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

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

WHO: The Office of the Federal Register.

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

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

SAN FRANCISCO, CA

WHEN: November 29; at 9:00 a.m.
WHERE: Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.
RESERVATIONS: Call Mary Walters at the San Francisco Federal Information Center,
415–556–6600.

SEATTLE, WA

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WASHINGTON, DC

WHEN: December 7, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

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Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Memorandum of October 26, 1989

Determination Under Subsections 402(a) and 409(a) of the Trade Act of 1974—Emigration Policies of the Republic of Hungary

Memorandum for the Secretary of State

Pursuant to the authority vested in me under the Trade Act of 1974 (Public Law 93–618, hereinafter "the Act"), I determine that the Republic of Hungary is not in violation of paragraph (1), (2), or (3) of Subsection 402(a) of the Act, 19 U.S.C. 2432 (a), or paragraph (1), (2), or (3) of Subsection 409(a) of the Act, 19 U.S.C. 2439(a).

You are authorized and directed to publish this Determination in the Federal Register.

George Bush

THE WHITE HOUSE,
Washington, October 26, 1989.

[FR Doc. 89-26236
Filed 11-2-89; 4:20 pm]
Billing code 3195-01-M

Presidential Documents

Memorandum of October 31, 1989

Actions Concerning the Generalized System of Preferences

Memorandum for the United States Trade Representative

Pursuant to subsection 504(d)(1) of the Trade Act of 1974, as amended (the Act) (19 U.S.C. 2464(d)(1)), I have determined to modify the application of duty-free treatment under the Generalized System of Preferences (GSP) currently being afforded to beneficiary developing countries. Specifically, I have determined, pursuant to subsection 504(d)(1) of the Act, that the limitation provided for in subsection 504(c)(1)(B) of the Act should not apply with respect to certain eligible articles because no like or directly competitive article was produced in the United States on January 3, 1985. Such articles are provided for in the following Harmonized Tariff Schedule of the United States (HTS) subheadings:

HTS Subheading
9101.12.80
9101.91.20
9101.91.40
9101.91.80
9101.99.20
9101.99.40
9101.99.60
9101.99.80
9102.12.80
9102.91.20
9102.99.20
9102.99.40
9102.99.60
9102.99.80

This determination shall be published in the **Federal Register.**

George Bush

THE WHITE HOUSE,
Washington, October 31, 1989.

[FR Doc. 89-26212
Filed 11-2-89; 2:23 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 89-160]

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by adding or removing commuted traveltime allowances for various locations in California, Minnesota, and Texas. Commuted traveltime allowances are the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted taveltime. This action is necessary to inform the public of the commuted traveltime between these locations.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Paul R. Eggert, Director, Resource Management Support, PPQ, APHIS, USDA, room 623, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animal and animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as is practicable, the time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by adding or removing commuted traveltime allowances for various locations in California, Minnesota, and Texas. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Executive Order 12291 and Regulatory Flexibility Act

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

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

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

Effective Date

The commuted traveltime allowance appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevent information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12372

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

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by removing or adding, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
Remove: * * * * *			
Texas:			
Point Comfort	Corpus Christi		6
Port Lavaca	Corpus Christi		4
* * * * *			
Add: * * * * *			
California:			
San Jose	San Francisco		4
* * * * *			
Minnesota:			
Duluth	Minneapolis		6
* * * * *			
Texas:			
Point Comfort	Victoria		2
* * * * *			

Done in Washington, DC, this 31st day of October, 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-26094 Filed 11-3-89; 8:45 a.m.]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-89-098IR]

Oranges, Grapefruit, Tangerines, and Tangelos Crown in Florida; Handling Requirement Conforming Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule makes conforming changes in the handling requirements issued as informal rules under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. These changes are necessary to bring the handling requirements into conformity with a recent marketing order amendment which reclassified Canada and Mexico as export rather than domestic markets for the purposes of grade, size and other regulatory activity. The amendment was effective September 8, 1989.

DATES: The conforming changes become effective November 6, 1989. Comments which are received by December 6, 1989, will be considered prior to issuance of the final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

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

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

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 orange, grapefruit, tangerine, and tangelo producers in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers may be classified as small entities.

Marketing Order No. 905 was amended on September 8, 1989, (54 FR 37290). Under that amendment, §§ 905.9 and 905.52 were changed to classify Canada and Mexico as export markets to better meet the needs of buyers in those markets. Before the amendment, Canada and Mexico, along with the United States, were defined as the domestic market, and current handling regulations under the order were issued on that basis. The marketing order provides for different requirements for domestic and export shipments.

Minimum grade and size requirements are now in effect for several varieties of fresh Florida oranges, grapefruit, tangerines, and tangelos under § 905.306 of the order. Paragraph (a) of that section specifies the requirements for shipments to domestic market (United States, Canada, and Mexico). Paragraph (b) specifies the requirements for all other shipments (exports). This action amends § 905.306, so all Florida citrus fruit shipped to Canada and Mexico is regulated under paragraph (b) as exports, rather than under paragraph (a) as domestic shipments. Section 905.9 of the order was amended by changing the term "continental United States" to "contiguous 48 States and the District of Columbia of the United States". This change is incorporated in § 905.306. Some minor, non-substantive changes are also made for clarity.

This action will enable Florida citrus handlers to ship fruit to Canada and Mexico which meets the grade and size requirements for export shipments in conformance with the recent order amendment. Canada is an important market for Florida grapefruit, and this action will enable handlers to ship smaller sized grapefruit to Canada, which is in demand in that country.

Section 905.400 of the rules and regulations contains provisions which interpret the provisions of paragraph (d) in § 905.52. These provisions pertain to fruit incidentally packed as part of a lot for export when shipping holiday regulations are in effect for domestic shipments. Since the order amendment changed paragraph (d) in § 905.52 by deleting the reference to Canada and Mexico, this rule will make a corresponding changes in § 905.400, as well as several minor, non-substantive changes for clarity.

Both §§ 905.306 and 905.400 are effective on a continuing basis subject to change, suspension, or termination by the Secretary.

The Department's view is that the impact of this action upon handlers and producers will be beneficial because it will enable handlers to provide fruit consistent with the demand conditions in the domestic and export markets. Acceptable grades and sizes of Florida citrus fruit have been shipped to fresh markets over the past several years because handling requirements have been in effect under the marketing order.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented and other available information, it is found that this rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary and contrary to the public interest to give notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action changes the handling requirements for Florida citrus to conform with the recently amended marketing order; (2) Florida citrus growers approved the order amendment which classified Canada and Mexico as export markets; (3) a majority of the Florida citrus handlers have signed the amended marketing agreement; (4) the 1989–90 Florida citrus shipping season began in early September, and the handling regulations should be changed as soon as possible to be of maximum benefit to the industry; and (5) the rule provides a 30-day comment period, and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, grapefruit, oranges, tangelos, tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

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

2. The provisions of § 905.306 are amended by revising the text of paragraphs (a) and (b) preceding Tables I and II to read as follows:

Note: This action will be published in the Code of Federal Regulations.

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) During the period specified in column (2) of Table I, no handler shall ship between the production area and any point outside thereof, in the 48 contiguous States and the District of Columbia of the United States, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in columns (3) and (4) of such table.

* * * * *

(b) During the period specified in column (2) of Table II, no handler shall ship to any destination outside the 48 contiguous States and the District of Columbia of the United States any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in columns (3) and (4) of such table.

* * * * *

3. Section 905.400 is revised to read as follows:

§ 905.400 Interpretation of certain provisions.

(a) In interpreting the provisions of paragraph (d) of § 905.52, the limitation on shipment of any variety of fruit regulated pursuant to paragraph (a)(3) of that section, which was prepared for market during the effective period of such regulation, shall not be deemed to apply to shipment of such variety which was prepared for market incidentally as part of a lot packed for export and shipped following the period of regulation.

(b) Prior to shipment of any variety of fruit so prepared, the handler shall provide the Citrus Administrative Committee or its designated agent a copy of the shipping manifest applicable to such shipment with a notation thereon that the fruit was packed incidentally as part of a lot packed for export.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26092 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 905

[Docket No. FV–89–106IR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Dancy Tangerine Minimum Size Relaxation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule temporarily reduces the minimum size requirements for domestic shipments of Florida Dancy tangerines from 2$^{9}/_{16}$ inches in diameter to 2$^{5}/_{16}$ inches in diameter. This action is based on an analysis of the size composition, maturity level, and current prospective market demand conditions for the 1989–90 Florida Dancy tangerine crop. The Florida Dancy tangerine size relaxation is effective for the period November 27, 1989 through August 19, 1990.

DATES: Effective November 27, 1989. Comments which are received by December 6, 1989, will be considered prior to issuance of the final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMD, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3918.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the

Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 producers of these citrus fruits in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of Florida citrus handlers and a majority of the producers may be classified as small entities.

Section 905.306 of the rules and regulations (7 CFR 905.306) specifies minimum grade and size requirements for Florida Dancy tangerines for both the domestic and export markets. The domestic market requirements are specified in that section in Table I of subsection (a). The domestic market is defined as the 48 contiguous States and the District of Columbia of the United States by an amendment to the marketing order (54 FR 37290, September 8, 1989), which revised §§ 905.9 and 905.52. Section 905.306 has been amended by an interim final rule, published in the **Federal Register** concurrently with this interim final rule, which reflects these changes to the order.

This action reduces the minimum size requirements for domestic shipments of Florida Dancy tangerines to 2 $^{7}/_{16}$ inches in diameter from 2 $^{9}/_{16}$ inches for the period November 27, 1989 through August 19, 1990. This follows the practice of prior years of lowering size requirements for Dancy tangerines each season once the smaller fruit reaches an acceptable level of flavor and maturity. Dancy tangerine shipments normally start by mid-November and peak in mid-December. This action is designed to maximize shipments to fresh market channels. The increased shipments should result in an economic benefit to the handlers and producers.

The Citrus Administrative Committee (committee) unanimously recommended this action based on expected market conditions and a projection of the expected maturity, flavor level, and size composition of that portion of the 1989–90 crop remaining for shipment after November 26. Prior to that date smaller Dancy tangerines are typically too hard and sour to be acceptable to most consumers. Shipment of such fruit could result in consumer disappointment and reduced late season demand for tangerines. By November 27 of this season, the committee expects 2 $^{7}/_{16}$ inch Dancy tangerines to reach the level of maturity and flavor which consumers prefer.

The reduced size requirements for Dancy tangerines are effective only for the 1989–90 shipping season, and the tighter minimum requirements will resume on August 20, 1990, for 1990–91 season shipments. The resumption of tighter requirements recognizes that smaller Dancy tangerines are not sufficiently flavorful early in the season, and is based upon the anticipated maturity, size, quality, and flavor characteristics of the fruit early in the shipping season.

The committee, which administers the marketing order locally, met September 19, 1989, and unanimously recommended this action based on an analysis of current and prospective marketing conditions and the 1989–90 season crop. The committee meets prior to and during each season to review the handling requirements effective, on a continuous basis for each regulated citrus fruit. Committee meetings are open to the public, and interested persons may express their views at these meetings. The U.S. Department of Agriculture reviews committee recommendations and information submitted by the committee and other available information and determines whether modification, suspension, or termination of the handling requirements would tend to effectuate the declared policy of the Act.

Some Florida citrus fruit shipments are exempt from the handling requirements effective under the marketing order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provision. Also, handlers may ship up to two standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base is not subject to the handling requirements.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes size requirements currently in effect for Florida Dancy tangerines; (2) Florida Dancy tangerine handlers are aware of this action which was recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1989–90 season Florida Dancy tangerine crop will be underway by November 27, 1989; and (4) the rule provides a 30-day comment period, and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 905

Florida, Grapefruit, Marketing agreements and orders, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

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

2. The provisions of § 905.306 are amended by revising the entry for Dancy variety of tangerines to read as follows:

Note: This action will be published in the Code of Federal Regulations.

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
*	*	*	*
Tangerines			
Dancy.....	11/27/89–8/19/90.	U.S. No. 1	2 1/16
	On and after 8/20/90.	U.S. No. 1	2 5/16
*	*	*	*

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Deputy Acting Director, Fruit and Vegetable Division.

[FR Doc. 89–26093 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 906

[Docket No. FV–89–100FR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; 1989–90 Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule authorizes expenditures and establishes an assessment rate for the 1989–90 fiscal period for the Texas Valley Citrus Committee (committee), established under Marketing Order No. 906. This action is needed by the committee to enable it to pay marketing order expenses, collect assessments from handlers to pay those expenses, and perform its other duties under the order.

EFFECTIVE DATES: August 1, 1989, through July 31, 1990.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–475–3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 906, both as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are about 115 handlers subject to regulation under the marketing order for oranges and grapefruit grown in Texas, and about 2,500 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

The marketing order for Texas oranges and grapefruit, administered by the U.S. Department of Agriculture (Department), requires that the assessment rate for a particular fiscal period shall apply to all of the assessable commodities handled from the beginning of such period. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are handlers and producers of Texas oranges and grapefruit. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by the expected shipments of Texas oranges and grapefruit in 7/10-bushel cartons. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

The committee met on September 5, 1989, and unanimously recommended approval of expenditures of $1,496,634 for the 1989–90 fiscal period. In comparison, budgeted expenditures were $1,376,634 for 1988–89. Major expenditure items for 1989–90 compared with 1988–89 (in parentheses) are as follows: Program Administration—$150,000 ($153,000); Mexican Fruit Fly Program—$143,634; and Advertising and Promotion—$1,203,000 ($1,080,000). The expenditures for administration are generally comparable to those for the last fiscal period.

The committee also unanimously recommended approval of an assessment rate of $0.12 per 7/10-bushel carton of oranges and grapefruit shipped during the 1989–90 fiscal period. This same rate was in effect during the last fiscal period. Assessment income is estimated at $961,800 based on 8,015,000 cartons of assessable fruit shipped during 1989–90. Interest income is estimated at $30,000 for 1989–90. Also, the committee has $126,000 in prepaid advertising available and it expects its promotion and advertising effort to generate $96,000 from sales of promotional material. In addition, the committee contemplates withdrawing $282,834 from its reserve.

The committee further unanimously recommended that unexpended funds from the 1988–89 fiscal period be placed in its reserve fund. The committee's current reserve, which amounted to $706,486 on August 1, 1989, is well within the maximum authorized under the order.

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

This action adds new § 906.229 and is based on the committee's recommendations and other information. A proposed rule concerning this action was published in the **Federal Register** (54 FR 41249, October 6, 1989). Comments on the proposed rule were invited from interested persons until

October 16, 1989. No comments were received.

After consideration of the information and recommendations submitted by the committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This final rule should be expedited because the committee needs sufficient funds to pay its expenses, which are incurred on a continuous basis during the entire fiscal period. In addition, handlers are aware of the action, which was recommended by the committee at a public meeting. Therefore, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553).

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements and orders, Oranges, Texas.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

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

2. New § 906.229 is added to read as follows:

Note: This section prescribes the annual budget and assessment rate and will not be published in the Code of Federal Regulations.

§ 906.229 Expenses and assessment rate.

Expenses of $1,496,634 by the Texas Valley Citrus Committee are authorized, and an assessment rate of $0.12 per 7/10-bushel carton of assessable oranges and grapefruit is established for the fiscal period ending July 31, 1990. Unexpended funds from the 1988–89 fiscal period may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26095 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 926

[Docket No. FV–89–104]

California Tokay Grapes; Increase in Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate under Marketing Order 926, California Tokay grapes, for the 1989–90 fiscal period. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: April 1, 1989 through March 31, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 93 and Marketing Order No. 926 (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately 10 handlers of California Tokay grapes under this marketing order, and approximately 20 California Tokay grape producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1989–90 fiscal year was prepared by the Tokay Industry Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of grapes. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Tokay grapes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. A recommended budget and rate of assessment is usually acted upon by the committee before the season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

On August 15, 1989, expenses of $13,575 by the Tokay Industry Committee were approved and an assessment rate of 6 cents per 23-pound lug of grapes was established for the fiscal period ending March 31, 1990 (54 FR 34483). The committee conducted a telephone poll on September 6, 1989, and unanimously recommended increasing the assessment rate established for the 1989–90 fiscal year from 6 cents to 7 cents per 23-pound lug. The reason for the assessment rate increase is that Tokay grape production for this season will be less than anticipated. Severe heat and heavy rains have contributed to a large number of Tokay grapes failing to meet fresh market requirements because of sunburn and decay. While fresh market shipments for the 1989 season were projected at 200,000 23-pound lugs, the estimate has been reduced to 175,000 lugs. The original assessment rate would have yielded $12,000 in assessment income if the level of expected fresh market shipments was achieved. With the reduced estimate, such income will fall about $1,500 short of the amount anticipated. Revenues would therefore be $3,075 less than the committee's budgeted expenses of $13,575. However, the committee does not have adequate funds in its reserve to meet this need. The assessment rate increase would yield $1,750 in additional income if the revised level of fresh market shipments is met.

