the attached generic evaluation. This evaluation concludes that there will be no significant environmental impact associated with the operation of research reactors licensed to operate at power levels up to and including 2 MW(t) and that an Environmental Impact Statement is not required for the issuance of construction permits or operating licenses for such facilities. We have determined that this generic evaluation is applicable to operation of the DTRR and that there are no special or unique features that would preclude reliance on the generic evaluation.

Alternative Use of Resources

This action does not involve the use of any resources beyond those normally allocated for such activities.

Agencies and Persons Consulted

The staff has obtained the technical assistance of the Idaho National Engineering Laboratory in performing the safety evaluation of continued operation of the DTRR facility.

Finding of No Significant Impact

Based upon foregoing environmental assessment, the Commission has concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an envionrmental impact statement for this proposed action.

For further details with respect to this action, see the licensee's request for a license amendment dated November 14, 1986, as supplemented on June 2, 1987, August 14, 1987, April 29, 1988, and January 10, 1989. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 20th day of April 1989.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization and Non-Power Reactor Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-10336 Filed 4-28-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Consideration of Issuance of Amendments To Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-53 and DPR-69, issued to the Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, respectively, located in Calvert County, Maryland.

The amendments would make the following changes in accordance with the licensee's application for amendments dated January 20, 1987, as supplemented on January 12, 1988:

1. Delete the current requirement of Technical Specification (TS) Surveillance Requirement 4.6.4.1.2.c to verify that the containment purge air inlet valves (CPA-1410-CV and CPA-1411-CV) and the containment purge air outlet valves (CPA-1412-CV and CPA-1413-CV) close to their actuation positions upon receiving a safety injection actuation system (SIAS) test signal. In addition, reference to the SIAS action of the containment purge valves would be deleted from TS Tables 3.3-3, "Engineered Safety Feature Actuation System Instrumentation," Table 3.3-4, "Engineered Safety Feature Actuation System Instrumentation Trip Valves," and Table 4.3-2, "Engineered Safety Feature Actuation System Surveillance Requirements."

2. Eliminate redundancy and consolidate containment purge valve TS requirements by relocating their surveillance test requirements from TS 3/4.6.4, "Containment Isolation Valves," and TS 3/4.9.9, "Refueling Operations—Containment Purge Valve Isolation System," to an expanded TS 3/4.9.4, "Refueling Operations—Containment Penetrations."

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee evaluated the proposed changes against the standards in 10 CFR 50.92 and has determined that the amendments would not:

(i) Involve a significant increase in the probability or consequences of an accident previously evaluated * * *

Both changes are effectively administrative in nature.

The Change No. 1 deletion of the SIAS test requirements of TS 4.6.4.1.2.c and TS 3/4.3.2, "Engineered Safety Feature Actuation System Instrumentation," for

containment purge valves will have no significant impact upon the probability or consequences of any previously evaluated accident. SIAS performs its safety functions when the unit is in operating modes 1–4 (Power Operations through Hot Shutdown) and is not required to be operable while in mode 5 or 6 (Cold Shutdown and Refueling). SIAS functions to close the containment purge valves. However TS Limiting Condition for Operation (LCO) 3.6.1.7 requires, while in modes 1–4, the containment purge valves to be closed by isolating air to their air operators and by maintaining their solenoid air supply valves deenergized. This requirement appears to render moot the need for testing the SIAS actuation of the containment purge valves as these valves are always closed during operating modes where SIAS is required to be operable (modes 1–4). In addition, the action requirements for an open containment purge valve of TS 3.6.1.7 are more restrictive than those presently applicable in TS 3/4.6.4.

The notes in TS Tables 3.3–3, 3.3–4 and 4.3–2 are for information purposes only and impose no operability or testing requirements. This, the deletion of the information statement, that "Containment purge valve isolation is also initiated by SIAS (functional units 1.a, 1.b, and 1.c)," would have no apparent effects upon previously evaluated accidents.

Change No. 2 would eliminate TS 3/4.9.9, relocating its requirements in TS 3/4.9.4, and would also delete the containment purge valves from TS 3/4.6.4, Table 3.6–1. The following containment purge valve testing requirements, effectively removed from TS 3/4.6.4, would be incorporated in TS 3/4.9.4:

a. The isolation time of each containment purge valve shall be determined to be less than or equal to seven seconds when tested pursuant to Technical Specification 4.0.5, and

b. The containment purge valves shall be demonstrated operable prior to returning the valves to automatic service after maintenance, repair, or replacement work is performed on the purge valve or its associated actuator, control, or power circuit by performance of a cycling test and verification of isolation time.

In addition, TS 4.9.4.1.b shall be further clarified by specifying that containment purge valves are demonstrated operable by verifying closure upon: (1) Receiving Containment Radiation High test signals and (2) manual initiation.

In this consolidation of containment purge valve TS requirements, all current operability and testing requirements would continue to exist but instead of being dispersed between three TS's, they would be consolidated in TS 3/4.9.4. All applicable TS Action Statements would remain at least as conservative as currently provided in the TS.

Consequently, these proposed changes would not result in any increase in the probability or consequences of previously evaluated accidents.

(ii) Create the possibility of a new or different type of accident from any accident previously evaluated * * *

These proposed changes do not alter any plant operability requirements, surveillance testing, maintenance, or system design or functions other than eliminating the SIAS testing of the containment purge valves which are already required to be in their closed positions in modes 1–4, which are the positions to which they would actuate upon receipt of a SIAS. Thus, these changes, as proposed, would not create the possibility of any new or different type of accident.

(iii) Involve a significant reduction in a margin of safety . . .

These proposals do not alter any plant operational requirements or restrictions other than the SIAS testing of containment purge valves. Therefore, these proposed changes will not involve any reduction in any margin of safety.

Finally, on March 6, 1986, the NRC published guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration.

These changes appear to be consistent with one of the examples provided: (i) A purely administrative change to the Technical Specifications * * *

Based on the above reasoning, the licensee has determined that the proposed changes involve no significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analyses. Accordingly, the Commission proposes to determine that the requested amendments do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to Room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 31, 1989, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subjct matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitation in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments request involve no significant hazards consideration, the Commission may issue the amendments and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Capra: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to D.A. Brune, Jr., General Counsel, Baltimore Gas and Electric Company, P.O. Box 1475, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated January 20, 1987 as supplemented on January 12, 1988, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Calvert County Library, Prince Frederick, Maryland.

Dated at Rockville, Maryland, this 26th day of April 1989.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10339 Filed 4–28–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co., Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Public Service Electric and Gas Company (the licensee) to delete a portion of its November 27, 1988 (LCR 84–22) application for proposed amendments to Facility Operating Licenses Nos. DPR–70 and DPR–75 for the Salem Generating Station, Unit Nos. 1 and 2, located in Salem County, New Jersey.

The amendment requested among other things, revision of Limiting Condition For Operation (LCO) 3.6.3.1, Containment Isolation Valves. This was found unacceptable by the staff. That portion of the requested amendment was withdrawn in the licensee's February 15, 1989 submittal.

The Commission issued a Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration determination and Opportunity for Hearing which was published in the **Federal Register** on July 2, 1986 (51 FR 24261).

For further details with respect to this action, see the application for amendment dated November 27, 1985 (LCR 84–22) and the licensee's letter dated February 15, 1989 that withdrew the proposed revision of LCO 3.6.3.1. The above documents are available for inspection at the Commission's Public Department Room, 2120 L Street, NW., Washington, DC 20555, and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland, this 19th day of April 1989.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I–2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10337 Filed 4–28–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–346]

Toledo Edison Co. and the Cleveland Electrical Illuminating Co. et al.; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 131 to Facility Operating License No. NPF–3, issued to Toledo Edison Company and The

Cleveland Electric Illuminating Company, (the licensee), which revised the Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit 1, located in Ottawa County, Ohio. The amendment was effective as of the date of issuance.