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

A proposed rule was published in the **Federal Register** on October 6, 1989 (54 FR 41251). That document contained a proposal to increase the assessment rate under M.O. 926. That rule provided that interested persons could file comments through October 16, 1989. No comments were received.

It is found that the 1989–90 fiscal period assessment rate increase, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1989–90 fiscal period began in April, and the marketing order requires that the assessment rate apply to all assessable Tokay grapes handled during the fiscal period. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 926

California, Marketing agreements and orders, Tokay grapes.

For the reasons set forth in the preamble, 7 CFR part 926 is amended as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 926 continues to read as follows:

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

2. Section 926.228 is revised to read as follows:

Note: This section prescribes an assessment rate increase and will not be published in the Code of Federal Regulations.

§ 926.228 Expenses and assessment rate.

Expenses of $13,575 by the Tokay Industry Committee are authorized and an assessment rate of $0.07 per 23-pound lug of grapes is established for the fiscal year ending March 31, 1990. Unexpended funds may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26096 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 948

[Docket No. FV–89–080]

Irish Potatoes Grown in Colorado; Amendment to Establish Pack Requirements for Small Sized Potatoes and Revise Handling Requirements for Potatoes for Export

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes pack requirements to permit the shipment of potatoes with a minimum diameter of 1 inch and a maximum diameter of 1¾ inches, that otherwise grade at least U.S. No. 1, to fresh domestic and export markets. The objective of this action is to facilitate the movement of such potatoes to meet current consumer demand. This rule also establishes a minimum grade requirement and revises the minimum size requirement for potatoes for export. The intent of this action is to require that all Colorado Area 2 potatoes, regardless of destination, meet the same minimum quality and size requirements established under the marketing order.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION:

This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948 (7 CFR part 948), both as amended, regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately 100 handlers of Colorado Area 2 potatoes under this marketing order, and approximately 290 potato producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

Shipments of the 1988 Colorado Area 2 potato crop through June, 1989 totalled 13.5 million hundredweight. Typically, about 97 percent of total shipments are to fresh markets and 3 percent to processors.

By far, the majority of the potatoes shipped from the production area are of the Centennial Russet variety, which generally accounts for about 70 percent of the total. Approximately 24 percent is Russet Burbanks, five percent red varieties, and one percent other varieties.

The grade composition of fresh market shipments averages about 65 percent U.S. No. 1, 20 percent U.S. Commercial, 10 percent U.S. No. 2, and five percent U.S. No. 1/Size B.

The handling requirements for fresh market shipments of Colorado Area 2 potatoes are specified in 7 CFR 948.386 (as amended at 53 FR 8145, March 14, 1988; 54 FR 605, January 10, 1989; 54 FR 961, January 11, 1989; and 54 FR 11490, March 21, 1989) and, with the exception of the maturity requirements, are in effect all year long. The current minimum grade, size, and maturity requirements provide that fresh potatoes be shipped under the following conditions. Round variety potatoes must grade at least U.S. No. 2 and be at least 2 inches in diameter. All long type potatoe varieties, except Centennial Russets, must grade at least U.S. No. 2 and be at least 1⅞ inches to diameter. Centennial Russets must grade U.S. No. 2 or better and be at least 2 inches in diameter or 4 ounces in weight. All

varieties of potatoes may be size B if they otherwise grade U.S. No. 1 or better. Size B potatoes have a minimum diameter of 1½ inches and a maximum diameter of 2¼ inches. All varieties of potatoes being exported must be at least 1½ inches in diameter, and are not subject to a minimum grade requirement. Maturity requirements during the period August 25 through October 31 specify that potatoes grading U.S. No. 2 cannot be more than "moderately skinned" and potatoes grading other than U.S. No. 2 cannot be more than "slightly skinned".

This rule revises current requirements to permit the shipment of potatoes ranging in size from 1 inch to 1¾ inches in diameter if such potatoes otherwise grade at least U.S. No. 1. This action also requires potatoes shipped for export to meet the same quality and size requirements as those shipped domestically. These changes were unanimously recommended at a meeting held June 15, 1989, by the Colorado Potato Administrative Committee, San Luis Valley Office (Area 2) (committee), which is responsible for local administration of the marketing order.

In recent years, consumer demand for high quality, small-sized potatoes as a specialty food item has grown significantly. There is a specific market for high quality potatoes that are smaller than a size B, which range in size from 1½ to 2¼ inches in diameter. These smaller potatoes are referred to as "creamers", and when available, often command premium prices. Consumer demand has continued to strengthen for these high quality, smaller potatoes particularly for those that are red-skinned. Virtually all round potatoes grown in Colorado Area 2 are red-skinned, which typically account for approximately five percent of the total crop. Centennial Russets and Russet Burbanks (long white varieties) are the other dominant varieties. There are minimal shipments of round white potatoes from this area.

Given the changing market requirements, the committee has concluded that handlers should be provided the opportunity to ship "creamers", which range in size from 1 to 1¾ inches in diameter if they otherwise grade at least U.S. No. 1. This rule revises the handling regulation accordingly. These "creamers" will have to be segregated from potatoes of larger size, and cannot be commingled in the same container with those larger potatoes. This pack requirement will enable shippers to fill specific orders for the small, high quality potatoes, without adversely affecting the market for larger potatoes.

Currently, potatoes shipped to export markets are required to be at least 1½ inches in diameter and are not subject to a minimum grade requirement. The committee reports that export opportunities for Colorado shippers are limited, but that some production area potatoes are exported to Mexico. Problems have arisen in recent seasons when ungraded potatoes, often of marginal quality, were destined for Mexico but were subsequently diverted and actually sold in U.S. markets. The committee unanimously recommended that potatoes for export meet the same quality and size requirements as are imposed on potatoes sold in domestic markets. This action will provide assurance that only potatoes of acceptable quality and size enter commercial fresh market channels.

Quality assurance is very important to the Colorado Area 2 potato industry. Providing the public with quality potatoes which are appealing and responsive to consumer trends is necessary in order to maintain market share. This rule is expected to foster increased consumption and benefit Colorado Area 2 potato growers and handlers.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area.

In the case of potatoes, the current import regulation (7 CFR 980.1) specifies that import requirements for long types be based on those in effect for potatoes grown in certain designated counties in Idaho, and Malheaur County, Oregon (7 CFR part 945) during each month of the year. The import requirements for round white types are based on those in effect for potatoes grown in Southeastern States from June 5 to July 31 (7 CFR part 953), and on those in effect for potatoes grown in Colorado Area 3 for the remainder of the year (7 CFR part 948).

The quality standards imposed upon imports of red-skinned, round type potatoes are based on that type grown in Washington during the months of July and August (7 CFR part 946). During the remainder of the year, the import requirements are based upon those in effect for potatoes grown in Colorado Area 2 (7 CFR part 948).

Because this rule establishes a minimum size requirement of 1 inch in diameter for all Colorado Area 2 potatoes grading at least U.S. No. 1, and since import requirements for red-skinned varieties are based on those established for potatoes grown in Colorado Area 2, this change is also applicable to imports of red-skinned, round type potatoes from September 1 to June 30 each season.

No change is required in the language of § 980.1 or § 948.386(h) Applicability to imports or the findings and the determinations made therein.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Notice of this action was given in the August 21, 1989, **Federal Register** (54 FR 34524) providing interested persons until September 20, 1989, to file written comments. No comments were received.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the shipping season for Colorado Area 2 potatoes has already begun and this rule, in order to be of maximum benefit, should apply to as many shipments as possible. Additionally, interested persons were provided a 30-day comment period with which to respond to the proposed rule.

List of Subjects in 7 CFR Part 948

Colorado, Marketing agreements and orders, Potatoes.

For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

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

2. Section 948.386 is amended by revising paragraph (a)(5) and adding a new paragraph (a)(6) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 948.386 Handling regulation.

* * * * *

(a) * * *

(5) All varieties. 1-inch minimum diameter to 1¾ inches maximum diameter, if at least U.S. No. 1 grade.

(6) None of the above categories of potatoes identified in paragraphs (a)(1) through (a)(5) of this section may be comingled in the same bag or other container.

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-26101 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 955

[Docket No. FV-89-101]

Georgia Vidalia Onions; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 955 for the 1989–90 fiscal period. Authorization of this budget will allow the Vidalia Onion Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: September 16, 1989 through September 15, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 955 and Marketing Order No. 955 (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

There are approximately 160 handlers and 260 producers of Vidalia onions in that portion of Georgia covered under this marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1989–90 fiscal year was prepared by the Vidalia Onion Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of Vidalia onions. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Vidalia onions. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on August 31, 1989, and unanimously recommended a 1989–90 budget of $157,808. Last season's budget was $150,000. Major expenses items include increases in committee staff salaries and marketing development and production research projects.

The committee also unanimously recommended an assessment rate of $0.10 per 50-pound bag, the same rate as last season's. This rate, when applied to anticipated shipments of 1.5 million 50-pound bags of onions, would yield $150,000 in assessment revenue. This amount when added to $7,808 from the reserve fund would be adequate to cover budgeted expenses.

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

A proposed rule was published in the **Federal Register** on October 6, 1989 (54 FR 41252). That document contained a proposal to add § 955.202 to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through October 16, 1989. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1989–90 fiscal period began in mid-September, and the marketing order requires that the rate of assessment apply to all assessable Vidalia onions handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 955

Georgia, Marketing agreements and orders, Vidalia onions.

For the reasons set forth in the preamble 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

1. The authority citation for 7 CFR part 955 continues to read as follows:

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

2. A new § 955.202 is added to read as follows:

Note: This section prescribes the annual expenses and assessment rate and will not be published in the Code of Federal Regulations.

§ 955.202 Expenses and assessment rate.

Expenses of $157,808 by the Vidalia Onion Committee are authorized and an assessment rate of $0.10 per 50-pound bag of Vidalia onions is established for the fiscal period ending September 15, 1990. Unexpended funds may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-26097 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 966

[Docket No. FV-89-102]

Florida Tomatoes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 966 for the 1989–90 fiscal period. Authorization of this budget will allow the Florida Tomato Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1989 through July 31, 1990.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 125 and Marketing Order No. 966 [7 CFR part 966], regulating the handling of tomatoes grown in Florida. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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

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

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

There are approximately 100 handlers and 180 producers of Florida tomatoes covered under this marketing order. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The budget of expenses for the 1989–90 fiscal year was prepared by the Florida Tomato Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of tomatoes. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

The committee met on September 7, 1989, and unanimously recommended a 1989–90 budget of $1,613,500. Last season's budget was $1,537,000. The major expense allocation is for education and promotion projects, which at a total of $1,090,000 accounts for about 70 percent of the budget. Other major expense items include increases for production research projects, committee staff salaries, employee health insurance and retirement programs, office rent and social security taxes.

The committee also unanimously recommended an assessment rate of $0.025 per 25-pound container, the same rate as last year's. This rate, when applied to anticipated shipments of 58.2 million 25-pound containers, would yield $1,455,000 in assessment revenue. This amount when added to $45,000 of other income (e.g., interest revenue) and $113,500 from the reserve would be adequate to cover budgeted expenses. Additional reserve funds may be used to meet any deficit in assessment income.

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

A proposed rule was published in the Federal Register on October 6, 1989 [54 FR 41253]. That document contained a proposal to add § 966.227 to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through October 16, 1989. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1989–90 fiscal period began in August, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable tomatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register [5 U.S.C. 553].

List of Subjects in 7 CFR Part 966

Florida, Marketing agreements and orders, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

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

2. A new section 966.227 is added to read as follows:

Note: This section prescribes the annual expenses and will not be published in the Code of Federal Regulations.

§ 966.227 Expenses and assessment rate.

Expenses of $1,613,500 by the Florida Tomato Committee are authorized and an assessment rate of $0.025 per 25-pound container of tomatoes is established for the fiscal period ending July 31, 1990. Unexpended funds may be carried over as a reserve.

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26098 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 981

[FV–89–089FR]

Expenses and Assessment Rate for Almonds Grown in California

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate for the 1989–90 crop year under the marketing agreement and order for California almonds. Funds to administer this program are derived from assessments on handlers. This action is needed in order for the Almond Board of California (Board), which is responsible for local administration of the order, to have sufficient funds to meet the expenses of operating the program. Expenses are incurred on a continuous basis.

EFFECTIVE DATES: July 1, 1989, through June 30, 1990.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC, 20090–6456; telephone: (202) 475–3923.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 981 (7 CFR part 981), both as amended, regulating the handling of almonds grown in California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

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

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

There are approximately 100 handlers of California almonds, and there are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of almond handlers and producers may be classified as small entities.

The marketing order for California almonds requires that the assessment rate for a particular crop year shall apply to all assessable almonds handled from the beginning of such year. An annual budget of expenses is prepared by the Board and submitted to the U.S. Department of Agriculture (USDA) for approval. The members of the Board are handlers and producers of regulated almonds. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of assessable almonds. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Board shortly after July 1 of each crop year, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the Board will have funds to pay its expenses.

The Board met on July 21, 1989, and unanimously recommended 1989–90 marketing order program expenditures of $12,339,618 and an assessment rate for the 1989–90 crop year of 2.75 cents per pound (kernelweight basis). The Board also recommended that handlers should be eligible to receive credit for their own marketing promotion activities for up to 2.50 cents of this 2.75-cent-per-pound assessment rate.

The 2.75-cent-per-pound 1989–90 assessment rate compares with a 1988–89 assessment rate of 2.65 cents per pound. While the 2.50-cent-per-pound creditable rate is the same as the 1988–89 rate, the 0.25-cent-per-pound non-creditable portion of the total assessment, which handlers must pay to the Board, is 0.10 cent higher than the 0.15-cent-per-pound 1988–89 rate.

Projected expenses of $12,339,618 for 1989–90 compare with 1988–89 budgeted expenses of $16,130,309. Budget categories for 1989–90 are $890,200 for administrative expenses, $352,018 for production research, $937,700 for public relations, and $59,700 for the 1990 crop estimate. Comparable actual expenditures for the 1988–89 crop were $779,561, $197,101, $996,900, and $56,800, respectively. The remaining $10,100,000 of proposed 1989–90 expenses is the estimated amount which handlers would spend on their own marketing promotion activities based on a projected 1989–90 marketable California almond production of 404,000,000 kernelweight pounds and assumes that all handlers receive full credit against their 2.50-cent-per-pound creditable assessment obligations. For the 1988–89 crop year, $13,925,000 was budgeted for handler marketing promotion activities based on a projected marketable production of 557,000,000 kernelweight pounds. An actual figure is not yet available because handlers have until December 31, 1989, to complete marketing promotion activities for which they may receive credit toward their 1988–89 crop year creditable assessment obligations.

While this final action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. Further, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not

have a significant economic impact on a substantial number of small entities.

This action adds a new § 981.336 and is based on Board recommendations and other available information. A proposed rule was published in the Federal Register on August 23, 1989 (54 FR 35000). Comments on the proposed rule were invited from interested persons until September 5, 1989. One comment was received from Brian C. Leighton, counsel to Cal-Almond, Inc. Mr. Leighton objected to the proposed rule for several reasons as discussed below.

Mr. Leighton stated that the length of the 10-day comment period provided in the proposed rule was insufficient due to the fact that considerable objection was expressed at the July 29, 1989, meeting of the Board's Public Relations and Advertising Committee concerning the 2.5-cent-per-pound creditable portion of the recommended assessment rate. However, the minutes of the July 20, 1989, meeting of the Public Relations and Advertising Committee meeting reflect that only three individuals indicated dissatisfaction with the 2.5-cent-per-pound creditable rate or the creditable promotion and advertising program, two of which were Mr. Leighton and his client, Cloyd F. Angle of Cal-Almond, Inc. On the other hand, the 2.5-cent-pound rate was unanimously recommended by both the Public Relations and Advertising Committee and the full Board.

Mr. Leighton also indicated that the 10-day comment period did not meet the requirements of either the Administrative Procedure Act (APA) or USDA's Departmental Regulation 1512–1. However, the APA only requires that a comment period be provided and does not require that the comment period be of any specific length. Departmental Regulation 1512–1 provides that a comment period of less than 30 days may be used when an emergency or other good reason exists. A finding was included in the proposed rule that a comment period of less than 30 days was appropriate because the Board must have sufficient funds to pay its expenses, which are incurred on a continuous basis. The board normally sends out its first assessment notice to handlers in November of each crop year, and this final rule should be in effect as soon as possible.