The amendment modified the Technical Specifications to remove the operability and surveillance requirements for the Auxiliary Feedpump Turbine Inlet Steam Pressure Interlocks from the Technical Specification requirements for the Auxiliary Feedwater Pumps but retained the requirements for the interlocks in the Technical Specification for protection against the effect of a rupture of the steam lines to the Auxiliary Feedwater Pump Turbines.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Oppportunity for Prior Hearing in connection with this action was published in the **Federal Register** on January 6, 1988 (53 FR 295). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further details with respect to the action see: (1) The application for amendments dated May 4, 1987, and supplemented April 29, 1988, (2) Amendment No. 131 to License No. NPF–3, (3) the Commissions related Safety evaluation dated April 25, 1989 and (4) the Environmental Assessment dated April 14, 1989. All of these items are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 25th day of April 1989.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Director, Project Directorate III–3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–10338 Filed 4–28–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–271–OLA; (Spent Fuel Pool Amendment) ASLBP No. 87–547–02–LA]

Vermont Yankee Nuclear Power Corp.; Oral Argument

April 24, 1989.

In the Matter of Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station).

Before Administrative Judges: Charles Bechhoefer, Chairman, Dr. James H. Carpenter, Gustave A. Linenberger, Jr.

Notice is hereby given that, in accordance with the Licensing Board's Memorandum (Telephone Conference of 4/19/89) dated April 21, 1989, oral argument as set forth in 10 CFR 2.1113, concerning Environmental Contention 3 (evaluation of the alternative of dry cask storage), will commence at 9:30 a.m. on Wednesday, June 21, 1989, at the U.S. District Court, Post Office and Courthouse Building, 204 Main Street, Brattleboro, Vermont. The argument will continue, to the extent necessary, on Thursday, June 22, 1989 and Friday, June 23, 1989, commencing at 9:00 a.m. each day. Documents relating to the oral argument are to be filed on the schedule set forth in the April 21, 1989 Memorandum.

In accordance with 10 CFR 2.715(a), the Board will hear oral limited appearance statements at the outset of the oral argument, on Wednesday, June 22, 1989. Any person not a party to the proceeding will be permitted to make such a statement, either orally or in writing, setting forth his or her position on the matters at issue in Environmental Contention 3. These statements do not constitute testimony or evidence in this proceeding but the Board may request the parties to address questions that may be raised. The number of persons making oral statements and the time allotted for each statement may be limited depending upon the number of persons present at the designated time. Written statements may be submitted at any time. Written statements and requests for oral statements should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of such a statement or request should also be served on the Chairman, Atomic Safety and Licensing Board, EWW/439, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Documents relating to this proceeding are on file at the Local Public Document Room, located at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301, as well as at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

Bethesda, Maryland, April 24, 1989.

[FR Doc. 89–10268 Filed 4–28–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 9999004; General License Authority of 10 CFR 40.22 E.A. 87–223; ASLBP No. 89–582–01–SC]

Wrangler Laboratories et al.; Evidentiary Hearing

April 24, 1989.

In the Matter of Wrangler Laboratories, Larsen Laboratories, Orion Chemical Company and John P. Larsen.

Before Administrative Judges: Charles Bechhoefer, Chairman, Dr. Jerry R. Kline, Frederick J. Shon.

Notice is hereby given that, in accordance with the Licensing Board's Prehearing Conference Order (Setting Forth Issues and Schedules), dated March 1, 1989, as modified by the Licensing Board's Memorandum and Order (Revised Hearing Schedule), dated March 27, 1989, the evidentiary hearing in this proceeding involving the Order Revoking Licenses issued by the NRC Staff on August 15, 1988 (53 FR 32125, August 23, 1988) will commence on Tuesday, June 13, 1989, at 9:30 a.m. in the Moot Court Room of the J. Reuben Clark Law School, Brigham Young University, Provo, Utah. The hearing will continue, to the extent necessary, on June 14–15, 1989, beginning at 9:00 a.m. each day, at the same location.

Parties to this proceeding are the Licensees and the NRC Staff. Testimony is to be filed on the schedule set forth in the March 27, 1989 Memorandum and Order.

In accordance with 10 CFR 2.715(a), the Board will hear oral limited appearance statements at the outset of the hearing, on Tuesday, June 13, 1989. Any person not a party to the proceeding will be permitted to make such a statement, either orally or in writing, setting forth his or her position on the matters at issue in the proceeding. These statements do not

constitute testimony or evidence in this proceeding but the Board may request the parties to address questions that may be raised. The number of persons making oral statements and the time allotted for each statement may be limited depending upon the number of persons present at the designated time. Written statements may be submitted at any time. Written statements and requests for oral statements should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of such a statement or request should also be served on the Chairman, Atomic Safety and Licensing Board, EWW/439, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Documents relating to this proceeding are on file at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Commission's Region IV Office, Parkway Central Plaza Building, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011. Certain documents relevant to this proceeding (beginning with the transcript of the February 22, 1989 prehearing conference) are on file at the Local Public Document Room, law library, J. Reuben Clark Law School, Brigham Young University, Provo, Utah.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

Bethesda, Maryland, April 24, 1989.

[FR Doc. 89-10269 Filed 4-28-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[34-26757 DTC-88-19]

Self-Regulatory Organizations; Depository Trust Company; Notice of Amendment to Proposed Rule Change; Automated Tender Offer Program

April 21, 1989.

On November 23, 1988, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR-DTC-88-19) under section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] to implement the Automated Tender Offer Program ("ATOP"). Notice of the proposal was published in the **Federal Register** on December 13, 1988.[2] No comments were received. On February 17, 1989, the Commission published in the **Federal Register** an order granting temporary approval of the proposed rule change for a period of 90 days.[3] DTC filed an amendment, as described below, to the proposal on April 13, 1989. This notice is intended to solicit comment from interested parties on the amendment.

The amendment contains ATOP operating procedures for both DTC participants ("participants") and tender agents. The procedures instruct participants: (1) how to accept an offer and surrender securities through ATOP; (2) accept an offer through the agent directly and subsequently surrender securities through ATOP; (3) withdraw an acceptance of an offer; and (4) what to do if the participant's instructions or acceptance is rejected. The procedures also inform participating agents as to their responsibilities under ATOP. In addition, the amendment includes the agreement between DTC and agents participating in ATOP and the notice of receipt to evidence the delivery of securities from DTC to the agent. The text of each of these documents are available as exhibits to the proposal on file at the Commission.

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 amendment, the original proposed rule filing, 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 the 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC.

Copies of such filing will also be available for inspection and self-regulatory organization. All submissions should refer to File No. SR-DTC-88-19 and should be submitted by May 22, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 89-10296 Filed 4-28-89; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78(b)(1).

[2] Securities Exchange Act Release No. 26344 (December 7, 1988), 53 FR 50145.

[3] Securities Exchange Act Release No. 26538 (February 13, 1989), 54 FR 7316.

[Release No. 35-24873]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 25, 1989.

Notice is hereby given that the following filing has been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application-declaration for complete statements of the proposed transactions summarized below. The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application-declaration should submit their views in writing by **May 22, 1989** to the secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants-declarants at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application-declaration, as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70-7536)

Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01090-0010, a registered holding company, and its subsidiary companies, Connecticut Light and Power Company ("CL&P"), Northeast Utilities Service Company ("NUSCO"), The Rocky River Realty Company ("Rocky River"), The Mohawk Gas Company ("Mohawk") and Housatonic Corporation ("Housatonic"), each located at Selden Street, Berlin, Connecticut 06037-0218, Northeast's newly organized subsidiary gas utility holding company, Yankee Energy System, Inc. ("Yankee Energy") and Yankee Energy's newly organized nonutility subsidiary company, NorConn

Properties, Inc. ("NorConn"), both located at 999 West Street, Rocky Hill, Connecticut 06067–3011, (Collectively, "Applicants"), have submitted to this Commission a Plan ("Plan") under section 11(e) of the Act and under sections 6(a), 7, 9(a), 10, 11(b)(1), 12(b), 12(c), 12(d), 12(f), 12(g) and 13 of the Act and Rules 42, 43, 44, 45, 50(a)(5), 90 and 91 thereunder.