Concerning the individual budget categories discussed in the proposed rule, Mr. Leighton indicated that USDA did not attempt to analyze whether these expenses are reasonable and necessary. This is incorrect. While USDA relied on the Board, whose members are familiar with the costs for goods, services, and personnel in their local area, to recommend an appropriate budget, USDA carefully reviewed all recommended expenses on a line-by-line basis. For example, the administrative portion of the Board's 1989–90 recommended budget contained 33 separate items, including items such as salaries, rent, postage, and publications. Also, itemized budget sheets were submitted by the Board for each individual production research project and for the public relations program. USDA reviewed these items on a line-by-line basis to determine that all recommended expenses were reasonable and necessary for the maintenance and functioning of the Board and for activities authorized under the order.

In his comment, Mr. Leighton contested the order's creditable promotion and advertising program, providing for expenditures by handlers for domestic promotion and advertising. Mr. Leighton submitted a table which indicated that from the 1982–83 crop year through the 1988–89 crop year, creditable assessments totaled $74,693,350. Mr. Leighton stated that of this amount, $59,754,680 was spent on domestic advertising. Mr. Leighton's table also indicated that domestic shipments during that period increased by a cumulative total of 71 million pounds for all years over an annual base of 128 million pounds—the amount of almonds shipped domestically during the 1982–83 crop year. Mr. Leighton concluded that the industry has spent over 80.00 cents per pound for each increased pound sold domestically since 1982.

This analysis looks only at the increase in domestic shipments over the 1982–83 base year and ignores total domestic shipments. The analysis also does not consider how domestic shipments would have been affected if there was no creditable advertising and promotion program. Also, it should be noted that the 71-million-pound increase in domestic shipments has been achieved while the creditable assessment rate has remained constant at 2.5 cents per pound.

Mr. Leighton stated that assessments paid to the Board by handlers in lieu of receiving credit are not used by the Board to advertise almonds. This statement is inaccurate. In fact, all of the money paid by handlers under the creditable assessment rate has been used by the Board to promote almonds. The order provides authority for marketing promotion activities, including paid advertising, and handlers may receive credit against the creditable portion of their assessments for their own marketing promotion activities, including paid advertising. While the Board has chosen to spend the money paid to it to promote almonds by means other than paid media advertising, it nevertheless has used these assessment funds for marketing promotion activities.

Mr. Leighton also quoted from an appendix to USDA's "Marketing Agreement and Order Operations Manual" which stated that USDA is not opposed to Federal legislation authorizing domestic food commodity research and promotion programs containing provisions whereby assessments collected from producers are refunded to those producers who do not wish to participate. Mr. Leighton requested that USDA comply with its own policy statement and permit Cal-Almond, Inc., an exemption from the 1989–90 crop year creditable advertising assessment or a refund on that assessment. However, that appendix quoted by Mr. Leighton reflected the legislative guidelines that applied to proposed legislation for commodity research and promotion programs. The almond marketing order is established pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and this Act does not provide for refunding assessments to handlers who do not wish to participate in the program.

Finally, Mr. Leighton contended in his comment that any provisions of the order assessing handlers for the purpose of advertising almonds or provisions of the order allowing handlers to promote or advertise almonds on their own in lieu of paying assessments to the Board are a violation of the First Amendment rights of Cal-Almond, Inc. It is USDA's position that all provisions of the order are authorized under the Act and that the order in no way infringes upon the First Amendment rights of Cal-Almond, Inc.

For the reasons stated above, Mr. Leighton's objections are denied.

After consideration of the information and recommendations submitted by the Board and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This action should be expedited because the Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. In addition, handlers are aware of this action, which was recommended by the Board at a public meeting. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (15 U.S.C. 553).

List of Subjects in 7 CFR Part 981

Almonds, California, and Marketing agreements and orders.

PART 981—ALMONDS GROWN IN CALIFORNIA

For the reasons set forth in the preamble, 7 CFR part 981 is amended a follows: [This section will not appear in the code of Federal Regulations.]

1. The authority citation for 7 CFR part 981 continues to read as follows:

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

2. Section 981.336 is added to read as follows:

§ 981.336 Expenses and assessment rate.

Expenses of $12,339,618 by the Almond Board of California are authorized for the crop year ending June 30, 1990. An assessment rate for that crop year payable by each handler in accordance with § 981.81 is fixed at 2.75 cents per pound of almonds (kernelweight basis) less any amount credited pursuant to § 981.41, but not to exceed 2.50 cents per pound of almonds (kernelweight basis).

Dated: November 1, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–26099 Filed 11–3–89; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1475

Emergency Livestock Assistance

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This action adopts as a final rule a proposed rule published in the Federal Register on May 19, 1989 (54 FR 21625), which proposed amendments to the Emergency Livestock Assistance Regulations to allow eligible Indian livestock owners to participate in the livestock feed programs at the same time as they are receiving donated Commodity Credit Corporation grain under the Indian Acute Distress Donation Program (IADDP). Previously, eligible Indians could receive assistance under either the livestock feed programs or the IADDP but not under both programs at the same time.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Clarence B. Domire, Program Specialist, Emergency Operations and Livestock Program Division, Agricultural Stabilization and Conservation Service, Department of Agriculture, (USDA) P.O. Box 2415, Washington, DC 20013. Telephone (202) 447–7673.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulations 1512–1 and Executive Order 12291 and has been classified "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more. The title and number of the Federal Assistance Program to which this final rule applies are Title—Commodity Loans and Purchases, Number 10.051 as found in the Catalog of Federal Domestic Assistance.

An Environmental Evaluation with respect to the livestock feed programs has been completed. It has been determined that this action is not expected to have any significant impact on the quality of human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed. This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Background

The regulations at 7 CFR part 1475 currently set forth the regulations used to administer the livestock feed programs. These programs are authorized by the Agricultural Act of 1949 (the 1949 Act) as amended by the Disaster Assistance Act 1988 (Public Law 100–387). Sections 605, 606, and 607 of the 1949 Act provide that the Secretary of Agriculture shall make one or more of certain specified programs available to eligible livestock producers if a livestock emergency exists in a State, county, or area. These programs include the Emergency Feed Program (EFP) whereby livestock producers receive cost-share payments on purchased feed and the Emergency Feed Assistance Program (EFAP) whereby livestock producers can purchase Commodity Credit Corporation (CCC)-owned grain at reduced prices.

The Indian Acute Distress Donation Program (IADDP) is administered in accordance with section 407 of the 1949 Act; the CCC Charter Act, as amended; and Executive Order 11336. Authority to implement the program is delegated to the Administrator, Agricultural Stabilization and Conservation Service. The Bureau of Indian Affairs (BIA), Department of the Interior, may request the program be implemented upon a determination that the economic distress of the needy members of an Indian tribe is materially increased by severe drought, flood, hurricane, blizzard or other uncontrollable catastrophe affecting land utilized by members of such tribe for grazing livestock. Assistance is in the form of donated CCC-owned feed grains with freight and handling paid by CCC to transport the grain to one or more central distribution points. The program is administered at the local level by the Tribal Council under the supervision of local authorities of the BIA, Department of the Interior.

Previously, Indian livestock owners who were eligible to receive assistance under both EFP or EFAP and the IADDP had to choose to participate in the IADDP or in the EFP or EFAP. Under the recently revised EFP or EFAP regulations, eligible livestock owners have a choice of two options. Under one option, livestock owners will: (a) Include all their eligible livestock, (b) have their loss reduced by, and their feed on hand increased by, the feed value of any payment received from Federal Crop Insurance Corporation (FCIC) crop insurance, (c) have a maximum daily feed allowance of 10 pounds feed grain equivalent (FGE) per day per animal unit, and (d) receive an EFP cost-share rate of 50 percent not to exceed 5 cents per pound FGE for purchased feed. Under the other option, livestock owners will: (a) Choose whether to include or exclude nongrazing livestock on their application, (b) not have their application adjusted for any benefits received from FCIC crop insurance payments, (c) have a maximum daily feed allowance of 12.5 pounds FGE per day per animal unit, and (d) receive an EFP cost-share rate of 42.5 percent not to exceed 5 cents per pound FGE for purchased feed. If the livestock owner elects to purchase CCC-owned grain under the EFAP, the remaining allowance will be reduced by the result of multiplying the pounds of feed grain purchased times 1.176. Grain purchased under the EFAP will continue to be purchased at 50 percent of the posted county price. All other provisions of the EFP and EFAP will be treated the same under both options. Under the IADDP, eligible Indian livestock owners can receive 4 pounds of donated CCC-

owned feed grain per day per animal unit.

This final rule provides that eligible Indian livestock owners can receive 4 pounds of feed grain under the IADDP and can also receive a maximum 6 pounds FGE under Option 1 or 8.5 pounds FGE under Option 2 under the revised EFP or EFAP provided they meet the eligibility requirements for both programs. With this combination, eligible Indian livestock owners can obtain a maximum of 10 or 12.5 pounds FGE per animal unit per day depending on the option elected, including 4 pounds of donated feed grain under the IADDP and a maximum 6 or 8.5 pounds FGE under the EFP or EFAQP depending on the option chosen.

Comments

A total of 5 comments were received concerning the proposed rule. All comments were in favor of the proposed rule. Comments were received from a Senator, an area office of the Bureau of Indian Affairs, 2 representatives of Indian reservations, and an individual Indian.

The information collection requirements of this subpart has been approved by the Office of Management and Budget (OMB) for the purposes of the Paperwork Reduction Act and OMB Number 0560–0029 has been assigned to 7 CFR part 1475.

List of Subjects in 7 CFR Part 1475

Assistance grant programs—agriculture livestock.

Final Rule

Accordingly, the proposed rule published on May 19, 1989 (54 FR 21625), is adopted as a final rule with the following changes:

PART 1475—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for part 1475 is revised to read as follows:

Authority: 7 U.S.C. 1427, and 1471–1471j; 15 U.S.C. 714b and 714c.

2. Section 1475.3 is amended by revising the following definition to read as follows:

§ 1475.3 Definitions.

* * * * *

"Daily allowance" means for all livestock, except fish for food, 10 pounds or 12.5 pounds of FGE (6 or 8.5 pounds for eligible Indian-owned livestock if the eligible Indian owner is receiving grain from CCC under the Indian Acute Distress Donation Programs) per day per animal unit as provided in § 1475.6 of this subpart, or lesser amount as determined by the State or county ASC committee, except that for the 1989 and subsequent years; livestock feed crop losses due to a natural disaster, the producer may elect to take one and only one of the options available.

* * * * *

3. Section 1475.6 is amended by revising paragraphs (d)(5), (e)(13) and (g)(1)(i)(A) to read as follows:

§ 1475.6 Application and approval.

* * * * *

(d) * * *

(5) Any loss of production otherwise computed shall be reduced due to the receipt of other government benefits, except as provided in paragraph (c)(3)(iii)(A)–(E) of this section for FCIC crop insurance indemnity payments and 1988 and 1989 crop disaster payments which are paid the owner with respect to livestock feed normally grown by the owner provided no reduction shall be made for CCC-owned grain that is donated to eligible Indian livestock owners under the Indian Acute Distress Donation Program. * * *

(e) * * *

(13) Any donated feed on hand except for feed grain donated by CCC under the Indian Acute Distress Donation Program.

* * * * *

(g)(1)(i) * * *

(A) The smaller of 10 or 12.5 pounds, of FGE (6 or 8.5 pounds for eligible Indian owned livestock if the eligible Indian owner is receiving donated grain from CCC under the Indian Acute Distress Donation Programs) per day per animal unit, as applicable, in accordance with paragraph (c) of this section, or a lesser quantity determined to be adequate by the State or county ASC committee, times:

* * * * *

Signed at Washington, DC on October 31, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89–26130 Filed 11–3–89; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 73

[Order No. 1373–89]

Notification of Obligations of Agents of Foreign Governments

AGENCY: Department of Justice.

ACTION: Notice of final rulemaking.

SUMMARY: The regulations define the notification obligations of agents of foreign governments under 18 U.S.C. 951. They set forth the date, place, time, manner and contents of the notification required by the statute, and provide specific guidance for foreign law enforcement personnel and other agents requiring special attention. In FR Doc. 89–17344 (54 FR 30910, July 25, 1989), the Department of Justice published a Notice of Proposed Rulemaking for public notice and comment.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph E. Clarkson, Chief, Registration Unit, Internal Security Section, Criminal Division, United States Department of Justice, 1400 New York Avenue NW., Washington, DC 20530, telephone (202) 786–4923.

SUPPLEMENTARY INFORMATION: The regulations provide guidance to agents of foreign governments who must notify the Attorney General of their agency status, and the date, place, time, manner and content of the required notification. The regulations specify the custodian of these records in a manner calculated to assure timely notice to the Departments and Agencies most concerned.

This is not a major rule within the meaning of Exec. Order No. 12291. It will not have a significant effect on a substantial number of small businesses.

List of Subjects in 28 CFR Part 73

Foreign relations.

Accordingly, title 28, chapter I, of the Code of Federal Regulations is amended by adding a new part 73 to read as follows:

PART 73—NOTIFICATIONS TO THE ATTORNEY GENERAL BY AGENTS OF FOREIGN GOVERNMENTS

Sec.

Authority: 18 U.S.C. 951, 28 U.S.C. 509, 510.

§ 73.1 Definition of terms.

(a) The term "agent" means all individuals acting as representatives of, or on behalf of, a foreign government or official, who are subject to the direction or control of that foreign government or official, and who are not specifically excluded by the terms of the Act or the regulations thereunder.

(b) The term "foreign government" includes any person or group of persons

exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been regarded by the United States as a governing authority.

(c) The term "prior notification" means the notification letter, telex, or facsimile must be received by the addressee named in § 73.3 prior to commencing the services contemplated by the parties.

(d) When used in 18 U.S.C. 951(d)(1), the term "duly accredited" means that the sending State has notified the Department of State of the appointment and arrival of the diplomatic or consular officer involved, and the Department of State has not objected.

(e) When used in 18 U.S.C. 951(d) (2) and/or (3), the term "officially and publicly acknowledged and sponsored" means that the person described therein has filed with the Secretary of State a fully-executed notification of status with a foreign government; or is a visitor, officially sponsored by a foreign government, whose status is known and whose visit is authorized by an agency of the United States Government; or is an official of a foreign government on a temporary visit to the United States, for the purpose of conducting official business internal to the affairs of that foreign government; or where an agent of a foreign government is acting pursuant to the requirements of a Treaty, Executive Agreement, Memorandum of Understanding, or other understanding to which the United States or an agency of the United States is a party and which instrument specifically establishes another mechanism for notification of visits by agents and the terms of such visits.

(f) The term "legal commercial transaction," for the purpose of 18 U.S.C. 951(d)(4), means any exchange, transfer, purchase or sale, of any commodity, service or property of any kind, including information or intellectual property, not prohibited by federal or state legislation or implementing regulations.

§ 73.2 Exceptions.

(a) The exemption provided in 18 U.S.C. 951(d)(4) for a "legal commercial transaction" shall not be available to any person acting subject to the direction or control of a foreign government or official where such person is an agent of the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania or Cuba; or has been convicted of or entered a plea of nolo contendere to any offense under 18 U.S.C. 792–799, 831 or 2381, or under section 11 of the Export Administration Act of 1979, 50 U.S.C. App. 2410.

(b) The provisions of 18 U.S.C. 951(e)(2)(A) do not apply if the Attorney General, after consultation with the Secretary of State, determines and reports to Congress that the national security or foreign policy interests of the United States require that these provisions do not apply in specific circumstances to agents of such country.

(c) The provisions of 18 U.S.C. 951(e)(2)(B) do not apply to a person described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of nolo contendere.

§ 73.3 Form of notification.

(a) Notification shall be made by the agent in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of the Registration Unit of the Criminal Division, except for those agents described in paragraphs (b) and (c) of this section. The document shall state that it is a notification under 18 U.S.C. 951, and provide the name or names of the agent making the notification, the firm name, if any, and the business address or addresses of the agent, the identity of the foreign government or official for whom the agent is acting, and a brief description of the activities to be conducted for the foreign government or official and the anticipated duration of the activities. Each notification shall contain a certification, pursuant to 28 U.S.C. 1746, that the notification is true and correct.

(b) Notification by agents engaged in law enforcement investigations or regulatory agency activity shall be in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of Interpol-United States National Central Bureau. Notification by agents engaged in intelligence, counterintelligence, espionage, counterespionage or counterterrorism assignment or service shall be in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of the nearest FBI Legal Attache. In case of exceptional circumstances, notification shall be provided contemporaneously or as soon as reasonably possible by the agent or the agent's supervisor. The letter, telex, or facsimile shall include the information set forth in paragraph (a) of this section.