Section 11(e) Plan for Divestiture of Gas Business

Northeast currently operates, through its two, wholly owned, public-utility subsidiary companies, CL&P and Western Massachusetts Electric Company, an integrated public-utility electric system in Connecticut and Massachusetts. In addition, Northeast operates, through CL&P, a gas public-utility business in Connecticut. The Plan generally provides for the organization by Northeast of a new gas holding-company system, Yankee Energy, to be incorporated in Connecticut, and for the transfer of CL&P's gas utility business and related assets and liabilities to the Yankee Energy system. The Plan further provides for the divestiture of the gas business in order to satisfy the integration requirements of section 11(b)(1) of the Act by means of a *pro rata* distribution of Yankee Energy common stock by Northeast to its common shareholders, to be implemented on or about July 1, 1989, and related transactions.

A. Organization of New Gas Holding Company System

Under the Plan, Yankee Energy will initially have three wholly owned subsidiary companies, each a Connecticut corporation: (1) Yankee Gas Services Company ("Yankee Gas"),[1] a gas public-utility subsidiary company which will acquire CL&P's retail gas business together with the associated assets, rights, privileges and liabilities; (2) Housatonic, which will be transferred by Northeast to Yankee Energy; and (3) NorConn Properties ("NorConn"), which will be a vehicle for holding real property.

B. Proposed Capitalization

Under the Plan, the proposed post-divestiture capitalization of each of the Yankee Energy system companies is as follows: (1) Yankee Energy, 20 million shares of authorized voting common stock, par value $5.00 per share, of which amount approximately 5.4 million shares will be issued and sold to Northeast and, thereafter, distributed on a *pro rata* basis, discussed below, by Northeast to its common shareholders; (2) Yankee Gas, (a) 1,000 shares of authorized voting common stock, par value $5.00 per share, all of which will be issued and outstanding and held by Yankee Energy, (b) 600,000 shares of authorized preferred stock, par value $25 per share, of which amount $15 million is anticipated to be issued and sold in connection with the Plan, and (c) debt financing in the amount of up to $135 million in the form of first mortgage bonds; (3) Housatonic, (a) 50,000 shares of authorized voting common stock, par value $100 per share, of which amount 100 shares, at $100 par value per share, for an aggregate purchase price of $10,000, will be initially issued and outstanding and will be held by Yankee Energy, (b) debt financing in the amount of up to $20 million in the form of a construction loan that would be converted to a three-year term loan; and (4) NorConn, 5,000 shares of authorized voting common stock, no par value, all of which, if issued and outstanding, will be held by Yankee Energy.

C. Sales and Transfers of Assets

The Plan proposes that, subject to certain exceptions, all of the assets, rights, privileges and liabilities associated with CL&P's gas business be transferred to Yankee Gas.[2] The Transfers will be effected, in each case, as sales at a price equal to CL&P's net book cost for the assets being transferred, adjusted to reflect credits to which Yankee Gas may be entitled with respect to liabilities to be assumed by it. These liabilities were approxiamtely $53 million as of December 31, 1988. As of December 31, 1988, the gas utility plant to be transferred to Yankee Gas has a book value of $254,587,000, the gas inventory, materials, and supplies to be transferred to Yankee Gas have a book value of $8,517,000, gas accounts receivable less provisions for uncollectible accounts totalled $24,560,000, and the accured gas utility revenues were $14,077,000. The purchase price of CL&P's assets, which as of December 31, 1988 had a total book value of approximately $301,741,000, less $53 million in credits for assumed liabilities, will be paid in cash in the approximate amount of $248,741,000, unless purchase money notes, described below, are issued by Yankee Gas to CL&P's assets be transferred free of the liens of CL&P's predecessor company, Hartford Electric Light Company's ("HELCO"), under it First Mortgage Indenture and Deed of Trust dated as of January 1, 1958, as supplemented and amended. ("HELCO Indenture") and of CL&P's Indenture of Mortgage and Deed of Trust dated as of May 1, 1921, as supplemented and amended ("CL&P Indenture"), and that CL&P obtain release from the provisions of these Indentures for the properties so transferred.[3]

The Plan also proposes that NUSCO sell and transfer to Yankee Gas certain assets for which Yankee Gas will pay an amount, in cash, equal to NUSCO's net book cost, less accrued depreciation and a credit for certain related liabilities which Yankee Gas will assume, and that

[1] The Plan provides that CL&P transfer Mohawk, currently an inactive subsidiary company of CL&P, to Yankee Energy. Mohawk currently has 2,000 authorized shares of common stock, par value $25 per share, issued and outstanding and held by CL&P. Accordingly, CL&P will sell, and Yankee Energy will acquire, Mohawk's common stock. It is further provided that Mohawk be renamed Yankee Gas.

[2] CL&P's gas business includes a 10.4 percent interest in Boundary Gas, Inc. ("Boundary Gas"), a Delaware corporation that supplies Canadian gas to a consortium of gas distribution companies in the northeastern United States. *See* 21 SEC Docket 33 (September 26, 1980). The Plan provides that CL&P transfer Boundary Gas to Yankee Gas. Accordingly, CL&P will sell, and Yankee Gas will acquire, the Boundary Gas common stock now held by CL&P.

[3] Approximately 19 percent of CL&P's gas assets are subject to the prior lien of the HELCO Indenture. In order to release these assets from the lien of the HELCO Indenture, an amount in cash or the certification of additional property at least equal to the fair value of this property must be deposited with the HELCO trustee. CL&P expects to retain the cash received as the purchase price for those gas assets subject to the HELCO Indenture lien by certifying additional available properties to the HELCO trustee equal in value to the assets being released. These gas assets are also subject to the lien of CL&P's Indenture and CL&P expects to accomplish the release of the gas assets from this lien by asking the HELCO trustee to provide a certificate to the CL&P trustee stating that sufficient additional properties have been certified. The applicants anticipate that no additional cash or properties will be required to obtain the release of the CL&P lien over these assets.

With regard to the remaining gas assets that are subject only to the lien of the CL&P Indenture, CL&P will deposit cash with the CL&P trustee equal to the fair value of these assets. This cash, or the cash portion if Yankee Gas issues its purchase money notes, as discussed below, to CL&P in payment of a portion of the purchase price, will be used to redeem at par high coupon CL&P bonds of the following series up to the amounts indicated: (1) Series II Bonds, 12.25 percent interest rate, $85 million; (2) Series JJ Bonds, 12.38 percent interest rate, $73,587,000; and (3) Series KK Bonds, 12.00 percent, $49.5 million (collectively, "High Coupon Bonds").

To release any cash remaining with the CL&P will certify available property additions to the CL&P trustee. CL&P has approximately $2.8 billion in available property additions under the pre-April 1, 1967 provisions of the CL&P Indenture, approximately $136 million of which is gas utility plant. CL&P has approximately $1.5 billion in available property additions under the post-April 1, 1967 provisions of the CL&P Indenture, approximately $109 million of which is gas utility plant. Accordingly, CL&P will have sufficient unbonded, bondable property available to consummate the Plan as proposed and to retain flexibility for future bond offerings.

Yankee Gas also assume NUSCO's obligations and liabilities with respect to any NUSCO employees transferred to Yankee Gas.

In addition, the Plan proposes that Northeast sell and transfer Housatonic to Yankee Energy for which Yankee Energy will pay, in cash, an amount equal to Northeast's investment in Housatonic.[4] The Plan also proposes that certain real property owned by CL&P and/or Rocky River be transferred to NorConn for which NorConn will pay an amount, in cash, equal to CL&P's and/or Rocky River's investment in such property.

D. Issuances, Sales and Acquisitions of Securities and Related Financings

The Applicants propose to effectuate the Plan through certain financial transactions and request that all issuances and sales of securities contemplated by the Plan which are subject to the competitive bidding requirements of Rule 50 be excepted from such requirements under subsection (a)(5) thereunder. The applicants request authorization to engage an investment banking firm to act as an exclusive placement agent or underwriter for the various securities to be issued and sold and to begin negotiations. The applicants may do so.

Under the Plan, Northeast proposes to borrow from a bank, on a one- or two-day loan basis, an amount approximately equal to the sum of (a) 43 percent of the amount required to be paid by Yankee Gas to CL&P for the gas assets, (b) 100 percent of the amount required to be paid by Yankee Gas to NUSCO, and (c) the $10,000 initial equity investment by Yankee Energy in Housatonic which Yankee Energy proposes to make in order to acquire 100 shares of Housatonic's common stock, $100 par value per share. Northeast's borrowings from banks will be evidenced by the issuance of notes. Based on the projected value of the gas assets on an assumed closing date of June 30, 1989, the Applicants estimate that Northeast's borrowings will not exceed $120 million. Northeast's notes will be unsecured and will bear interest at a rate equal to the lending bank's prime rate. Northeast proposes to apply the proceeds of its borrowings from banks to make an equity investment in Yankee Energy through the acquisition of approximately 5.4 million shares of Yankee Energy's common stock, to be issued and sold by Yankee Energy in an amount approximately equal to the total amount Northeast borrows from banks, estimated not to exceed $120 million. The Plan additionaly provides that Northeast repay the amount of its one- or two-day loan with the cash received by it through a special dividend from CL&P, discussed below.

Under the Plan, Yankee Energy would make a capital contribution to Yankee Gas in an amount approximately equal to 43 percent of the amount required to be paid by Yankee Gas to CL&P for the purchase of CL&P's gas assets. In addition, Yankee Energy would make an equity investment in Yankee Gas through the acquisition of up to 1,000 shares of Yankee Gas's authorized voting common stock, par value $5.00 per share, to be issued and sold by Yankee Gas in an amount approximately equal to the amount of Northeast's equity investment in Yankee Energy. Yankee Gas, in turn, would apply the equity investment and capital contributions it receives from Yankee Energy to pay: (a) 100 percent of the amount Yankee Gas is required to pay for the assets transferred by NUSCO to Yankee Gas; and (b) approximately 43 percent of the amount required to be paid for the gas assets transferred by CL&P to Yankee Gas.

Further, in order to finance a portion of the payment required to be paid for the gas assets transferred by CL&P and for certain assets of NUSCO, the Plan provides that Yankee Gas issue and sell through a private placement, pursuant to an exception from competitive bidding; (1) up to $135 million aggregate principal amount of first mortgage bonds ("Bonds"); and (2) up to 600,000 shares of preferred stock ("Preferred"), at par, par value $25 per share, at an aggregate par value of up to $15 million. It is expected that the Bonds will be divided into amounts of $15 and $30 million, will have maturities of from three years to 30 years and will be issued and sold with fixed interest rates at a spread over the benchmark U.S. Treasury Rate, in basis points, as follows: (1) $15 million, three year maturity, 75 basis points; (2) $30 million, five year maturity, 85 basis points; (3) $30 million, seven year maturity, 95 basis points; (4) $30 million, 15 year maturity, 105 basis points; and (5) $30 million, 30 year maturity, 130 basis points. The Bonds will be secured by a first mortgage indenture and deed of trust and may be subject to sinking fund and callable provisions, which will differ depending on the maturity date. The Yankee Gas Preferred will be issued and sold with a fixed interest rate and will be subject to a level sinking fund, beginning at the end of the fifth year, designed to complete the redemption of the entire issue in the tenth year. Dividends on Yankee Gas Preferred will be paid quarterly.

The Plan further provides that Yankee Gas borrow up to $40 million for a term of up to 180 days under a three year revolving credit agreement ("Facility") with a syndicate of commercial banks, to be evidenced by the issuance of notes or other evidence of indebtedness. Loans under the Facility can be made through an auction procedure or, alternatively, at the lead bank's prime rate, a reserve adjusted LIBOR rate plus a margin, or a reserve adjusted certificate of deposit rate plus a margin.

In the event that Yankee Gas is unable to obtain the financings, as described above, on terms which are satisfactory to it and CL&P, after giving effect to approximately $53 million in credit to which Yankee Gas may be entitled with respect to liabilities assumed by it, Yankee Gas proposes to issue up to approximately $155 million aggregate principal amount of purchase money notes ("Purchase Money Notes") to CL&P in payment of a portion of the amount owed to CL&P for the transfer of CL&P's gas assets. The Purchase Money Notes would be issued pursuant to an open-ended first mortgage bond indenture and would be secured by a first lien on all of the property transferred to Yankee Gas. The Purchase Money Notes would have a nine-year maturity with a sinking-fund schedule and would bear interest at a rate that reflects the composite interest and dividend charges for CL&P's fixed and variable rate debt and preferred stock, which rate would be in the range of approximately 9.5 percent to 10.5 percent. The Purchase Money Notes would be subject to redemption in full, if any transaction occurred in which Yankee Gas were acquired, directly or indirectly, and call premiums if the Purchase Money Note were sold by CL&P and Yankee Gas thereafter calls the Notes. However, Yankee Gas intends to effect its financings as described above through private placements of securities with institutional investors that are not affiliated with the Northeast system and thus does not expect to issue Purchase Money Notes to CL&P.

[4] By separate application, Northeast had proposed to acquire, through Housatonic, up to a 17 percent general partnership interest in the Iroquois Gas Transmission System ("Iroquois Partnership"), which will own and operate a new gas pipeline facility that will extend from the Canadian border through the northeastern United States. *See* File No. 70-7459. Northeast and Housatonic, by amendment to the application dated April 21, 1989, have withdrawn their request to acquire an interest in the Iroquois Partnership. Applicants now state that Yankee Energy, through Housatonic, will acquire the up to 17 percent general partnership interest in the Iroquois Partnership after completion of the proposed divestiture.

The Plan also provides that Yankee Energy make an equity investment in NorConn through the acquisition of up to 5,000 shares of NorConn's authorized common stock, no par value, to be issued and sold by NorConn in an amount approximately equal to the balance of the purchase price required to be paid by NorConn to Rocky River after NorConn applies the proceeds of its borrowings by means of conventional first mortgage loans toward such required payments. NorConn proposes to effect borrowings from one or more financial institutions by means of conventional first mortgage loans in an amount of up to 100 percent of the purchase price of the Rocky River property to be purchased by NorConn, such loans to be evidenced by the issuance of notes.

The Plan additionally provides that Yankee Energy make an equity investment in Housatonic through the acquisition of 100 shares of Housatonic's common stock, par value $100 per share, to be issued and sold by Housatonic at par for a total purchase price of $10,000. After completion of the divestitute, Housatonic will issue and sell, and Yankee Energy will acquire from time-to-time an additional 9,900 shares of Housatonic's common stock for a total equity investment by Yankee Energy in Housatonic of 10,000 share of common stock, with an aggregate par value of $1 million. Housatonic proposes to borrow up to $20 million from a bank, to be evidenced by the issuance of a note, under a construction loan that would, upon completion of the Iroquois Project, be converted to a three-year loan. Interest would be at the leading bank's prime rate as in effect from time-to-time or, alternatively, at LIBOR plus a margin, or a reserve-adjusted certificate of deposit rate plus a margin. It is proposed that Yankee Energy guarantee Housatonic's loan throughout the term of the loan. The proceeds of the loan would be used, in part, by Housatonic to repay Northeast for its investment in the Iroquois Project. Housatonic would repay the loan from the proceeds it receives from future (*i.e.*, post-divestiture) funds made available to Housatonic by Yankee Energy, whether from purchases of Housatonic stock, capital contributions, loans or otherwise.

E. Other Matters

1. CL&P

In the event that CL&P is required to accept Yankee Gas' Purchase Money Notes in payment of a portion of the amount owed to CL&P on the sale of the gas properties, this will serve to reduce the principal amount of High Coupon Bonds, discussed above, that CL&P is able to redeem. CL&P states that the continuance of these High Coupon Bonds, together with the reduction of its operating income that will result from the sale of its gas business, may adversely affect its ability to meet the earnings coverage requirement of future bond issues under CL&P's Indenture. In order to mitigate this effect, CL&P requests, in accordance with the provisions of the CL&P Indenture, that so long as the aggregate amount of net non-operating income taken into account does not exceed 20 percent of net operating income, it be permitted to take into account in determining net earnings for any period the full amount of its interest income on the Purchase Money Notes, in addition to (1) earnings recorded on an accrual basis from its equity investment in the Yankee nuclear generating companies, which it is permitted to take into account under the Commission's order dated May 22, 1975 (HCAR No. 19001), and (2) all non-operating income from sources other than the Yankee nuclear generating companies and interest on the Purchase Money Notes, in an amount not to exceed 10 percent of such net operating income. Presently, CL&P is able to take into account in determining net earnings up to 15 percent of net operating income. CL&P requests this treatment for all interest income received on the Purchase Money Notes for the full term of such notes, which is anticipated to be nine years, only if it is necessary to accept the Purchase Money Notes from Yankee Gas. CL&P projects that, if it were required to accept the maximum amount of Purchase Money Notes from Yankee Gas, the total amount of non-operating income, earnings from investments in Yankee nuclear generating companies and interest income on the Purchase Money Notes, all of which would be taken into account in determing net earnings for purposes of the CL&P Indenture, would not exceed 15 percent in any period between 1989 and 1991.