(c) Notification made by agents engaged in judicial investigations pursuant to treaties or other mutual assistance requests or letters rogatory, shall be made in the form of a letter, telex, or facsimile addressed to the Attorney General, directed to the attention of the Office of International Affairs, Criminal Division. The letter, telex, or facsimile shall include the information set forth in paragraph (a) of this section.

(d) Any subsequent change in the information required by paragraph (a) of this section shall require a notification within 10 days of the change.

(e) Notification under 18 U.S.C. 951 shall be effective only if it has been done in compliance with this section, or if the agent has filed a registration under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*, which provides the information required by paragraphs (a) and (d) of this section.

§ 73.4 Partial compliance not deemed compliance.

The fact that a notification has been filed shall not necessarily be deemed full compliance with 18 U.S.C. 951 or these regulations on the part of the agent; nor shall it indicate that the Attorney General has in any way passed on the merits of such notification or the legality of the agent's activities; nor shall it preclude prosecution, as provided for in 18 U.S.C. 951, for failure to file a notification when due, or for a false statement of a material fact therein, or for an omission of a material fact required to be stated therein.

§ 73.5 Termination of notification.

(a) An agent shall, within 30 days after the termination of his agency relationship, advise the Attorney General of such change.

(b) All notifications pursuant to this part will automatically expire five years from the date of the most recent notification.

(c) An agent, whose notification expires pursuant to (b) above, must file a new notification within 10 days if the relationship continues.

§ 73.6 Relation to other statutes.

The filing of a notification under this section shall not be deemed compliance with the requirements of the Foreign

Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*, nor compliance with any other statute.

Dated: October 26, 1989.

Dick Thornburgh,

Attorney General.

[FR Doc. 89-26062 Filed 11-3-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-012A]

RIN 1218-AA53

Control of Hazardous Energy (Lockout/Tagout)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; suspension of effective date.

SUMMARY: OSHA's final rule on Control of Hazardous Energy (Lockout/Tagout), which was issued on September 1, 1989 (54 FR 36644), was originally scheduled to become effective 60 days after publication, or October 31, 1989. For reasons set forth below, OSHA is hereby suspending the effective date of that final rule until January 2, 1990 to provide an extension of time for employers to come into compliance with the final rule.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, Room N3649, U.S. Department of Labor, Washington, DC 20210, (202)-523-8148.

SUPPLEMENTARY INFORMATION: On September 1, 1989 (54 FR 36644), OSHA issued its final rule on Control of Hazardous Energy (Lockout/Tagout), 29 CFR 1910.147. The final rule was scheduled to become effective 60 days after publication, or October 31, 1989. The paperwork requirements of the final rule had not been approved by the Office of Management and Budget (OMB) at the time the final rule was issued. OMB received OSHA's request for review of the paperwork requirements on September 21, 1989, and issued its approval on September 26, 1989. OSHA published a supplemental notice to that effect on October 17, 1989 (54 FR 42498). Because the OMB approval was received prior to the original effective date of the final rule, the effective date of October 31, 1989 was not affected.

Since the final rule was published, OSHA has received several requests for extension of the period for compliance, together with at least one petition for a temporary variance from the standard. After carefully evaluating these requests, and in consideration of the information discussed below, OSHA has determined that there is good cause to further delay the effective date of the final rule.

As was noted in the September 1, 1989 final rule, the lockout/tagout standard requires employers to develop and utilize an energy control program and documented procedures, and to provide employees with training in the utilization of these energy control measures. Because this is a "generic" rule, which applies to a wide range of machines and equipment, the employer must tailor the general provisions of the standard to the particular energy control situations encountered in that employer's workplace. In addition, the final rule adds various hardware requirements for lockout and tagout devices. Because of the breadth of the rule and the elements necessary for developing and implementing an effective energy control program, OSHA now believes that the original October 31, 1989 effective date has not provided adequate time for employers to come into compliance with the standard, and that an additional two month delay in the effective date is warranted.

Although the effective date of the standard has been delayed, as noted above, OSHA will still require employees to be protected from the unexpected energization or start up of machines and equipment during servicing and maintenance operations, and will enforce this employer obligation under section 5(a)(1) of the Occupational Safety and Health Act (the "general duty clause" of the Act). This provision of the Act requires the employer to provide a workplace and place of work which is free from recognized hazards which are, or are likely, to cause death or serious physical harm.

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. It is issued under the authority of sections 4, 6(b), and 8(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR part 1911.

Accordingly, the requirements of the Lockout/Tagout standard, 29 CFR 1910.147, are suspended until January 2, 1990.

Signed at Washington, DC, this 31st day of October 1989.

G.F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 89-26022 Filed 11-3-89; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 159a

[DoD 5200.1-R]

Information Security Program Regulation; Correction

AGENCY: Department of Defense.

ACTION: Final rule; correction.

SUMMARY: This document corrects an administrative error in a final rule on information security program regulation previously published in the **Federal Register** on June 27, 1989 (54 FR 26958). It incorrectly designated paragraph 159a.57(c), "Confidential Information". The correct designation is paragraph 159a.57(d).

FOR FURTHER INFORMATION CONTACT: Ms. L. M. Bynum, Correspondence and Directives Directorate, Pentagon, Washington, DC 20301-1155, telephone (202) 697-4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 159a

Classified information; Security.

Accordingly, 32 CFR part 159a is amended as follows:

PART 159a—[AMENDED]

1. The authority citation for part 159a continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 159a.57 is amended by redesignating paragraph 159a.57(c), "Confidential Information" as paragraph 159a.57(d).

Dated: October 31, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26003 Filed 11-3-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AC66

Health Professional Scholarship Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; Correction.

SUMMARY: The Department of Veterans Affairs (VA) is correcting previously published information concerning the Health Professional Scholarship Program.

EFFECTIVE DATE: May 20, 1988.

FOR FURTHER INFORMATION CONTACT: Charlotte Beason, Ed.D., Director, Health Professional Scholarship Program (14N), Office of Academic Affairs, Veterans Health Services and Research Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3588.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 7, 1989 (54 FR 28673), VA published a final regulation amending 38 CFR 17.600-17.611 concerning the amendments to the law governing the VA health professional scholarship program made by the Veterans' Benefits and Services Act of 1988. In that final regulation, in § 17.610 a formula was inadvertently misstated and is hereby corrected.

Dated: October 27, 1989.

Donald R. Howell,

Acting Chief, Directives Management Division.

PART 17—[AMENDED]

In 38 CFR Part 17, MEDICAL, the formula in § 17.160(c) is corrected to read as follows:

§ 17.610 Failure to comply with terms and conditions of participation.

* * * * *

(c) * * *

$$A = 30 \left(\frac{t - s}{t} \right)$$

* * * * *

[FR Doc. 89-25994 Filed 11-3-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3628-9]

Approval and Promulgation of Implementation Plans; Indiana

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

ACTION: Notice of final rulemaking.

SUMMARY: In a September 14, 1988, (53 FR 35527) notice of proposed rulemaking, USEPA proposed to approve a submission by the State of Indiana as a revision to the Indiana State Implementation Plan (SIP) for ozone. This revision provides for an alternative compliance schedule for Uniroyal Plastics Company, Incorporated (Uniroyal), which is located in St. Joseph County, Mishawaka, Indiana. This SIP revision extended the compliance for Uniroyal from December 31, 1986, until November 7, 1987, allowing time for Uniroyal's reformulation of its coatings for two fabrics coaters and four vinyl printers.

Today's notice is approving this revision because the State has demonstrated that Uniroyal's compliance date extension is expeditious and will not interfere with reasonable further progress toward attainment.

DATE: This action will be effective December 6, 1989.

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

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

Office of Air and Management Department of Environmental Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206-6015.

A copy of today's revision to the Indiana SIP is available for inspection at: U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20408.

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

SUPPLEMENTARY INFORMATION: On July 23, 1987, the Indiana Department of Environmental Management submitted to USEPA a request for a site-specific revision to Indiana's ozone SIP. This revision consists of compliance date extensions until November 7, 1987, for Uniroyal's two fabric coaters and four vinyl printers at its Mishawaka plant, located in St. Joseph County, Indiana. St. Joseph County is designated as an urban nonattainment area for ozone.

Under the existing federally approved SIP, each coater and each vinyl printer is subject to VOC control requirements contained Rule 325 IAC 8-2-12. Rule 325 IAC 325 8=1.1-3 requires compliance with the limits by December 31, 1986. USEPA approved these rules as meeting the reasonably control technology (RACT) requirements of the Clean Air Act on February 10, 1986 (51 FR 4912).

Compliance Date Extension Policy

USEPA's August 7, 1986, memorandum, "Policy of SIP Revisions Requesting Compliance Date Extension for VOC Sources", from J. Craig Potter, then Assistant Administrator for Air and Radiation, states that a compliance date extension must be as expeditious as practicable in order to be approved.

In addition, this policy requires the State to demonstrate that the extension will not interfere with the timely attainment and maintenance of the ozone standard and, where relevant, "Reasonably Further Progress" (RFP) towards timely attainment.

USEPA Action

There were no Comments on the September 14, 1988, notice. USEPA has determined that the compliance date extension for Uniroyal is expeditious and will not interfere with RFP toward the ozone standard. Therefore, USEPA is approving the revision. The Office of Management and Budget has exempted this rule form 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 (60 days from date of publication). This action may not be challenged later in the proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each

request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table Three action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table Two and Three SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years.

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Ozone, Hydrocarbon, Carbon monoxide, Incorporation by reference, Intergovernmental Offices.

Note: Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Basil G. Constantelos,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter 1, part 52, is amended as follows:

PART 52—[AMENDED]

Subpart P—Indiana

1. The authority citation of part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642

2. Section 52.770 is amended by adding paragraph (c)(74) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(74) On July 23, 1987, the Indiana Department of Environmental Management submitted to USEPA a request for a site-specific revision to Indiana's ozone SIP. This revision consists of compliance date extensions until November 7, 1987, for Uniroyal's two fabric coaters and four vinyl printers at its Mishawaka plant, located in St. Joseph County, Indiana.

(i) Incorporation by reference.

(A) Air pollution Operation Permits Numbers: U 2 33–15A, U 2 34–23, U 2 33–14C, U 2 34–3C, U 2 33–16, U 2 33–18, Date issued December 1, 1988, and Date Expires December 1, 1990.

[FR Doc. 89–26018 Filed 11–3–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL 3677–7]

North Carolina SO_2 Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; clarification of state implementation plan.

SUMMARY: On December 7, 1982 (47 FR 54934) EPA approved for all but 24 sources a revision to the North Carolina regulation 15 NCAC 2D.0516 which relaxed the sulfur dioxide (SO_2) limit for fuel burning sources from 1.6 pounds per million BTU heat input (lb/MBTU) to 2.3 lb/MBTU. Some of these sources are undergoing additional analysis in order for EPA to approve the relaxed limit. However, the Hoechst Celanese Corporation (formerly Fiber Industries) will remain at 1.6 lb/MBTU by permit restrictions.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Environmental Management, North Carolina Department of Environment, Health and Natural Resources, 512 N. Salisbury Street, Raleigh, North Carolina 27611–7687.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, Region IV at the above address and telephone number (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On December 7, 1982 (47 FR 54939), EPA approved, for all but 24 sources in the State of North Carolina, a revision to State regulation 2D.0516 which relaxed the SO_2 limit for fuel burning sources. The original version of 2D.0516 prescribed a stepdown in SO_2 emissions for all fuel-burning sources from 2.3 lb/MBTU to 1.6 lb/MBTU by July 1, 1980. Air quality dispersion modeling submitted by the State indicated that removal of the SO_2 stepdown requirement was approvable for all but 24 sources.

The notice indicated if future modeling could show the relaxation to 2.3 lb/MBTU adequately protected the National Ambient Air Quality Standards (NAAQS), the stepdown requirement could be eliminated for other sources as well. This notice serves to inform the public that the Hoechst Celanese Corporation (formerly Fiber Industries) in Cleveland County will remain at the 1.6 lb/MBTU limit.

Copies of the permit and correspondence are available at the EPA Region IV Office. Contact Rosalyn Hughes at the aforementioned address.

Dated: October 24, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 89–25951 Filed 11–3–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL–3676–1; KY–051]

Approval and Promulgation of Implementation Plans, Kentucky; Prevention of Significant Deterioration of Air Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves as a State Impelementation Plan (SIP) revision an amendment to Kentucky Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality. This amendment deletes the reference to Kentucky Regulation 401 KAR 51:052, Review of New Sources in or Impacting Upon Non-attainment Areas, contained in section 12(e) of Regulation 401 KAR 51:017 and replaces it with a reference to 40 CFR part 51, appendix S, section IV. In its prior approval of Regulation 401 KAR 51:017, EPA deferred action on section 12(e) regarding ozone monitoring requirements since the section referenced Regulation 401 KAR 51:052 which is not currently a part of the federally-approved State Implementation Plan (SIP). EPA requested that this deletion and addition be made in order for Kentucky's SIP for the Prevention of Significant Deterioration of Air Quality to be fully approvable.

DATE: This action will be effective on January 5, 1990 unless notice is received within 30 days that someone wishes to submit adverse or critical comments. Such notice may be submitted to Richard Schutt at the EPA Regional Office address listed below.

ADDRESSES: Copies of the material submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Richard Schutt of the EPA Region IV Air Programs Branch at the above address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On February 9, 1988, the Commonwealth of Kentucky submitted an amendment to Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality. A public hearing was held to receive comments on Regulation 401 KAR 51:017 on November 30, 1987. EPA had requested that the amendment discussed herein be made in order for Kentucky's SIP for the Prevention of Significant Deterioration of Air Quality to be fully approvable.

Regulation 401 KAR 51:017 applies to major stationary sources and major modifications constructing in areas which are designated as attainment or unclassified. Section 12(e) of this regulation is being amended to delete the reference to Kentucky Regulation 401 KAR 51:052, Review of New Sources in or Impacting Upon Non-attainment Areas. In its prior approval of Regulation 401 KAR 51:017 (September 1, 1989 at 54 FR 36307), EPA deferred action on section 12(e) since the section referenced Regulation 401 KAR 51:052 which is not currently a part of the federally-approved SIP. The reference to Regulation 401 KAR 51:052 is being replaced with a reference to 40 CFR part 51, appendix S, section IV by the amendment being approved today.

Section 12(e) of Regulation 401 KAR 51:017 applies to an owner or operator of a proposed stationary source or modification of volatile organic compounds who wishes to provide post-construction monitoring data for ozone in lieu of providing preconstruction monitoring data. The owner or operator of such a source or modification will be allowed to provide post-construction monitoring data under section 12(e) if the conditions contained in 40 CFR part 51, Appendix S, section IV are satisfied. This monitoring option is also contained in 40 CFR 51.166(m)(1)(v). The conditions contained in 40 CFR part 51, Appendix S, Section IV which require the owner or operator of such a source to meet the lowest achievable emission rates, to certify that the course is in compliance with all applicable emission standards, to obtain offsets, and to certify that the offsets will provide a positive net air quality benefit are also contained in Regulation 401 KAR 51:052 which was referenced prior to the amendment being approved today. Therefore, adverse effects on any affected sources are not anticipated to result due to the previously discussed amendment. The meaning of Regulation 401 KAR 51:017 has not been changed.

Final Action: The amendment to section 12(e) of Kentucky Regulation 401 KAR 51:017 which replaces the reference to Kentucky Regulation 401 KAR 51:052 with a reference to 40 CFR part 51, appendix S, section IV, has been requested by EPA in order for Kentucky's SIP for the Prevention of Significant Deterioration of Air Quality to be fully approvable. Since the amendment is consistent with EPA policy and requirements, the amendment is hereby approved.

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 January 5, 1990 unless, within 30 days of its publication, notice is received that adverse or critical comment will be submitted. If such notice is received, this action will be withdrawn and two subsequent notices will be published before the effective date. 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.

Under 5 U.S.C. 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).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

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 January 5, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 29, 1989.

Joe R. Franzmathes,

Acting Regional Administrator.

PART 52—[AMENDED]

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920 is amended by adding paragraph (c)(56) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(56) A revision to Kentucky Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality, submitted on February 9, 1988, by the Kentucky Natural Resources and Environmental Protection Cabinet. The revision to section 12(1)(e) replaces the reference to Regulation 401 KAR 51:052 with a reference to 40 CFR part 51, Appendix S, section IV. This revision became State-effective on December 11, 1987.

(i) Incorporation by reference.

(A) Kentucky Regulation 401 KAR 51:017, Prevention of Significant Deterioration of Air Quality, section 12(1)(e), which became State-effective on December 11, 1987.