The Plan also provides that, with regard to certain gas assets that are subject only to the lien of the CL&P Indenture, CL&P deposit with the trustee of the CL&P Indenture cash in an amount equal to the fair value of these assets and that this cash, or the cash portion if Yankee Gas issues Purchase Money Notes to CL&P, be used to redeem at par certain high coupon CL&P bonds. Northeast states that the present value of the net savings that can be realized through the redemption of such high coupon bonds is estimated to be approximately $10 million. The Plan provides that this net savings be allocated between CL&P and Yankee Gas and that this sharing be reflected as a credit on bills rendered to Yankee Gas under the service contract with NUSCO.

Under the Plan, CL&P would certify available property additions to the trustees of the HELCO Indenture and the CL&P Indenture as a basis for the release of the balance of any cash deposited with the two trustees. CL&P would thereafter distribute such cash from the two trustees, together with the cash received from Yankee Energy, to Northeast by way of a special dividend, and would, if necessary, borrow an additional amount so that the amount of such dividend would be approximately sufficient to permit Northeast to repay its one- or two-day loan, discussed above. The amount of the special dividend is not expected to exceed $120 million. At this time, CL&P is not requesting authorization in this filing to borrow any additional amounts to pay the special dividend to Northeast. CL&P states that the special dividend may adversely affect its ability to pay its normal dividends to Northeast without violating the CL&P Indenture limits. Accordingly, CL&P requests that the Commission authorize an increase in the aggregate amount of permitted dividends, distributions, purchases and acquisitions which may be paid, declared or effected under each of such provisions by an amount equal to the special dividend to be distributed by CL&P to Northeast.

2. Continuing Relationships

In addition to the continuing relationships discussed above, the Plan also provides for certain intrasystem leasing arrangements with regard to buildings that are transferred to the Yankee Energy system in which space is shared by system companies. The Plan further provides for a master service agreement ("Service Agreement") regarding the continuation of certain services now being provided for the gas business by CL&P or NUSCO, for a term of three years. Under the Service Agreement, Yankee Gas will generally pay no more for such services than the gas business would have recovered through rates in the absence of a divestiture, except for the effect of applicable Connecticut taxes on such services. A charge on this basis is equivalent to what NUSCO would charge an affiliated company. The Plan also provides for certain indemnification agreements between the Northeast system and the Yankee Energy system under the Service Agreement as well as

under the various leases, agreements and contracts to be entered into in order to implement the Plan.

3. Employees

CL&P operates its gas business through a separate gas group, with extensive use of other CL&P and NUSCO personnel for administrative and operational support. The Plan proposes that the CL&P and NUSCO employees of this gas group be transferred to and become employees of Yankee Gas. The Plan additionally proposes that certain other employees of CL&P and NUSCO become employees of Yankee Gas and that a limited number of additional employees from other sources be hired to perform required functions.

F. Distribution of Yankee Energy Common Stock

Applicants state that Yankee Energy common stock issued and sold to Northeast will be registered under the Securities Act of 1933 and distributed on a *pro rata* basis by Northeast to the holders of its common stock, subject to certain provisions with respect to fractional shares and cash payments under a shareholders reduction plan ("Shareholders Reduction Plan"). The Plan provides that, on the record date of the proposed *pro rata* distribution, the holders of Northeast's common stock receive one share of Yankee Energy common stock for each 20 shares of Northeast common stock then held and that, pursuant to the Shareholder Reduction Plan, Northeast common shareholders who would receive fewer than 10 shares of Yankee Energy common stock in the distribution receive cash in lieu of such shares. The cash to make the payments to eliminate fractional share interests and small share holdings will be realized from the sales of such shares for the account of the affected shareholders arranged by The Connecticut Bank and Trust Compnay, N.A., as Transfer Agent, through one or more underwriters.

The Applicants state that approximately 5.4 million shares of Yankee Energy common stock will be held by Northeast immediately prior to the distribution date, of which amount it is estimated approximately 5,060,000 shares will be distributed to Northeast shareholders. The Applicants further estimate that approximately 350,000 shares of Yankee Energy common stock, with an aggregate sales price of $7 million (assuming average market price of $20 per share), will be sold immediately following the distribution to pay cash to Northeast shareholders who would otherwise receive fewer than 10 shares of Yankee Energy common stock and to eliminate fractional share interests. The Applicants project an initial trading range for Yankee Energy common stock of $16 to $24 per share, a trading range comparable to the ranges for stocks of similar retail gas distribution companies.

Northeast common shareholders whose accounts are maintained in the name of their broker or another nominee, or whose holdings are as participants in Northeast's PAYSOP, TRAESOP, or 401(k) Plan and are reflected on the books of the transfer agent in the name of the trustee or custodian for such plan will not be affected by the Shareholder Reduction Plan if the total number of Northeast common shares held of record by such broker, nominee, trustee or custodian is 200 or more, notwithstanding the fact that the underlying interest of an Northeast shareholder in such aggregate number of shares may be less than 200 shares.

G. Exempt Holding Company

Applicants state that, on or about the time of the divestiture, Yankee Energy will file with the Commission on application for an exemption as an intrastate holding company in accordance with Rule 2(a) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-10379 Filed 4-28-89; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8426]

Issuer Delisting; Notice of Application To Withdraw From Listing 21st Century Group, Inc., Common Stock, $.01 Per Value

April 25, 1989.

21st Century Group, Inc. ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock Exchange ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Since November 16, 1987, 21st Century Group, Inc. ("Company") has not filed with the Commission any of the annual or periodic reports required of a company registered under section 12(b) of the Act. In addition, the Company states that it has been unable to comply with the disclosure policy of the Exchange which requires that its members file disclosure documents substantially similar to those required under section 13 of the Act.

Any interested person may, on or before May 17, 1989, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-10380 Filed 4-28-89; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP); Deadline for Acceptance of Petitions Requesting Modification of List of Articles Eligible for Duty-Free Treatment Under the GSP and Requests To Review the GSP Status of Beneficiary Developing Countries

Notice is hereby given that, in order to be considered in the 1989 GSP annual review, all petitions to modify the list of articles eligible for duty-free treatment under the Generalized System of Preferences (GSP) and requests to review the GSP status of any beneficiary developing country must be received by the GSP Information Center no later than the close of business, Thursday, June 1, 1989. The GSP provides for the duty-free importation of qualifying articles when imported from designated beneficiary developing countries. The GSP is authorized by Title V of the Trade Act of 1974, as amended, and has been implemented by Executive Order 11888 of November 24, 1975, and modified by subsequent Executive Orders and Presidential Proclamations.

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Interested parties of foreign governments may submit petitions: (1) To designate additional articles as eligible for GSP; (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; and (3) to otherwise modify GSP coverage. Also, any person may file a request to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in subsections 502(b) or 502(c) of the Act (19 U.S. 2662 (b) and (c)).

Identification of Product Requests With Respect to the Harmonized System Tariff Nomenclature

The Harmonized Tariff System nomenclature (HTS) is an international product nomenclature developed under the auspices of the Customs Cooperation Council (CCC) for the purpose of classifying goods in international trade. The HTS was implemented by the United States on January 1, 1989, and replaces the previous Tariff Schedules of the United States (TSUS) nomenclature.