(ii) Other material.

(A) Letter of February 9, 1988, from the Kentucky Natural Resources and Environmental Protection Cabinet.

* * * * *

[FR Doc. 89–26048 Filed 11–3–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 424

[BPD-611-CN]

RIN 0938-AE07

Medicare Program; Physician Involvement in Physical Therapy and Speech Pathology Services

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

ACTION: Correction of interim final rule with comment.

SUMMARY: This document corrects a technical error in the interim final rule with comment that was published in the Federal Register on September 20, 1989 (54 FR 38677) on Medicare conditions of participation concerning physician involvement in physical therapy and speech pathology services.

FOR FURTHER INFORMATION CONTACT: William A. Roskey, (301) 966-4677.

SUPPLEMENTARY INFORMATION: In Federal Register document 89-22170, on page 38679 in the issue of September 20, 1989, make the following correction:

In the next to the last line of the third column, revise "424.25(e)" to read "424.25(e)(1)".

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

Dated: October 31, 1989.

James E. Larson,

Deputy Assistant Secretary for Information and Resources Mangement.

[FR Doc. 89-26078 Filed 11-3-89; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-17; RM-6543; RM-6732; RM-6733]

Radio Broadcasting Services; Warren Grove, Tuckerton, and Manahawkin, NJ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of SD Radio Partners, allots Channel 259A to Tuckerton, New Jersey, as the community's first local radio service, and, at the request of Jersey Shore Broadcasting Corporation, allots Channel 289B1 to Manahawkin, New Jersey, as its second local FM service. Channel 259A can be allotted to Tuckerton in compliance with the Commissions' minimum distance separation requirements with a site restriction of 9.9 kilometers (6.2 miles) southeast to avoid a short-spacing to Station WJRZ(FM), Channel 261A, Manahawkin, at coordinates North Latitude 39-33-24 and West Longitude 74-14-30. Channel 289B1 can be allotted to Manahawkin in compliance with the Commissions' minimum distance separation requirements with a site restriction of 11.7 kilometers (7.3 miles) east to avoid a short-spacing to Station WBNJ, Channel 288A, Cape May, New Jersey, Station WQSR, Channel 289B, Catonsville, Maryland, and Station WNWK, Channel 290B1, Newark, New Jersey, at coordinates North Latitude 39-43-30 and West Longitude 74-07-40. With this action, this proceeding is terminated.

DATES: Effective December 15, 1989. The window period for filing applications will open on December 18, 1989, and close on January 17, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-17, adopted October 6, 1989, and released October 31, 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 contractor, 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 FM Table of Allotments is amended by adding the following entry, Tuckerton, Channel 259A, and amending the entry for Manahawkin, New Jersey, by adding Channel 289B1.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26088 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-12; RM-6545]

Radio Broadcasting Services; Oakes, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of CERM Broadcasting Corporation, substitutes Channel 223C1 for Channel 222C2 at Oakes, North Dakota, and modifies its license for Station KDDR-FM to specify the higher powered channel. Channel 223C1 can be allotted to Oakes in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 46-08-12 and West Longitude 98-05-36. Canadian concurrence has been received since Oakes is located within 320 kilometers of the U.S.-Canadian border. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 15, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-12, adopted October 6, 1989, and released October 31, 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 contractor, 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 of part 73 continues to read as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments is amended for Oakes, North

Dakota, by removing Channel 222C2 and adding Channel 223C1.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26087 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-11; RM-6553]

Radio Broadcasting Services; Mount Gilead, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ohio Bible Study Group, allots Channel 236A to Mount Gilead, Ohio, as its first local FM service. Channel 236A can be allotted to Mount Gilead in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.7 miles) northeast to avoid a short-spacing to Stations WSNY, Channel 234B, Columbus Ohio, and WKTN, Channel 237A, Kenton, Ohio. The coordinates for this allotment are North Latitude 40-34-16 and West Longitude 82-49-00. Canadian concurrence has been received. With this action, this proceeding is terminated.

DATES: Effective December 14, 1989. The window prior for filing applications will open on December 15, 1989, and close on January 16, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-11, adopted October 6, 1989, and released October 30, 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 contractor, 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 FM Table of Allotments, is amended by adding the following entry, Mount Gilead, Ohio, Channel 236.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26077 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-13; RM-6547]

Radio Broadcasting Services; Gleneden Beach, Sweet Home and Toledo, Oregon

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Galaxy Broadcast Partners, substitutes Channel 296C2 for Channel 296A at Sweet Home, Oregon, and modifies its license for Station KNKN to specify operation on the higher powered channel. Channel 296C2 can be allotted to Sweet Home in compliance with the Commission's minimum distance separation requirements and can be used at Station KNKN's present transmitter site. The coordinates for the Sweet Home allotment are North Latitude 44-26-05 and West Longitude 122-42-23. In addition, Channel 264A is substituted for Channel 296A at Toledo, Oregon, and the license of Station KTDO-FM is modified accordingly. Channel 264A can be allotted to Toledo in compliance with the Commission's minimum distance separation requirements and can be used at Station KTDO-FM's present transmitter site at North Latitude 44-38-40 and West Longitude 124-00-52. Channel 248C2 is substituted for unoccupied but applied for Channel 264C2 at Gleneden Beach, Oregon, Channel 248C2 can be allotted to Gleneden Beach in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at North Latitude 44-52-53 and West Longitude 124-02-57. Channel 248C2 can also be used at the transmitter sites specified in the pending applications of Linn and Fowler, BPH-890118MA and BPH-890118MB, respectively. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 14, 1989.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-13, adopted October 6, 1989, and released October 30, 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 contractor, 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 FM Table of Allotments is amended by amending the entry for Gleneden Beach, Oregon, by adding Channel 248C2 and removing Channel 264C2; amending the entry for Sweet Home, Oregon, by adding Channel 296C2 and removing Channel 296A; and amending the entry for Toledo, Oregon, by adding Channel 264A and removing Channel 296A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26075 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-4; RM-6565; RM-6730]

Radio Broadcasting Services; Mansfield, PA, Vestal, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Kennedy Broadcasting, Inc., allots Channel 222A to Mansfield, Pennsylvania, as the community's first local FM service. Channel 222A can be allotted to Mansfield in compliance with the Commission's minimum distance separation requirements with a site

restriction of 9.7 kilometers (6 miles) north to avoid a short-spacing to unoccupied but applied for Channel 222A at Riverside, Pennsylvania, and to the proposed allotment of Channel 222A to Lewisburg, Pennsylvania. The coordinates for the Mansfield allotment are North Latitute 41–53–35 and West Longitude 77–05–47. This action also grants the request of David G. Mitchell to substitute Channel 277B1 for Channel 2771 at Vestal, New York, and modify its construction permit for Station WMXW accordingly. Channel 277B1 can be allotted to Vestal in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.1 kilometers (6.9 miles) southeast to accommodate petitioner's desired transmitter site. The coordinates for the Vestal allotment are North Latitude 42–00–00 and West Longitude 75–59–00. Canadian concurrence in both allotments has been received. With this action, this proceeding is terminated.

DATES: Effective December 14, 1989. The window period for filing applications for Channel 222A at Mansfield, Pennsylvania, will open on December 15, 1989, and close on January 16, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–4, adopted October 6, 1989, and released October 30, 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 contractor, 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 FM Table of Allotments, is amended by adding the following entry, Mansfield, Pennsylvania, Channel 222A, and amending the entry for Vestal, New York, by adding Channel 277B1 and removing Channel 277A.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allications Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26076 Filed 11–3–89; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–232]

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Final rule.

SUMMARY: The Assistant Secretary for Administration has delegated authority to the OST Director of Financial Management to approve OST employee claims allowable under 31 U.S.C. 3721 for amounts of $500 or less.

EFFECTIVE DATE: October 2, 1989.

FOR FURTHER INFORMATION CONTACT: Robert W. Gordon, Office of Financial Management, M–80, (202) 366–5628, Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under 31 U.S.C. 3721 the head of an agency may approve claims of agency employees for damage to, or loss of, personal property incident to Federal service. The Secretary of Transportation has delegated this authority for OST employees to the Assistant Secretary for Administration under § 1.59(c)(4), DOT 1100.60A, Department of Transportation Organization Manual. When amounts of $500 or less are involved, the Assistant Secretary for Administration has redelegated this authority for OST employees to the OST Director of Financial Management.

The Code of Federal Regulations does not reflect this delegation, therefore, a change is necessary.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment are unnecessary, and it may be made effective in fewer than thirty days after publication in the **Federal Register.** The delegation is effective immediately.

List of Subjects

Authority delegations (Government agencies), Organization and functions (government agencies).

In accordance with the Assistant Secretary's authority, the following change is made.

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended to read as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322.

2. Section 1.59a is amended by adding a new paragraph (c)(6) to read as follows:

§ 1.59a Redelegations by the Assistant Secretary for Administration.

* * * * *

(c) * * *

(6) Approve claims of OST employees allowable under 31 U.S.C. 3721 for amounts of $500 or less.

Issued on: October 2, 1989.

Melissa Jane Allen,

Deputy Assistant Secretary for Administration.

[FR Doc. 89–26070 Filed 11–3–89; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC–116]

RIN 2125–AA79

Controlled Substances Testing; Implementation Dates

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; deferred implementation of random and mandatory post-accident testing requirements; interpretation.

SUMMARY: On November 21, 1988, the FHWA issued a final rule requiring motor carriers to have an anti-drug program. This program includes drug testing drivers who operate commercial motor vehicles (CMV) in interstate commerce. The final rule set forth the classes of controlled substances, the types of tests to be conducted, the dates for implementation of testing and, through reference to 49 CFR part 40, Procedures for Transportation Workplace Drug Testing Programs, the procedures for testing and reporting of the test results.

This notice states FHWA's policy regarding implementation in view of a preliminary injunction issued on January 6, 1989, enjoining the FHWA from implementing random and certain mandatory post-accident testing of CMV drivers. This notice also clarifies the

types of testing that must be implemented by December 21, 1989.

DATES: This final rule is effective November 6, 1989. Implementation of the random and certain mandatory post-accident testing provisions of the final rule will be deferred until further notice; other types of testing required by the final rule will be implemented as specified in the rule.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–2981, or Mr. Thomas P. Holian, Office of Chief Counsel, (202) 366–1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA published a final rule on November 21, 1988, setting forth regulations requiring motor carriers who operate CMV in interstate commerce to establish and maintain anti-drug programs, including testing of CMV drivers for the use of controlled substances. 53 FR 47134. Testing under this regulation must be conducted prior to employment/use, periodically, upon reasonable cause, after a reportable accident, and randomly. Generally, interstate drivers of CMV, which are defined as vehicles with gross vehicle weight ratings (GVWR) of more than 26,000 pounds, vehicles transporting hazardous materials that are required to be placarded, or vehicles designed to transport more than 15 passengers, including the driver, are covered by this rule.

On the same date, November 21, 1988, the Office of the Secretary, Departmernt of Transportation (OST), published an interim final rule, "Procedures for Transportation Workplace Drug Testing Programs," setting forth the testing and reporting procedures applicable to the FHWA rule. 53 FR 47002.

Six lawsuits have been filed challenging the FHWA's controlled substances testing regulation. In *Owner-Operators Indep. Drivers Ass'n (OOIDA)* v. *Burnley*, 705 F. Supp. 481 (N.D. Cal. 1989), the court granted plaintiff OOIDA a preliminary injunction on January 6, 1989, enjoining the FHWA from implementing random and certain mandatory post-accident testing of CMV drivers. *Id.* at 485.

On August 1, 1989, the court in *OOIDA* denied the Government's motion for judgment on the pleadings on the ground of lack of subject matter jurisdiction. The court, however, certified the question of jurisdiction for interlocutory appeal under 28 U.S.C. 1292(b). On August 11, 1989, the Government filed a petition for interlocutory appeal in the Ninth Circuit Court of Appeals. Case No. 89–80273. The Court of Appeals granted the petition October 17, 1989, setting an expedited briefing schedule. Meanwhile, by order issued August 21, 1989, the district court stayed further proceedings; however, the injunction against random and certain mandatory post-accident testing remains in effect.

In addition, the other challenges to the FHWA's controlled substances testing regulation have been consolidated in the Ninth Circuit under the name *International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, et al.* v. *U.S. Department of Transportation*, No. 89–70165. No petitioner in that consolidated proceeding contests the jurisdiction of the court of appeals; however, OOIDA has been granted amicus status to brief and argue the jurisdictional question (Order, July 17, 1989); and the Ninth Circuit has indicated that it will decide the jurisdictional question with the merits. June 6, 1989, Order. An expedited briefing schedule for this consolidated case has been set, but a resolution before December 21, 1989, now appears unlikely.

In view of the rapidly approaching date for implementation of testing by larger carriers, and the uncertainty of the timing of judicial resolution of this matter, the FHWA is hereby providing notice to motor carriers nationwide that implementation of random testing and certain mandatory post-accident testing, now preliminarily enjoined, is deferred until further notice. If the Government prevails before the Ninth Circuit, the preliminary injunction will be dissolved; and the FHWA will publish a **Federal Register** Notice advising motor carriers of the implementation dates for random and mandatory post-accident testing, which we expect to be approximately 90 days after publication of such Notice.

In deferring implementation of random and certain mandatory post-accident testing, the agency emphasizes that motor carriers nationwide must implement pre-employment or pre-use, periodic, reasonable cause, and unenjoined post-accident drug testing in accordance with the implementation schedule set forth in the November 21, 1988, final rule. The agency intends to enforce these requirements.

With respect to this required implementation, the FHWA advises that unenjoined post-accident testing permitted under the terms of the preliminary injunction is defined as testing when there is any reasonable suspicion of drug usage, or reasonable cause to believe a driver has been operating a vehicle while under the influence of drugs, or reasonable cause to believe the driver was at fault in the accident and drug usage may have been a factor. Accordingly, the FHWA expects motor carriers to instruct their drivers that drug testing will be required after accidents under certain conditions, and to require their drivers to submit to such testing.

The FHWA also takes this opportunity to further clarify the duty of motor carriers to comply with the requirements of this rule:

1. Motor carriers with 50 or more "drivers subject to testing" on December 21, 1989, must implement a testing program for controlled substances by December 21, 1989. Motor carriers must evaluate their employment records, driver contracts, and all other related documents as of December 21, 1989, to determine if they meet the size threshold requiring implementation of testing by December 21, 1989. This requirement is applicable regardless of the size of a motor carrier on any other date. In determining the number of "drivers subject to testing," the drivers at all terminals and other facilities operated by that carrier must be considered, regardless of whether the carrier has obtained divided record authority under 49 CFR 395.8(k)(2).

2. Motor carriers with fewer than 50 "drivers subject to testing" on December 21, 1989, must begin testing no later than December 21, 1990.

3. Motor carriers required to implement testing on December 21, 1989, for those drivers who meet the requirements of "drivers subject to testing," as defined in the rule, must test new employee-drivers and drivers under contract for more than 90 days during the period December 21, 1989, through December 21, 1990. This requirement will provide drivers who are not regularly used by a carrier ample time to join a motor carrier's or consortium's testing program. This provision also is consistent with the two-tiered implementation phase-in currently in the final rule regarding smaller carriers.

4. All CMV drivers employed or used by motor carriers must be participating in a controlled substances testing program that meets the requirements of subpart H by December 21, 1990. This includes those drivers for motor carriers who were required to implement testing by December 21, 1989, but who were not defined as "drivers subject to testing."

Regulatory Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or significant regulation under the regulatory policies and procedures of the Department of Transportation. Since the amendment contained in this document is being issued to clarify the existing rule, further public comment is considered unnecessary. Further notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information. Therefore, the FHWA finds good cause to make the amendment final without notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. Accordingly, this amendment is effective upon publication in the **Federal Register.**

To the extent that any economic impacts exist, the amendment will lessen regulatory burdens by increasing the time available to comply with existing regulatory requirements. For this reason, a full regulatory evaluation is not required. For the same reason, and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 49 CFR Part 391

Controlled substances, Drug testing, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: October 31, 1989.

T. D. Larson,

Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, subtitle B, chapter III, part 391 as set forth below:

PART 391—QUALIFICATIONS OF DRIVERS

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

Subpart H—Controlled Substance Testing

2. In § 391.93, paragraphs (b) and (c) are revised to read as follows:

§ 391.93 Implementation schedule.

* * * * *

(b) Motor carriers with 50 or more "drivers subject to testing" on December 21, 1989, are required to implement a controlled substance testing program which meets the requirements of this subpart by:

(1) December 21, 1989, for "drivers subject to testing," and

(2) December 21, 1990, for all commercial motor vehicle drivers. (c) Motor carriers with less than 50 "drivers subject to testing" on December 21, 1989 are required to implement a controlled substance testing program by December 21, 1990, for all commercial motor vehicle drivers.

* * * * *

[FR Doc. 89-26064 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1054

[Ex Parte No. MC-29; Sub-No. 5]

Incidental Charter Rights; Simplification of Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting final rules, as set forth below, governing the exercise by motor passenger carriers of incidental charter rights under 49 U.S.C. 10932(c) and 49 CFR part 1054. A notice of proposed rules was published in the **Federal Register** on June 12, 1989 at 54 FR 24918. The revised rules simplify and broaden somewhat the present rules, which had become practically obsolete as a consequence of the statutory amendments in the Bus Regulatory Reform Act of 1982, Public Law 97-261, 96 Stat. 1102 (1982).

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: James L. Brown, (202) 275-7898, or Richard B. Felder, (202) 275-7691. (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: The revised rules: (1) Clarify the applicability of the rules; (2) broaden the territorial scope of existing incidental charter rights to permit service between any points and places in the United States (including Alaska and Hawaii); and (3) specify certain exceptions to the exercise of incidental charter rights.

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 at (202) 275-1721.)

Environmental and Energy Considerations

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

Regulatory Flexibility Analysis

We affirm our prior certification. The rules we are adopting simplify the regulations applicable to incidental charter rights, eliminate a number of obsolete requirements, and broaden the territorial scope of incidental charter authority to that typically authorized in certificates specifically authorizing charter operations. Very few, if any, carriers actually use incidental charter rights at this time. Most small entities that do not hold qualifying regular-route authorities already have or can easily obtain specific charter authority through "fitness-only" application procedures. As a consequence, although all discernible impacts of this action are positive, no significant impact is anticipated on any small entities.

List of Subjects in 49 CFR Part 1054

Buses, Motor carriers.

Decided: October 30, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1054 of the Code of Federal Regulations is revised to read as follows:

PART 1054—INCIDENTAL CHARTER RIGHTS

Sec.
1054.1 Applicability.
1054.2 Authority.
1054.3 Exceptions.

Authority: 5 U.S.C. 553 and 559 and 49 U.S.C. 10321, 10922, and 10932.

§ 1054.1 Applicability.

The regulations in this part apply to incidental charter rights authorized under 49 U.S.C. 10932(c). These regulations do not apply to interpreting authority contained in a certificate to transport passengers in special and/or charter operations.

§ 1054.2 Authority.

Motor carriers transporting passengers, in interstate or foreign commerce, over regular routes authorized in a certificate issued as a result of an application filed before January 2, 1967, may transport special or chartered parties, in interstate or foreign commerce, between any points and places in the United States (including Alaska and Hawaii). The term "special or chartered party" means a group of passengers who, with a common purpose and under a single contract, and at a fixed charge for the vehicle in accordance with the carrier's tariff, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group to a specified destination or for a particular itinerary.

§ 1054.3 Exceptions.

(a) Incidental charter rights do not authorize the transportation of passengers to whom the carrier has sold individual tickets or with whom the carrier has made separate and individual transportation arrangements.

(b) Service provided under incidental charter rights may not be operated between the same points or over the same route so frequently as to constitute a regular-route service.

(c) Passenger transportation within the Washington Metropolitan Area Transit District (as defined in the Washington Metropolitan Area Transportation Regulation Compact, Pub. L. No. 86–794, 74 Stat. 1031 (1960), as amended by Pub. L. No. 87–767, 76 Stat. (1962) is not authorized by these regulations, but is subject to the jurisdiction and regulations of the Washington Metropolitan Area Transportation Commission.

(d) A private or public recipient of governmental assistance (within the meaning of 49 U.S.C. 10922(c)(1)(F)) may provide service under incidental charter rights only for special or chartered parties originating in the area in which the private or public recipient provides regularly scheduled mass transportation services under the specific qualifying certificate that confers its incidental charter rights.

[FR Doc. 89–26090 Filed 11–3–89; 8:45am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 81131-9019]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual processing (DAP) portion of the domestic annual harvest (DAH). This action, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), is necessary to assure optimum use of groundfish in that area. It is a conservation and management measure intended to promote fishery objectives of the North Pacific Fishery Management Council.

DATES: Effective October 31, 1989. Comments will be accepted through November 21, 1989.

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

FOR FURTHER INFORMATION CONTACT: Jessica A. Gharrett (Resource Management Specialist, NMFS), 907–586–7229.

SUPPLEMENTARY INFORMATION: The FMP is implemented by rules appearing at 50 CFR 611.93 and part 675.

Initial specifications for DAH, DAP and joint venture processing (JVP) for 1989 were published at 54 FR 3605 (January 25, 1989). The same notice established a 15 percent non-specific reserve and then apportioned amounts from that reserve to JVP in order to provide bycatch amounts for JVP fisheries.

Some of the DAP amounts were revised in September (54 FR 37112, September 7, 1989) based on new information about DAP potential. This information indicated some amounts excess to DAP needs in 1989, as well as DAP amounts that could require supplementation. Amounts that may be needed to supplement DAP were retained in the non-specific reserve, to be apportioned to DAP if the need arose later in the year. Amounts in DAP and reserve in excess of DAP requirements were apportioned to JVP.

Later in September (54 FR 38686, September 20, 1989) the DAP for Atka mackerel was supplemented by 3,043 mt of the non-specific reserve, and in October (54 FR 41977, October 13, 1989) the DAP for Greenland turbot was supplemented by 1,200 mt of the non-specific reserve.

Reapportionment

The following actions are taken by this notice to reapportion groundfish from the non-specific reserve (see table 1). To the Bering Sea and Aleutian Islands DAPs for sablefish:

Effective February 3, 1989, the entire sablefish total allowable catch (TAC) in the Bering Sea subarea was set aside as bycatch to support other target groundfish fisheries (54 FR 6134, February 3, 1989). Sablefish directed fishing was allowed in the Aleutian Islands subarea until July 30, 1989 (54 FR 31842, August 2, 1989), at which time directed fishing was terminated to provide adequate bycatch amounts to support other directed groundfish fisheries. The Director, Alaska Region, NMFS, later determined that only minimal amounts are expected to be needed to support other directed groundfish fisheries during the remainder of the fishing year, and the directed fisheries for sablefish in the Bering Sea and Aleutian Islands subareas recommenced on October 20, 1989 (54 FR 39741, September 28, 1989). At current effort levels, the DAP quotas for sablefish in the Bering Sea and Aleutian Islands subareas (2,380 mt and 2,890 mt, respectively) will be reached shortly.

Rather than require sablefish to be discarded, as would occur if the DAP quota were reached, the DAP for sablefish is increased from the non-specific reserve by 420 mt in the Bering Sea subarea, and 510 mt in the Aleutian Islands subarea.

These apportionments do not result in overfishing of sablefish, as the resulting TAC amounts do not exceed the acceptable biological catches (ABC's).

Classification

This action is taken under the authority of § 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit domestic fishermen who otherwise would be required to terminate a fishery earlier than necessary. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: November 1, 1989.

Richard H. Schaefer,

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

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC (ALL VALUES ARE IN METRIC TONS)

		Current	This Action	Revised
Sablefish Bering Sea	DAP	2,380	+420	2,800
TAC=2,800; ABC=2,800	JVP	0	0	0
Sablefish Aleutian Islands	DAP	2,890	+510	3,400
TAC=3,400; ABC=3,400	JVP	0	0	0
TOTAL (TAC=2,000,000)	DAP	1,349,557	+930	1,350,487
	JVP	604,089	0	604,089
	Reserves	46,354	−930	45,424

[FR Doc. 89-26121 Filed 11-1-89; 3:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 213
Monday, November 6, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AD23

Federal Employees Health Benefits Program—Opportunity for Certain Annuitants to Reenroll

AGENCY: Office of Personnel Management.

ACTION: Notice of withdrawal of proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is withdrawing its proposal to revise the Federal Employees Health Benefits (FEHB) Program regulations to permit reenrollment for certain annuitants who are entitled to part B of Medicare and cancel their FEHB coverage to enroll in a Medicare risk or cost contract under section 1876 of the Social Security Act. The proposed regulations, issued on August 8, 1988 (53 FR 29686), would have limited this reenrollment opportunity to annuitants who: (1) Were previously enrolled in FEHB, (2) dropped the FEHB coverage to enroll in a Medicare risk or cost plan, and (3) subsequently lost the Medicare risk or cost plan coverage due to either a move out of the plan enrollment area or discontinuance of the plan. In July of 1989, Public Law 101-76 was enacted, which includes a provision requiring OPM to submit to the Congress by February 1990 recommendations to reform the FEHB Program. In light of the likely reform of the Program, it would be untimely to pursue a change of this significance now. Any further consideration of this issue is being deferred until further study during the FEHB reform process.

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

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

[FR Doc. 89-26127 Filed 11-3-89; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-89-105PR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Proposed Handling Requirement Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes changes in the handling requirements effective under the marketing order for fresh oranges, grapefruit, tangerines, and tangelos grown in Florida. These proposed changes would reduce the minimum size requirement for domestic and import shipments of pink seedless grapefruit, and increase the minimum size requirements for export shipments of early and midseason oranges, navel oranges, Valencia and similar late maturing oranges, tangelos, temple oranges, and Robinson tangerines. This proposed action is based on an analysis of the 1989-90 season Florida citrus crop and current and prospective market conditions.

DATES: Comments must be received by November 16, 1989.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

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

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

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are about 13,000 producers of these citrus fruits in Florida, and about 26 importers who import grapefruit into the United States. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers and importers may be classified as small entities.

Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for most varieties of Florida oranges, grapefruit, tangerines, and tangelos for both the domestic and export markets. The requirements for the domestic markets are specified in that section in Table I of paragraph (a) and for export markets in Table II of paragraph (b). The domestic markets were redefined as the 48 contiguous States and the District of Columbia of the United States and export markets as

any destination order than the 48 contiguous States and the District of Columbia of the United States by an amendment to the marketing order (54 FR 37290, September 8, 1989), which revised §§ 905.9 and 905.52. Section 905.306 has been amended by an interim final rule, published in the Federal Register concurrently with this proposed rule, which reflects these changes to the order.

This proposed action would reduce the minimum size requirements for domestic shipments of pink seedless grapefruit to 3 3/16 inches in diameter from 3 5/16 inches in diameter. The Citrus Administrative Committee (committee) reports that this season's grapefruit crop is maturing earlier, that the fruit is smaller than normal, and that a multiple bloom will require spot picking during most of the season. The committee recommended this action due to these current crop conditions, since it would permit domestic shipments of smaller fruit early in the season. The committee requested this relaxation for the period October 16, 1989 through October 21, 1990. Eleven committee members voted in favor of this action. Two members voted against the action because they wanted to wait until early or mid-winter to release the smaller size 56 grapefruit, as the industry has done in the past. Two members abstained because they represent districts which ship mostly oranges, tangerines, and tangelos.

This proposed action would also increase the minimum size requirements for export shipments of early and midseason oranges, navel oranges, Valencia and similar late maturing oranges, tangelos, and temple oranges to 2 5/16 inches in diameter from 2 1/16 inches, and Robinson tangerines to 2 1/16 inches in diameter from 2 3/16 inches. Canada is a major export market for Florida oranges, tangerines, and tangelos and shipments of these fruits to that market have historically been limited to the larger sizes consistent with market requirements. The order provisions were amended September 8, 1989, to designate Canada as an export market rather than a domestic market. This proposal would change minimum size requirements for export shipments of oranges, tangerines and tangelos to the same requirements that were applicable to shipments to Canada prior to the amendment.

The committee, which administers the program locally, met September 19, 1989, and recommended these actions based on the analysis of the current and prospective marketing conditions and the 1989–90 season crop. The committee meets prior to and during each season to review the handling requirements, effective on a continuous basis, for each regulated citrus fruit. Committee meetings are open to the public, and interested persons may express their views at these meetings. The U.S. Department of Agriculture (Department) reviews committee recommendations and information submitted by the committee and other available information and determines whether modification, suspension, or termination of the handling requirements would tend to effectuate the declared policy of the Act.

Some Florida citrus fruit shipments are exempt from the handling requirements effective under the marketing order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provison. Also, handlers may ship up to two standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including oranges and grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and appply the regulations for that area to the imported commodity.

Grapefruit import requirements are specified in § 944.106 (7 CFR part 944), and are effective under section 8e of the Act. That section requires that grapefruit imported into the United States must meet the same minimum grade and size requirements as those specified for the various varieties of Florida grapefruit in Table I of paragraph (a) in § 905.306. Since this action reduces minimum size requirements for domestically produced Florida pink seedless grapefruit, the reduced size requirements also apply to imported pink seedless grapefruit. An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed 4/5-bushel cartons exempt from the import requirements.

Orange import requirements are specified in § 944.312 (7 CFR part 944), and are effective under section 8e of the Act. That section requires that oranges imported into the United States must meet the same minimum grade and size requirements as those established in § 906.365 for Texas oranges under M.O. 906 (7 CFR part 906). Accordingly, the findings and determinations for imported oranges contained in part 944 would not be changed by this proposed action and no changes to these provisions of Part 944 would be necessary. Thus, orange import requirements would continue to be based upon the Texas orange requirements under M.O. 906.

This proposed action reflects the committee's and the Department's appraisal of the need to make the proposed handling requirement changes. The Department's view is that this proposed action would have a beneficial impact on producers and handlers since it would allow Florida citrus handlers to ship those sizes of fruit needed to meet buyer requirements consistent with this season's crop and market conditions.

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

It is found and determined that a comment period of less than 30 days is appropriate because this action, if adopted, would need to become effective promptly, so that it would apply to as much as possible of this season's shipments, which have already begun.

List of Subjects in 7 CFR Part 905

Florida, Grapefruit, Marketing agreements and orders, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR Part 905 is proposed to be amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

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

2. The provisions of § 905.306 are amended as follows:

Note: This action will be published in the Code of Federal Regulations.

A. In paragraph (a), Table I, the entry for seedless pink grapefruit is revised to read as set forth below.

B. In paragraph (b), Table II, the entries for all varieties of oranges, for Robinson tangerines, and for tangelos are revised to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum (Diameter inches)
(1)	(2)	(3)	(4)
* * * * *			
Grapefruit			
Seedless, pink.	[1] 10/21/90.....	Improved No. 2 (External. U.S. No. 1 (Internal).	3 1/16
	On and after 10/22/90.	Improved No. 2 (External). U.S. No. 1 (Internal).	3 1/16

[1] Insert date of publication of the final rule in the FEDERAL REGISTER.

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum (Diameter inches)
(1)	(2)	(3)	(4)
Oranges			
Early midseason.	On and after [1].	U.S. No. 1.....	2 1/16
Navel.....	On and after [1].	U.S. No. 1 Golden.	2 1/16
Valencia and other late type.	On and after [1].	U.S. No. 1.....	2 1/16
Temple.....	On and after [1].	U.S. No. 1.....	2 1/16
* * * * *			
Tangerines			
Robinson.....	On and after [1].	U.S. No. 1.....	2 1/16
* * * * *			
Tangelos			
Tangelos.....	On and after [1].	U.S. No. 1.....	2 1/16

[1] Insert date of publication of the final rule in the FEDERAL REGISTER.

* * * * *

Dated: November 1, 1989.

William J. Doyle,

Deputy Acting Director, Fruit and Vegetable Division.

[FR Doc. 89-26091 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 89-195]

Horse Quarantine Facility Standards; Collection of Fees at Animal Quarantine Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: We are extending the comment period for our proposal to amend the regulations concerning quarantine facilities for horses being imported into the United States, and concerning the collection of fees at animal quarantine facilities. This extension will provide interested persons with additional time to prepare comments on the proposed rule.

DATE: Consideration will be given only to written comments on Docket No. 85-061 received on or before January 5, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to 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 No. 85-061. 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.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7885.

SUPPLEMENTARY INFORMATION: On September 6, 1989, we published in the **Federal Register** (54 FR 36986-36996, Docket No. 85-061) a proposed rule that would amend the regulations concerning quarantine facilities for animals imported into the United States. The proposed rule would (1) establish requirements for approval of permanent, privately operated quarantine facilities for horses; (2) add new requirements to those already in the regulations for approval of temporary, privately operated quarantine facilities for horses; and (3) specify that the government collect payment from each privately operated quarantine facility for services the government provides at that facility. Comments on the proposed rule were required to be received on or before November 6, 1989.