Certain changes in the information required in petitions are necessary as a result of the change to the HTS nomenclature. All product-related petitions must identify the product(s) of interest in terms of the HTS tariff nomenclature and include a detailed description of the product or products of interest. The petition should also identify the former TSUS headings for the HTS products contained in the petition and provide the petition history for those TSUS products. Trade data for the last three years should be provided in the HTS categories. Where the conversion to the new nomenclature makes this difficult, HTS estimates can be provided along with the relevant TSUS data. The method used to arrive at HTS estimates should also be described. Finally, those petitions which are being submitted, in the view of the petitioner, as a result of a change in a product's GSP status solely due to the conversion from the TSUS to the HTS should indicate this on the first page of the petition. A change in status could include the addition or removal of GSP eligibility for a product, changes in a country's eligibility due to competitive need exclusions or its eligibility for redesignation, as well as other changed circumstances.

Submission of Petitions and Requests

Petitions and requests to modify GSP treatment should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW., Room 517, Washington, DC 20506. All such submissions must conform with regulations codified in 15 CFR Part 2007. These regulations are also printed in the GSP Guidebook, along with a model petition. Information submitted will be subject to public inspection by appointment only with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Petitions and requests must be submitted in twenty copies in English. If the petition or request contains business confidential information, twenty copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential").

Prospective petitioners and requestors are strongly advised to review the GSP regulations published in the **Federal Register** on Tuesday, February 11, 1986 (51 FR 5035). Prospective petitioners and requestors are reminded that submissions that do not provide all information required by § 2007.1 will not be accepted for review except upon a detailed showing in the submission that the petitioner or requestor made a good faith effort to obtain the information required. This requirement will be strictly enforced. In cases where the request has been reviewed previously, petitioners should cite new information concerning the issues examined that would support a reexamination, as cited in 15 CFR 2007.1(a)(4). Petitions with respect to competitive need waivers must meet the informational requirements for product addition requests in § 2007.1(c). A model petition format is available from the GSP Information Center and is included in the publication "A Guide to the U.S. Generalized System of Preferences." Prospective petitioners are requested to use this model petition format so as to ensure that all informational requirements are met. Furthermore, interested parties submitting petitions that request modifications with respect to specific articles should list on the first page of the petition the following information: (1) The requested action; (2) the classification of the article(s) of interest in the HS; and (3), if applicable, the beneficiary country(s) of interest. Questions about the preparation of petitions and requests should be directed to the staff of the GSP Information Center. The phone number of the center is (202) 395–6971.

Notice of petitions and requests accepted for review will be published in the **Federal Register** on or about Monday, July 17, 1989. The notice will also provide information concerning the opportunity for interested parties to comment on requests accepted for review through public hearings and written submissions. Any modifications to the GSP resulting from the 1989 GSP annual review will be announced on or about April 1, 1990 and will take effect on July 1, 1990.

Sandra J. Kristoff,

Chairwoman, Trade Policy Staff Committee.

[FR Doc. 89–10325 Filed 4–28–89; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular No. 20–27D; Certification and Operation of Amateur-Built Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed revision of Advisory Circular (AC) 20–27C and request for comments.

SUMMARY: The FAA intends to update and revise the information in AC 20–27C, Certification and Operation of Amateur-Built Aircraft. Advisory Circular 20–27D, which would supersede AC 20–27C, also advises the general public of a change in the FAA's policy dealing with the certification of amateur-built aircraft.

DATES: Comments submitted must identify proposed AC 20–27D and be received on or before June 30, 1989.

ADDRESSES: Copies of the proposed AC 20–27D can be obtained and comments may be sent to the following: FAA Airworthiness Certification Branch, AIR–230, Aircraft Manufacturing Division (ATR–200), 800 Independence Avenue SW., Washington, DC 20591. Comments received on the proposed AC may be inspected in Room 333, FAA (FOB–10A), 800 Independence Avenue SW., Washington, DC 20591, between the hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sandy McClure, Airworthiness Certification Branch, AIR-230, Manufacturing Division (AIR-200), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, (202) 267-8361.

SUPPLEMENTARY INFORMATION:

Explanation of Revisions

The proposed AC reflects the fact that the FAA has decided to appoint certain private persons to act as representatives for the FAA in the inspection and certification of amateur-built aircraft. They are known as designated airworthiness representatives and are authorized to charge applicants for their services.

Additional information is provided in the AC concerning registration of amateur-built aircraft, and display of registration marks, as well as updated information on placement of the required identification plate on aircaft.

The proposed AC also contains new information on documentation required for initial inspection by the FAA or DAR. The required flight test hours in the test areas are also described.

The AC discusses the fact that operating limitations prohibiting flight instruction while in the flight test area are to be imposed by the FAA or its designees. Safety recommendations have been expanded, and the requirements for accomplishing airworthiness directives on amateur-built aircraft are explained.

Finally, additional sample forms have been included along with blank forms that the builder can use for registration and airworthiness certification.

The AC also contains minor editorial changes throughout the text.

Related FAR affected Parts 183 and 21.

Issued in Washington, DC, on February 22, 1989.

Dana D. Lakeman,

Acting Manager, Aircraft Manufacturing Division.

[FR Doc. 89-10310 Filed 4-28-89; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Request for Information on Availability of U.S. Vessels for Alaska Cleanup Operations

AGENCY: Maritime Administration, DOT.

ACTION: Information request—update.

SUMMARY: This will update the notice appearing in Vol. 54, No. 72 (April 17, 1989) on this subject. Exxon Shipping Company has modified its earlier request for a broad waiver of compliance with the coastwise laws and regulations to allow any foreign-flag vessels to engage in any aspect of the oil-spill recovery operations connected with the grounding of the tanker *Exxon Valdez*. The request is now limited to four specifically named vessels: the Canadian-flag oil skimmer *Burrard Cleaner No. 2;* the French-flag oil skimmer barges *Egmopol I* and *Egmopol II;* and the Canadian-flag, ice-classed, anchor-handling vessel *Arctic Tuktu.*

On April 14, 1989, the Assistant Secretary of the Treasury (Enforcement) granted a waiver for all four of the named vessels for a period of 10 days from that date. Renewal of this waiver is subject to further review and clarification of cleanup requirements, information as to the precise nature of the activities in which each vessel is engaged, and the availability of U.S.-flag, coastwise-qualified vessels to those activities.

On April 17, 1989, VECO, Inc., acting as prime contractor for Exxon in the cleanup, requested a 90 day waiver to permit use of the Russian-flag oil skimmer *M.V. Vaydagubsky*. The Department of the Treasury granted, on April 19, 1989, a 30-day waiver with conditions similar to those attached to the earlier waiver.

The Maritime Administration continues to seek information from owners/operators of U.S.-flag vessels that might be made available in lieu of foreign vessels. Owners/operators should make their business offers directly to either Exxon (FAX: 907-835-5560) or VECO, the prime cleanup contractor (FAX: 907-564-6190), but are asked to send vessel information in a separate transmission to the Maritime Administration.

The remainder of the notice stands as originally published.

By Order of the Maritime Administrator.

Date: April 25, 1989.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 89-10277 Filed 4-28-89; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

1989 Magnetic Tape of Forms 5500-C, 5500-R and Related Schedules

AGENCY: Department of Treasury, Internal Revenue Service.

ACTION: Filing of forms 5500-C, 5500-R and related schedules on magnetic tape.

SUMMARY: The Internal Revenue Service will conduct a program during the 1989 filing period for certain employee pension plan returns and related schedules to be filed on magnetic tape. This program will be available nationwide and processed at the Internal Revenue Service Center in Andover, Massachusetts. Tax practitioners, plan administrators and sponsors, automated preparers, software companies, service bureaus, and other interested parties can obtain copies of the draft revenue procedure for the program by writing or calling the Service at the location below.

Internal Revenue Service Center, 310 Lowell Street, Andover, Massachusetts 01812

Attn: Electronic Filing Unit, Stop 981

Phone Number: (508) 474-9441

Applicants wishing to participate must send a letter requesting acceptance into the program to the address listed above. The letter must include the name of the plan sponsor and employer, if for a single employer plan; address; contact person's name; and daytime telephone number (include area code). Also include the types of forms and schedules that will be filed. The letter must also state that, if the applicant is accepted into the program, he or she agrees to follow the provisions of the electronic filing Revenue Procedure for employee plans.