During the comment period for the proposed rule, we received two requests that we extend that comment period. One of the requests was from the American Horse Council (AHC), which stated that it would like to have the proposed rule discussed at the annual convention of the American Association of Equine Practitioners (AAEP), to be held December 3-6, 1989. The AHC requested that we extend the comment period to a date past the AAEP convention, to allow its members to comment on the proposed rule in light of discussion at the convention. The second request was from a representative of a brokerage firm, who requested that we extend the comment period 60 days beyond its scheduled closing date, to allow the equine industry additional time to notify its members of the proposed rule, and to provide additional time for comments from that industry.

In response to these requests, we are extending the comment period for Docket No. 85-061, in order to allow for comments following the AAEP convention, and to allow the equine industry additional time to notify its members of the proposed rule. We will consider all written comments received on or before January 5, 1990. This action will allow the requestors and all other interested persons additional time to prepare comments.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 31st day of October, 1989.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-26010 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AD19

Stabilization and Decontamination Priority, Trusteeship Provisions, and Amount of Property Insurance Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission proposes to amend the provisions of its property insurance regulations applicable to commercial power reactor licensees. The changes are proposed to (1) clarify the scope and timing of the stabilization and decontamination processes after an accident at a covered reactor; (2) specify that the insurance is required to ensure that commercial power reactor licensees will have sufficient funds to carry out their obligation to clean up and decontaminate after an accident; and (3) eliminate the requirement that insurance proceeds after an accident are paid to an independent trustee. In addition, Chairman Carr and Commissioner Rogers support the staff proposal to solicit comments on the appropriate level of required insurance in view of inflation of decontamination and cleanup costs. This proposed rule responds to issues raised in three petitions for rulemaking.

DATES: The comment period expires January 5, 1990. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch. Hand deliver comments to: 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. (Telephone (301) 492-1960). Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert S. Wood, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-1280.

SUPPLEMENTARY INFORMATION:

I. Background

On August 5, 1987, the Commission published in the **Federal Register** (52 FR 28963) a final rule that amended 10 CFR 50.54(w). The rule increased the amount of onsite property damage insurance required of commercial power reactor licensees. The purpose of the rule was to provide an assured source of funds for onsite decontamination and cleanup of a power reactor facility after an accident. In particular, the 1987 amendments required licensees to obtain insurance policies in which any proceeds from such policies are to be used for stabilization of a reactor after an accident and then for decontamination of the facility before any other purpose. The rule also required that any insurance proceeds be paid to a trustee, who would be required to disburse funds according to the decontamination priority. The Commission believed that these provisions would effectively protect insurance proceeds from claims by bondholders or their representatives or, in the event of licensee default or bankruptcy, by other creditors. The Commission based this belief on comments submitted by the Association of the Bar of the City of New York (hereinafter referred to as NYC Bar). (See comment number 12 in response to the 1984 proposed rule (49 FR 44645, November 8, 1984)).

Subsequent to publication of the 1987 final rule, the NRC received three petitions for rulemaking that sought (1) clarification of the scope and timing of the stabilization process after an accident at a covered reactor; (2) clarification of the procedures by which the NRC determines and approves expenditures of funds necessary for decontamination and cleanup, and clarification of how such procedures affect both insurers' needs to secure appropriate proofs of loss and when payments may be made for non-cleanup purposes; (3) a change in the terminology of the required insurance from "property" insurance to "decontamination liability" insurance so as to better forestall claims to insurance proceeds by a licensee's bondholders; and (4) rescission of the provision that proceeds of the required insurance are to be paid to an independent trustee, who will disburse the proceeds for decontamination and cleanup of the facility before any other purpose.

Notice of receipt of the three petitions for rulemaking was published on September 19, 1988 (53 FR 36335). These petitions are (1) Petition for Rulemaking (PRM-50-51) dated June 3, 1988, from Linda S. Stein, Steptoe & Johnson, counsel to American Nuclear Insurers and MAERP Reinsurance Association (ANI/MAERP); (2) Petition for Rulemaking (PRM-50-51A) dated June 21, 1988, from J. B. Knotts, Jr., Bishop, Cook, Purcell & Reynolds, counsel to the Edison Electric Institute (EEI), the Nuclear Utility Management and Resources Council (NUMARC) and several power plant licensees; and (3) Petition for Rulemaking (PRM-50-51B), received July 18, 1988, from Peter D. Lederer, Baker & McKenzie, counsel to Nuclear Mutual Limited and Nuclear Electric Insurance Limited (NML and NEIL-II). Interested persons may examine and copy for a fee the above letters and petitions for rulemaking at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

Four comments were received on the petitions for rulemaking, all of which supported the amendments recommended in the petitions. In addition, NYC Bar submitted on June 30, 1988, a clarification and revision of its comments on the earlier property insurance rulemakings and called for rescinding the trusteeship provision that it had supported previously. The NYC Bar's submission was docketed as comment number 36 under the 1984 proposed rule (49 FR 44645, November 8, 1984).

II. Analysis of and Response to Issues Raised by Petitioners

A. Clarification of the scope and timing of the stabilization process after an accident at a covered reactor.

Petitioners' Concerns

Petitioners believe that the stabilization process should be defined and clarified in the rule. Insurers are concerned that, because the existing rule requires a priority on insurance proceeds first for stabilizing a reactor after an accident and then for decontaminating the reactor, and because proceeds for decontamination but not stabilization are to be paid to an independent trustee, there could be confusion regarding when, to whom, and in what amount proceeds for stabilization should be paid. In addition, petitioners believe that the stabilization priority should not be invoked until the estimated costs of stabilization and decontamination exceed a threshold of $100 million and that this priority should only last for 30 days unless extended by the NRC. These changes would prioritize use of insurance proceeds for relatively more serious accidents in which there would be concern about the availability of adequate funds to protect public health and safety. Petitioners believe

that placing a threshold and time limit on the stabilization priority, when coupled with a procedure for estimating and authorizing expenditures for decontamination and cleanup after stabilization has been completed, would simplify the claims payment process and reduce the likelihood that insurance proceeds for cleanup would be tied up while claims by competing parties are being resolved.

NRC Response

The NRC believes that petitioners' recommendations with respect to clarifying the stabilization priority generally merit incorporation in the rule. During the process that culminated in the 1987 rulemaking, the Commission believed, and continues to believe, that stabilization is a relatively brief process occurring in the immediate aftermath of an accident where quick and effective response is necessary. For that reason, the NRC chose not to make stabilization subject to the trusteeship provision. For the same reasons, the Commission did not define the stabilization process in the rule itself. However, petitioners believe that protection of public health and safety would be better served by more explicit treatment of the stabilization process in the NRC's regulations.

The NRC has no reason to dispute petitioners' views and believes that petitioners' proposals in this area do not substantively change the Commission's policy as expressed in the preamble to the 1987 final rule. Consequently, the NRC proposes to accept in large measure petitioners' recommendations, but also proposes to further clarify the stabilization process beyond petitioners' recommended wording. Also, because in certain circumstances initial stabilization could take more than 30 days, the NRC proposes an initial stabilization period not to exceed 60 days, with extensions up to 60 days each, if necessary.

B. Clarification of the procedures by which the NRC determines and approves estimates and expenditure of funds necessary for stabilization, decontamination and cleanup. Clarification of how such procedures affect both insurers' needs to secure appropriate proofs of loss and when payments may be made for non-cleanup purposes.

Petitioners' Concerns

Petitioners expressed several related concerns with respect to the operation of the decontamination priority within the overall coverage of the policy. Petitioners are particularly concerned that the insurance proceeds not needed for stabilization, decontamination, or cleanup would be tied up until cleanup was completed. This could occur both for any coverage exceeding the $1.06 billion that NRC requires and for coverage falling within the $1.06 billion required but in excess of the amount needed for stabilization, decontamination, and cleanup after a particular accident. Thus, once it is determined that a particular accident will require, for example, $500 million for stabilization, decontamination and cleanup, licensees may need early access to the remaining insurance proceeds. Early access to these funds would help the licensee to better cope with any adverse financial effects of the accident and would reduce the likelihood that a licensee's financial hardship would havean adverse impact on the protection of public health and safety. Additionally, insurers believe that by specifically incorporating in the rule the flexible release of insurance proceeds not needed for accident cleanup without regard to whether such insurance is part of the primary or excess layers being offered[1] they will avoid problems with timing of proof of loss required under the insurance policies and the potential adverse effect such timing could have on the payment of stabilization, decontamination, and cleanup costs. By specifying a mechanism in the rule by which the NRC can approve stabilization, decontamination, and cleanup cost estimates, these problems can be avoided.

NRC Response

Although the NRC is not convinced that petitioners' proposed amendments are essential to the efficient payment of stabilization, decontamination, and cleanup costs, petitioners' recommendations in this area are being proposed by the NRC because they are consistent with NRC policy as expressed in the August 5, 1987 rulemaking. As stated in that rulemaking (52 FR 28963 at 28970),

> Obviously, the NRC would not interpret a priority in so rigid a manner as to preclude prudent practices necessary to an orderly decontamination, such as equipment purchases, stabilization activities, etc. The decontamination priority was not meant to be applied sequentially in that all expenditures on cleanup would have to be made before any others. The priority has been worded to allow licensee flexibility, particularly after a reactor has been stabilized after an accident. Despite possible utility reluctance, the priority should be compatible with the broadest range of actions necessary to protect public health and safety. Further, the decontamination priority is meant to be invoked only when there would be serious concern over the availability of funds for decontamination.

The NRC has proposed modifying petitioners' suggested amendatory language so that NRC responsibilities and concerns are more clearly presented.

C. A change in the terminology of the required insurance from "property insurance" to "decontamination liability" insurance so as to better forestall claims to insurance proceeds by a licensee's bondholders and other possible creditors.

Petitioners' Concerns

Petitioners continue to believe that the NRC decontamination priority directly conflicts with indenture language that requires "property" insurance to be maintained for the benefit of those owning the indentures issued to finance the facility. To effect this requirement, bondholders are to be named the "loss payee" of any property insurance held on the bonded property. Thus, NRC's requirement for "property" insurance directly conflicts with provisions to protect bondholders' interests in the mortgage indentures. The insurers believe that this conflict places them in a position of having to choose to whom to pay the proceeds with the result that they will likely make any insurance proceeds payable jointly to the independent trustee representing the NRC interest in protecting public health and safety and the trustee representing bondholders' interests. Such action could result in extensive litigation and delay in cleanup.

Petitioners recommend a way out of this dilemma. They propose that NRC require "hybrid" insurance policies similar to those currently offered by NEIL–II. A hybrid policy combines a licensee's obligation to stabilize, decontaminate, and clean up its reactor facility with the physical damage loss coverage of traditional property insurance. Because the hybrid policy would incorporate a stabilization and decontamination priority in the amount required by the NRC and because bondholders would not be entitled to proceeds under the stabilization and decontamination obligation portion of the coverage, petitioners believe that claims would be paid for stabilization and decontamination expenses without being challenged by bondholders. Although this hybrid policy currently is in effect only for NEIL–II excess

[1] Primary insurance covering the first $500 million in damages is offered by NML or ANI/MAERP. Insurance in excess of the first $500 million in damages is offered by NEIL–II ($825 million) and ANI/MAERP ($400 million). One of the primary policies and both excess policies may be combined for total coverage of $1.725 billion. *NRC Response*

coverage, representatives for ANI/MAERP and NML indicate that they would be willing to offer similar coverage.

NRC Response

NRC has been aware that a hybrid policy similar to that offered by NEIL–II would eliminate the potential problem of claims by bondholders against the stabilization and decontamination portion of insurance proceeds. NRC had been informed of this possibility in comments submitted in the 1984 rulemaking (see particularly comment number 12 from the NYC Bar, (49 FR 44645)). However, the NRC's expressed policy has been not to mandate the terms and conditions of insurance policies unless agreed to by insurers. At the time of the 1987 rulemaking it was not clear that insurers other than NEIL–II and perhaps NML would be willing to offer a hybrid policy. Further, NRC believed that the preamble of the 1987 rule made it clear that it was decontamination insurance that was being required, notwithstanding the general reference to "property" insurance. Thus, the NRC declined to require it explicitly.

However, because hybrid insurance polices now apparently will be available from all insurers and offer a reasonable likelihood of sheltering proceeds for stabilization and decontamination expenses from bondholders' claims, the NRC proposes to clearly require insurance to cover stabilization and decontamination of the reactor and the reactor station site. Hybrid policies discussed above would satisfy this requirement.

D. Rescission of the requirement that proceeds of the required insurance are to be paid to an independent trustee, who will disburse the proceeds for decontamination and cleanup of the facility before any other purpose.

Petitioners' Concerns

Petitioners believe that the trustee provision contained in 10 CFR 50.54(w)(4) is "unworkable, unnecessary, ineffective and will likely be counterproductive" (PRM–50–51A, p. 5.) (Other petitioners expressed similar thoughts.) According to petitioners, by requiring that insurance proceeds for decontamination and cleanup be disbursed by a bondholders' trustee, NRC is adding a further burden to an already complex process.

As explained in II.C. above, because of mortgage indenture provisions and because petitioners construe NRC as requiring "property" insurance, the independent trustee could be in conflict with the bondholders' trustee and might be reluctant to pay out funds for decontamination and cleanup until such conflict is resolved. Avoiding this conflict—one primary purpose for the trustee (i.e., to protect against claims by bondholders)—would be accomplished by NRC's requiring a hybrid policy.

In its comments, the NYC Bar indicated that it no longer recommends that NRC require an independent trustee. (The NRC relied extensively on NYC Bar's comments in the 1987 rulemaking.) Rather, a combination of the hybrid policy, explicit procedures for payment of claims, and recent decisions in bankruptcy cases may more effectively protect decontamination and cleanup expenses from competing claims. Short of bankruptcy, the hybrid insurance policy by itself will protect proceeds for use for stabilization, decontamination, and cleanup.

The NYC Bar believes, along with other petitioners, that insurance policy proceeds can be protected from claims of creditors in a bankruptcy or pre-bankruptcy situation if—

(1) the insurance policy contains a priority for the payment of decontamination expenses, (2) the policy provides coverage for decontamination expenses only as they are incurred, and (3) the policy requires the utility to use the proceeds received for payment of the decontamination expenses it has incurred. The utility would then have a contractual obligation to use the insurance proceeds for decontamination and not for other purposes. These restrictions should only apply to the extent necessary to protect public health and safety.

In a pre-bankruptcy situation, the licensee would be bound by the terms of its insurance contract. If the policy contains a decontamination priority, it will not be possible to divert the insurance proceeds to other purposes. In addition, if the policy so provided the proceeds for decontamination would not be payable until decontamination expenses were actually incurred, thus the licensee would need to make suitable arrangements for the work to be done before submitting its claim for insurance. Finally, once it were to receive the insurance proceeds, the licensee would be required by its contract to use the proceeds to pay the expenses which form the basis of its insurance claim.

In the post-bankruptcy situation, the trustee in bankruptcy or its equivalent may, subject to court approval, assume or reject executory contracts such as the insurance policy * * *. Once the trustee assumes the insurance contract (Since the trustee's right to receive up to $1.06 billion of insurance proceeds would depend upon an assumption of the contract, we regard it as unlikely that any trustee would reject it.), it too would be bound by the terms of the insurance agreement and would be required to use the insurance proceeds in a manner consistent with that agreement * * *. Creditors of the bankrupt licensee would have no claim on the insurance proceeds since the utility's right to the proceeds would be conditioned both on its incurring decontamination expenses and on its using the proceeds to pay the expenses which form the basis of its claim * * *. (We do not think, particularly in the pre-bankruptcy situation, that it is likely third party contractors would be concerned about reimbursement for work undertaken by them. As noted above, payment of the proceeds would be conditioned upon their use to pay the expenses on which the insurance claim is based. It is also likely that a licensee would assign its interest in the insurance proceeds to a contractor, in advance of the bankruptcy, in exchange for the contractor's agreement to perform the cleanup work. The assignment should effectively remove the insurance proceeds from the estate of the bankrupt.) (See comment number 36, 49 FR 44645, pp. 11–13. Parenthetical statements are footnotes in the original text.)

Petitioners also cite recent decisions by bankruptcy courts that tend to support the view that, notwithstanding the procedural remedies outlined above, expenditures to protect public health and safety would take priority over many other types of claims. In a memorandum attached to PRM–50–51A, petitioner argues that:

A debtor in possession or a trustee may make expenditures to comply with an agency's regulations or orders if the expenditure is necessary to comply with an action by the agency to enforce its police or regulatory power * * *. Agency enforcement actions to protect public health and safety or the environment constitute valid police powers, and such actions are exempt from the automatic statutory stay of proceedings against the debtor * * *. Moreover, the Supreme Court has made it clear that a debtor in possession or trustee may not abandon its obligations to comply with laws which are reasonably designed to protect public health or safety * * *. Proceeds of property insurance are normally part of the bankrupt estate and are treated like any other cash collateral. (Memorandum, pp. 2–3.)