DATE: Expressions of interest for filing of Forms 5500-C, 5500-R and related Schedules A, B, P, and SSA, are requested by June 15, 1989.

SUPPLEMENTARY INFORMATION: The Internal Revenue Service is receiving an increasing volume of computer-prepared returns, and is using the flexibility provided by computer preparation to improve efficiency in processing returns. Filing returns on magnetic tape will eliminate most manual processes required by IRS to handle paper documents. This program will help improve the accuracy of returns, speed up processing, and minimize the need for correspondence.

Filers who take part in the program are required to send IRS a separate form, in addition to returns. The form contains certain key information from the returns and the signatures of the employer/plan sponsor and the plan administrator.

Leonard Holt,

Chief, Operations and Marketing Branch.

[FR Doc. 89-10276 Filed 4-28-89; 8:45 am]

BILLING CODE 4830-01-M

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATE: The meetings will be held May 24 and June 7, 1989.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:AS:4, 901 D Street SW., Washington, DC 20024 Telephone No. (202) 252–8128, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), that two closed meetings of the Art Advisory Panel will be held on May 24th and June 7, 1989 in Room 100 beginning at 9:30 a.m., Aerospace Building, 901 D Street SW., Washington, DC 20024.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

The Acting Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Michael J. Murphy,
Acting Commissioner.

[FR Doc. 89–10275 Filed 4–28–89; 8:45 am]
BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 82
Monday, May 1, 1989

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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 5, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10506 Filed 4–27–89; 3:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 9, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10507 Filed 4–27–89; 3:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 12, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10508 Filed 4–27–89; 3:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 19, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10509 Filed 4–27–89; 3:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 23, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Fourth Quarter FY 1989 Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10510 Filed 4–27–89; 3:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, May 23, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 89–10511 Filed 4–27–89; 3:24 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Tuesday, May 23, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED

Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10514 Filed 4–28–89; 3:24 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 26, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10512 Filed 4–27–89; 3:24 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, May 26, 1989.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Rule enforcement reviews.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 89–10513 Filed 4–27–89; 3:24 pm]

BILLING CODE 6351–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:06 p.m. on Tuesday, April 25, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider: (1) Delegation of authority relating to the Corporation's supervisory activities; (2) recommendation regarding administrative enforcement proceedings; (3) matters relating to the possible closing of certain insured banks; and (4) personnel matters.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: April 26, 1989.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 89-10496 Filed 4-27-89; 1:11 pm]

BILLING CODE 6714-01-M

NATIONAL SCIENCE BOARD

DATE AND TIME:

May 12, 1989
8:00 a.m. Closed Session.
8:20 a.m. Open Session

PLACE: National Science Foundation, 1800 G Street, NW., Room 540, Washington, DC 20550.

STATUS:

Most of this meeting will be open to the public.

Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED MAY 12:

Closed Session (8:00 a.m. to 8:20 a.m.)

1. Minutes—March 1989 Meeting
2. NSB and NSF Staff Nominees
3. Election of Executive Committee Members
4. Grants and Contracts

Open Session (8:20 a.m.—12:00 noon)

5. Chairman's Report
6. Minutes—March 1989 Meeting
7. NSB Calendar of Meetings for 1990
8. Director's Report
9. Merit Review (includes Annual Report on NSF Use of Peer Review)
10. Draft Report of the NSB Committee on Foreign Involvement in U.S. Universities
11. Report on Alaskan Oil Spill
12. Report on Cold Fusion Research
13. Other Business.

Thomas Ubois,

Executive Officer.

[FR Doc. 89-10515 Filed 4-27-89; 3:28 pm]

BILLING CODE 7555-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1416]

TIME AND DATE: 10 a.m. (E.D.T.), Wednesday, May 3, 1989.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA

Approval of minutes of meeting held on April 19, 1989.

Action Items

New Business

A—Budget and Financing

A1. Implementation of the Automated Maintenance Management System and Supporting Equipment Management System Data Base at Sequoyah, Browns Ferry, and Watts Bar Nuclear Plants.

B—Purchase Awards

B1. Request for Proposal YE-16712A—Indefinite Quantity Term Contract for Microcomputer System Units—ADP Equipment Management Department.

B2. Requisition 71—Short-Term Coal for Widows Creek Fossil Plant.

C—Power Items

C1. Renewal Power Contract with Columbia, Tennessee.

C2. Residential Energy Services Program.

E—Real Property Transactions

E1. Amendment of Lease with Leeco, Inc., on Red Bird Coal Property in Leslie County, Kentucky.

F—Unclassified

F1. Revision to TVA Code X Nuclear Safety.

F2. Supplement No. 12 to Contract No. TV-68199A with W. S. Fleming & Associates, Inc., for Mountain Cloud Chemistry/Forest Exposure Study.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager of Public Affairs, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479-4412.

Dated: April 26, 1989.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 89-10451 Filed 4-27-89; 9:57 am]

BILLING CODE 8120-01-M

federal register

Monday
May 1, 1989

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 52

Federal Acquisition Regulation (FAR); Title to Property Under Progress Payments Clause; Proposed Rule

Federal Register

Monday
May 1, 1995

Part II

Department of Defense
General Services
Administration
National Aeronautics and
Space Administration

48 CFR Part 52
Federal Acquisition Regulation (FAR);
Data to Property Owners
Payment Clause; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

Federal Acquisition Regulation (FAR); Title to Property Under Progress Payments Clause

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to the progress payments clause at FAR 52.232–16, to clarify that the Government takes title in the form of "ownership" rather than a lien when progress payments are made under this clause.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 30, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–31 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755. Please cite FAR Case 89–31.

SUPPLEMENTARY INFORMATION:

A. Background

One Court's interpretation of the language at FAR 52.232–16(d) has prompted the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council to clarify the language related to "title" within the progress payments clause at FAR 52.232–16 (see e.g., Marine Midland Bank v. United States 687 F.2d 395 (ct. Cl. 1982)). The objective of the Councils is to emphasize that it is and always has been the intent of the Federal Acquistion Regulation policies and contract clause that the interest taken by the Government in property covered by the clause is title in the form of ownership and not a mere lien.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the change is intended to clarify the competing interests of the Government and creditors of contractors. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. However public comments are invited from small businesses and other interested parties.

Comments from small entities concerning the affected FAR subsection will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 89–610 (FAR Case 89–31) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: April 24, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Part 52 is amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 52.232–16 is amended by revising in paragraph (d)(1) of the clause the first sentence to read as follows:

§ 52.232–16 Progress payments.

* * * * *

(d) * * *

(1) Absolute title, and not a mere lien, to the property described in this paragraph (d) shall vest in the Government.

* * * * *

[FR Doc. 89–10332 Filed 4–28–89; 8:45 am]

BILLING CODE 6820–JC–M

federal register

Monday
May 1, 1989

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31
Federal Acquisition Regulation (FAR); Asset Revaluation; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Asset Revaluation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering revising FAR 31.205–10, 31.205–11, 31.205–16, and adding 31.205–52 to set forth new rules on the allowability of costs resulting from business combinations.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 30, 1989, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–28 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council have reviewed the subject of business combinations, particularly the appropriate Government contract costing resulting from such combinations. This review has been occasioned by the increased number and size of such combinations in recent years. The conclusion reached by the Councils is that the Government should not recognize depreciation, amortization, or the cost of money expense flowing from asset write-ups that result from the "purchase method" of accounting for business combinations. The Councils do not believe that, in the special circumstances of Government procurement in which companies' recorded cost structures are often directly reflected in the price, the Government should be at risk of paying higher prices simply because of ownership changes at its suppliers. Accordingly, the Councils are proposing changes to FAR 31.205–10, 31.205–11, 31.205–16, and adding 31.205–52 to implement this decision.

B. Regulatory Flexibility Act.

The proposed changes are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because most contracts awarded to small entities are awarded on a competitive fixed-price basis and the cost principles do not apply. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and must cite 89–610 (FAR Case 89–28) in correspondence.

C. Paperwork Reduction Act.

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: April 24, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–10 is amended by removing "and" at the end of paragraph (a)(2)(ii); by adding "; and" at the end of (a)(2)(iii); by adding (a)(2)(iv); by revising (a)(5); by removing "and" at the end of (b)(2)(B); by adding "; and" at the end of (b)(2)(C); and by adding paragraph (b)(2)(i)(D) to read as follows:

31.205–10 Cost of money.

* * * * *

(a) * * *

(2) * * *

(iv) The requirements of 31.205–52, which limit the allowability of facilities capital cost of money, are observed.

* * * * *

(5) The cost of money resulting from including asset valuations resulting from business combinations in the facilities capital employed base is unallowable (see 31.205–52).

(b) * * *

(2) * * *

(i) * * *

(D) The requirements of 31.205–52, which limit the allowability of cost of money for capital assets under construction, fabrication, or development, are observed.

3. Section 31.205–11 is amended by adding paragraph (n) to read as follows:

31.205–11 Depreciation.

* * * * *

(n) Whether or not the contract is otherwise subject to CAS, the requirements of 31.205–52, which limit the allowability of depreciation, shall be observed.

4. Section 31.205–16 is amended by revising paragraphs (a) and (e) to read as follows:

31.205–16 Gains and losses on disposition of depreciable property or other capital assets.

(a) Gains and losses from the sale, retirement, or other disposition (but see 31.205–19) 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 depreciation or amortization applicable to those assets was included (but see paragraph (d) of this subsection. However, no gain or loss shall be recognized as a result of the transfer of assets in a business combination (see 31.205–52).

* * * * *

(e) Gains and losses arising from mass or extraordinary sales, retirements, or other disposition other than through business combinations shall be considered on a case-by-case basis.

* * * * *

5. Section 31.205–52 is added to read as follows:

31.205–52 Asset valuations resulting from business combinations.

When the purchase method of accounting for a business combination is used, allowable amortization, cost of money, and depreciation shall be limited to the total of the amounts that would have been allowed had the combination not taken place.

[FR Doc. 89–10331 Filed 4–28–89; 8:45 am]

BILLING CODE 6820–JC–M

federal register

Monday
May 1, 1989

Part IV

The President

Executive Order 12676—Delegating Authority To Provide Assistance for the Nicaraguan Resistance

digitized

Federal Register
Vol. 54, No. 82
Monday, May 1, 1989

Presidential Documents

Title 3—

The President

Executive Order 12676 of April 26, 1989

Delegating Authority To Provide Assistance for the Nicaraguan Resistance

By the authority vested in me as President by the Constitution and laws of the United States of America, including Public Law 101–14, to implement the Bipartisan Accord on Central America of March 24, 1989 ("Act"), the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), Central American Peace Assistance Act, Public Law 100–276, and section 301 of title 3 of the United States Code, and in order to delegate certain functions concerning the designation of amounts to be transferred from specified accounts, the transfer of funds, and related personnel matters, it is hereby ordered as follows:

Section 1. The Director of the Office of Management and Budget, in consultation with the Secretary of State, is authorized to perform the functions, vested in the President by sections 2 and 4 of the Act, of determining the amounts of unobligated funds that are to be transferred to the Agency for International Development, and of designating the accounts to which they are to be transferred.

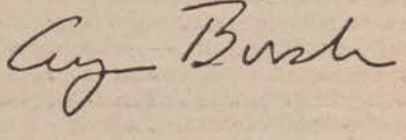
Sec. 2. The Secretary of Defense, in consultation with the Administrator of the Agency for International Development, is authorized to perform the functions, vested in the President by sections 2 and 4 of the Act, of transferring unobligated funds from the accounts specified in section 6 of the Act.

Sec. 3. The Secretary of Defense is authorized to perform the function of designating the amounts of unobligated funds from accounts specified in section 6 of the Act to be transferred.

Sec. 4. The Director of the Office of Management and Budget is authorized to perform the function of approving the detailing of personnel to the Agency for International Development. This authority is vested in the President by section 4(d) of Public Law 100–276 and made applicable by section 8(c) of the Act.

Sec. 5. This order shall be effective immediately.

Sec. 6. Executive Order No. 12654 is revoked.



THE WHITE HOUSE,
April 26, 1989.

[FR Doc. 89–10555
Filed 4–28–89; 10:56 am]
Billing code 3195–01–M

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Monday, May 1, 1989

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18465-18640.....1

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List: April 25, 1989

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$10.00	Jan. 1, 1988
*3 (1988 Compilation and Parts 100 and 101)	21.00	[1] Jan. 1, 1989
4	14.00	Jan. 1, 1988
5 Parts:		
1–699	14.00	Jan. 1, 1988
700–1199	15.00	Jan. 1, 1988
1200–End, 6 (6 Reserved)	11.00	Jan. 1, 1988
7 Parts:		
0–26	15.00	Jan. 1, 1988
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52	23.00	[2] Jan. 1, 1988
53–209	18.00	Jan. 1, 1988
210–299	22.00	Jan. 1, 1988
300–399	11.00	Jan. 1, 1988
400–699	17.00	Jan. 1, 1988
700–899	22.00	Jan. 1, 1988
900–999	26.00	Jan. 1, 1988
1000–1059	15.00	Jan. 1, 1988
1060–1119	12.00	Jan. 1, 1988
1120–1199	11.00	Jan. 1, 1988
1200–1499	17.00	Jan. 1, 1988
1500–1899	9.50	Jan. 1, 1988
1900–1939	11.00	Jan. 1, 1988
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1950–1999	18.00	Jan. 1, 1988
2000–End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988
9 Parts:		
1–199	19.00	Jan. 1, 1988
200–End	17.00	Jan. 1, 1988
10 Parts:		
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51–199	14.00	Jan. 1, 1988
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400–499	13.00	Jan. 1, 1988
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1–399	12.00	Apr. 1, 1988
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan.1, 1988 to Dec.31, 1988. The CFR volume issued January 1, 1988, should be retained.

[3] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1988. The CFR volume issued January 1, 1987, should be retained.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

[7] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

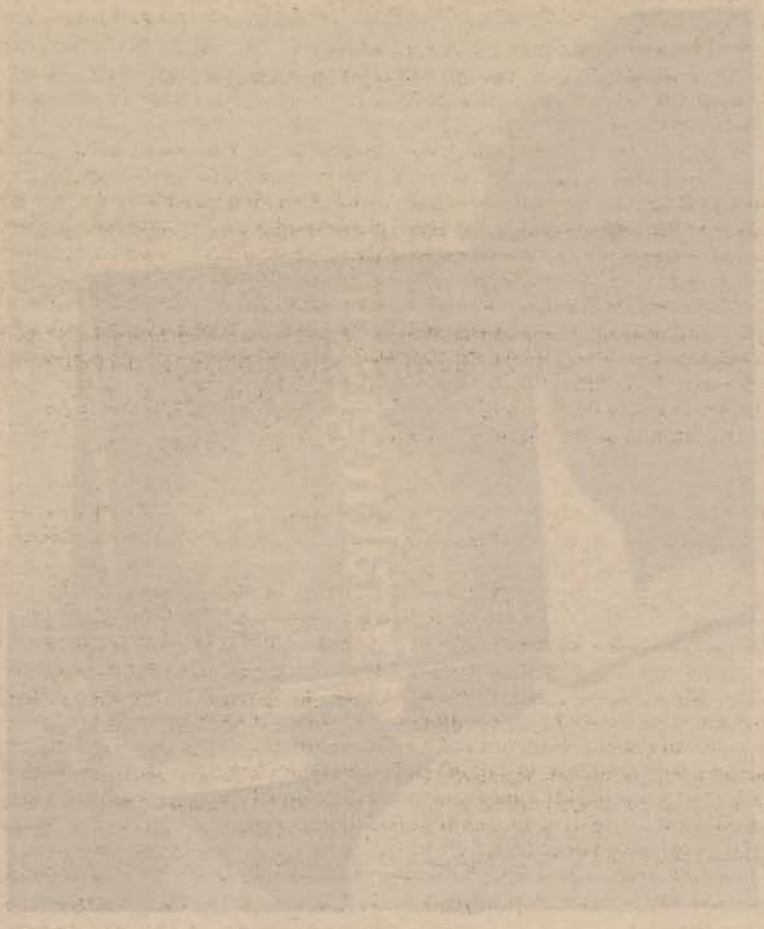
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