Finally, petitioners maintain that it may be impossible to find someone to act as trustee. Petitioners have assured the NRC that they have made a good-faith effort to obtain trustees but have been unsuccessful. They believe that the reason for their lack of success is twofold. First, trustees with sufficient expertise and resources to manage over $1 billion in insurance proceeds are currently acting as bondholders' trustees. This situation results in a conflict of interest in which potential trustees would be ethically constrained from engaging. Second, trustees are apparently averse to assuming responsibility for disbursing potentially over $1 billion in insurance proceeds and the resulting exposure to possible litigation for wrongful disbursement. Because the trust would only be funded in the event of an accident and because

trustees' fees are usually based in part on the amount of assets under management, trustees would only be eligible for modest fees. These fees apparently would be insufficient to compensate trustees for the risk they believe they would be assuming.

NRC Response

The NRC has no evidence to contradict petitioners' assertions that they cannot find persons both willing and able to act as trustees. The NRC also acknowledges that in most, but perhaps not all, situations, the need for a trustee would be mitigated by using a hybrid insurance policy and by recent developments in bankruptcy case law.

At the same time, however, the NRC notes that, if the other proposed changes to 10 CFR 50.54(w) are adopted, some of the potential trustees' concerns should be reduced. For example, the hybrid policy, if it operates as petitioners suggest, would largely eliminate questions of whom to pay and thus should lower the risk of wrongful disbursement. Although for some potential trustees the problems of conflict of interest and inadequate fees would remain, the proposed changes might encourage others to assume the duties of trustee.

The NRC is not as sanguine as petitioners that recent developments in bankruptcy law have eliminated all likelihood of competing claims to insurance proceeds. For example, the recent decision of "In re Smith-Douglass, Inc." (Nos. 87–1683, –1684 (4th Circuit, September 6, 1988)) allowed unconditional abandonment of a hazardous waste site that violated State environmental laws because the estate had no unencumbered assets and the site did not pose any serious public health and safety risks. The court did indicate that it would have found differently if unencumbered assets were available. But the decision does raise again the issues of whether insurance proceeds would be considered unencumbered assets and whether a court would take it upon itself to decide what level of accident cleanup constitutes a "less-than-serious" public health and safety risk.

The NRC concludes that requiring an independent trustee to hold and disburse insurance proceeds may still be warranted in some circumstances. Nevertheless, given the reality of lack of trustee availability, the NRC proposes to eliminate, at least temporarily, the trustee requirement. The Commission retains the authority to impose such requirements in individual cases, if warranted. At the same time, the NRC will seek authority to receive and retain such funds itself. If the NRC obtains such authority, it will consider whether to exercise such authority and the best method of implementing such authority. The NRC may reinstitute the trusteeship requirement.

III. Level of Insurance

Although not raised by petitioners, the NRC staff believes that this rule should also address the issue of how much insurance should be required. Chairman Carr and Commissioner Rogers agree with the staff proposal and consequently request public comment on this issue.

In the 1987 rulemaking, the NRC concluded that it found no effective way to determine future costs of accident stabilization, decontamination, and cleanup other than by periodic updates of the study from which the current $1.06 billion requirement was derived.[2] The Commission believed that a general index of inflation such as the Consumer Price Index or even the Handy-Whitman construction cost index was too general for escalating the cost of accident cleanup. Subsequent to the 1987 amendments to 10 CFR 50.54(w), the Commission has issued its final decommissioning regulations (53 FR 24018, June 27, 1988). Those regulations, in part, adopted formulas for estimating decommissioning cost based on reactor size and type and future decommissioning costs based on a weighted index of three major decommissioning cost components—labor, energy, and waste burial costs. Inflation estimates for the labor and energy components will be derived from producer price indices published annually by the Bureau of Labor Statistics of the U.S. Department of Labor. Waste burial charge estimates will be derived from an NRC-published report.

Although decommissioning costs and accident cleanup costs are not strictly equivalent, many activities are common to both. The precise formula adopted for estimating future decommissioning costs may not be appropriate for accident cleanup costs; nevertheless, the staff concludes that the methodology used in the decommissioning inflation formula may be appropriate for accident cleanup inflation. Although no specific formula is being proposed at this time, Chairman Carr and Commissioner Rogers are requesting comments on the appropriateness of the methodology and any suggestions for the factors and weights that could be used.

[2] "Technology, Safety and Costs of Decommissioning Reference Light Water Reactors Following Postulated Accidents," (NUREG/CR–2601) Pacific Northwest Laboratory, November 1982. This report is available for purchase from the U.S. Government Printing Office, P.O. Box 37032, Washington, DC 20013–7082.

IV. Environmental Assessment and Finding of No Significant Environmental Impact

If adopted, these proposed amendments would (1) clarify the sequence of events covered by required accident cleanup insurance during the period of stabilization and decontamination after an accident; (2) make explicit the requirement for a combined accident decontamination obligation and physical damage loss insurance policy; and (3) rescind the existing requirement that insurance proceeds be paid to and disbursed by an independent trustee. In addition, this notice of proposed rulemaking seeks comments on establishing a methodology for estimating future accident cleanup costs. This action is required to increase the effectiveness of the accident cleanup insurance required under 10 CFR 50.54(w) so that public health and safety is not adversely affected during the cleanup process. The alternative to this action is to maintain the existing rule without change.

Neither this action nor its alternative has any significant impact on the environment. Although changes in insurance requirements may affect the financial arrangements of licensees and may have economic and social consequences, they will not, if adopted, alter the environmental impact of the licensed activities. The alternative to the proposed action likewise would not have any significant impact on the environment. Accordingly for the foregoing reasons, the Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and therefore an environmental impact statement is not required. No other agencies or persons were contacted for this proposed action, and no other documents related to the environmental impact of this proposed action exist. The foregoing constitutes the environmental assessment and finding of no significant impact for this proposed rule.

V. Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule will be submitted to the Office of Management and Budget for review and

approval of the paperwork requirements.

VI. Regulatory Analysis

On August 5, 1987, the NRC published in the Federal Register (52 FR 28963) a final rule amending 10 CFR 50.54(w). The rule increased the amount of onsite property damage insurance required to be carried by NRC's commercial power reactor licensees. The rule also required these licensees to obtain insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the 1987 rule, the NRC received three petitions for rulemaking that sought clarification of the stabilization and decontamination priority provisions and rescission of the trusteeship provision. The petitions further stated that the trusteeship provisions may actually have an effect counter to their intended purpose by delaying the payment of claims and thus possibly the cleanup process. The proposed rule developed in response to the petitions for rulemaking should help clarify the mechanism by which accident cleanup funds may be assured to be used for their intended purpose. Even without formal stabilization and decontamination priority and trusteeship provisions, NRC has authority to take appropriate enforcement action to order cleanup in the unlikely event of an accident.

Chairman Carr and Commissioner Rogers request public comment on the appropriateness and need for developing formulas that would both base the required amountof accident cleanup insurance on reactor size and type and establish a mechanism for changing future insurance amounts to reflect changes in major accident cleanup cost components. Although the effect of these formulas, if developed and adopted, would be to increase the required amount of insurance for some licensees, there should be little impact on insurance costs to licensees because almost all licensees buy the maximum amount of insurance available. Additionally, by rescinding the trusteeship requirement, the Commission would be eliminating licensees' costs to obtain trustee services. Thus, the proposed rule will not create substantial costs for licensees.

The proposed rule will not have significant impacts on state and local governments and geographical regions, on the environment, or create substantial costs to the NRC or other Federal agencies. The foregoing discussion constitutes the regulatory analysis for this proposed rule.

VII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant impact upon a substantial number of small entities. The proposed rule affects approximately 113 power reactor licenses. None of the holders of these licenses could be considered small entities.

VIII. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule because the proposed rule, if adopted, would not impose a backfit as defined in § 50.109(a)(1). Therefore, a backfit analysis is not required for this proposed rule.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR part 50.

PART 50— DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec.234, 83 Stat. 1224, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201 as amended, 202, 206, 88 Stat. 1242, as amended 1244, 1246 (42 U.S.C. 5841, 5842, 5846). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13 and 50.54(dd) also issued under Sec. 108, 68 Stat. 939 as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 through 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Appendix F also issued under sec. 187, 68 Stat. 955(42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.46(a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.7(a), 50.10 (a)–(c), 50.34 (a) and (e), 50.44 (a)–(c), 50.46 (a) and (b), 50.47(b), 50.48 (a), (c), (d), and (e), 50.49(a), 50.54 (a), (i), (i)(1), (1)–(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a (a),(c)–(e), (g), and (h), 50.59(c), 50.60(a), 50.62(c), 50.64(b), and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49 (d), (h), and (j), 50.54 (w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71 (a)–(c) and (e), 50.72(a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.54 is amended by revising paragraph (w) to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(w) Each electric utility licensee under this part for a production or utilization facility of the type described in § 50.21(b) or § 50.22 shall take reasonable steps to obtain insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Commission that it possesses an equivalent amount of protection covering the licensee's obligation, in the event of an accident at the licensee's reactor, to stabilize and decontaminate the reactor and the reactor station site at which the reactor experiencing the accident is located, Provided that:

(1) The insurance required by paragraph (w) of this section must have a minimum coverage limit for each reactor station site of either $1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. The required insurance must clearly state that, as and to the extent provided in paragraph (w)(4) of this section, any proceeds must be payable first for stabilization of the reactor and next for decontamination of the reactor and the reactor station site. If a licensee's coverage falls below the required minimum, the licensee shall within 60 days take all reasonable steps to restore its coverage to the required minimum. The required insurance may, at the option of the licensee, be included within policies that also provide coverage for other risks, including, but

not limited to, the risk of direct physical damage.

(2)(i) With respect to policies issued or annually renewed on or after [insert a date one year after the effective date of the rule] the proceeds of such required insurance must be dedicated, as and to the extent provided in this paragraph, to reimbursement or payment on behalf of the insured of reasonable expenses incurred or estimated to be incurred by the licensee in taking action to fulfill the licensee's obligation, in the event of an accident at the licensee's reactor, to ensure that the reactor is in, or is returned to, and maintained in, a safe and stable condition and that radioactive contamination is removed or controlled such that personnel exposures are consistent with the occupational exposure limits in 10 CFR part 20. These actions must be consistent with any other obligation the licensee may have under this chapter and must be subject to paragraph (w)(4) of this section. As used in this section, an "accident" means an event that involves the release of radioactive material from its intended place of confinement within the reactor or on the reactor station site such that there is a present danger of release offsite in amounts that would pose a threat to public health and safety.

(ii) The stabilization and decontamination requirements set forth in paragraph (w)(4) of this section must apply uniformly to all insurance policies required under paragraph (w) of this section.

(3) The licensee shall report to the NRC on April 1 of each year the current levels of this insurance or financial security it maintains and the sources of this insurance or financial security.

(4)(i) In the event of an accident at the licensee's reactor, whenever the estimated costs of stabilizing the licensed reactor and of decontaminating the reactor and the reactor station site exceed $100 million, the proceeds of the insurance required by paragraph (w) of this section must be dedicated to and used, first, to ensure that the licensed reactor is in, or is returned to, and can be maintained in, a safe and stable condition so as to prevent any significant risk to public health and safety and, second, to decontaminate the reactor and the reactor station site in accordance with the licensee's cleanup plan as approved by order of the Director of the Office of Nuclear Reactor Regulation. This priority on insurance proceeds shall remain in effect for 60 days or, upon order of the Director, for such longer periods, in increments not to exceed 60 days except as provided for activities under the cleanup plan required in paragraphs (w)(4) (iii) and (iv), as the Director may find necessary to protect the public health and safety. Actions needed to bring the reactor to and maintain the reactor in a safe and stable condition may include one or more of the following, as appropriate:

(A) Shutdown of the reactor;

(B) Establishment and maintenance of long-term cooling with stable decay heat removal;

(C) Maintenance of sub-criticality;

(D) Control of radioactive releases; and

(E) Securing of structures, systems, or components to minimize radiation exposure to onsite personnel or to the offsite public or to facilitate later decontamination or both.

(ii) The licensee shall inform the Director of the Office of Nuclear Reactor Regulation in writing when the reactor is and can be maintained in a safe and stable condition so as to prevent any significant risk to the public health and safety. Within thirty (30) days after the licensee informs the Director that the reactor is in this condition, or at such earlier time as the licensee may elect or the Director may for good cause direct, the licensee shall prepare and submit a cleanup plan for the Director's approval. The cleanup plan must identify and contain an estimate of the cost of each cleanup operation that will be required to decontaminate the reactor sufficiently to permit the licensee either to resume operation of the reactor or to apply to the Commission under § 50.82 of this part for authority to decommission the reactor and to surrender the license voluntarily. Cleanup operations may include one or more of the following, as appropriate:

(A) Processing any contaminated water generated by the accident and by decontamination operations to remove radioactive materials;

(B) Decontamination of surfaces inside the auxiliary and fuel handling buildings and the reactor building to levels consistent with the Commission's occupational exposure limits in 10 CFR part 20, and decontamination or disposal of equipment;

(C) Decontamination or removal and disposal of internal parts and damaged fuel from the reactor vessel; and

(D) Cleanup of the reactor coolant system.

(iii) Following review of the licensee's cleanup plan, the Director will order the licensee to complete all operations that the Director finds are necessary to decontaminate the reactor sufficiently to permit the licensee either to resume operation of the reactor or to apply to the Commission under § 50.82 for authority to decommission the reactor and to surrender the license voluntarily. The Director shall approve or disapprove, in whole or in part for stated reasons, the licensee's estimate of cleanup costs for such operations. Such order may not be effective for more than 1 year, at which time it may be renewed. Each subsequent renewal order, if imposed, may be effective for not more than 6 months.

(iv) Of the balance of the proceeds of the required insurance not already expended to place the reactor in a safe and stable condition pursuant to paragraph (w)(2)(i) of this section an amount sufficient to cover the expenses of completion of those decontamination operations that are the subject of the Director's order shall be dedicated to such use. Provided that, upon certification to the Director of the amounts expended previously and from time to time for stabilization and decontamination and upon further certification to the Director as to the sufficiency of the dedicated amount remaining, policies of insurance may provide for payment to the licensee or other loss payees of amounts not so dedicated, and the licensee may proceed to use in parallel (and not in preference thereto) any insurance proceeds not so dedicated for other purposes.

* * * * *

Dated at Rockville, Maryland, this 27th day of October, 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89-25808 Filed 11-3-89; 8:45 am]

BILLING CODE 7590-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AE25

Exchange Rates for Foreign Currencies

AGENCY: Department of Veterans Affairs.

ACTION: Proposed Rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations to establish a procedure for converting foreign currencies into U.S. dollar equivalents. This action is necessary because some beneficiaries receive income, or pay expenses affecting their entitlement, in foreign currencies. The intended effect

of this amendment is to establish a regulatory method for calculating the rates or amounts due those beneficiaries.

DATES: Comments must be received on or before December 6, 1989. Comments will be available for public inspection until December 18, 1989. This change is proposed to be effective 30 days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change 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 Service Unit, room 132, at the above address and only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 18, 1989.

FOR FURTHER INFORMATION CONTACT: Donald England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration (202) 233–3005.

SUPPLEMENTARY INFORMATION: Under the income-based programs administered by VA, benefit amounts are determined according to formulas which allow adjustments to countable income based on medical expenses paid by the claimant. The amounts payable for burial, plot and headstone allowances, or for claims filed by someone other than a surviving spouse or dependent child for accrued benefits due a deceased beneficiary, are determined from the amount of expenses borne by the claimant. Entitlement to these benefits is calculated assuming that all financial transactions are in U.S. dollars, but some beneficiaries living outside of the United States receive income, or pay expenses, in the currency of the country in which they reside. We are proposing a method for converting income received or expenses paid in a foreign currency into U.S. dollar equivalents for the purpose of determining entitlement to VA benefits.

We propose to perform these calculations using quarterly exchange rates established by the Department of the Treasury. The quarterly Treasury rates are averages of daily rates obtained from State Department disbursing officers, and the rates are available to the public. We propose to implement this procedure by adding new § 3.32 to Title 38, Code of Federal Regulations.

In claims for burial, plot and headstone allowances and claims for accrued benefits as reimbursement from the person who bore the expenses of a deceased beneficiary's last illness or burial, we propose to use the rate for the quarter in which the expenses were paid or, if the claim is filed by an unpaid creditor, for the quarter in which the veteran died. In any claim where entitlement originated during a quarter for which an exchange rate has not yet been published, the most recent quarterly rate would be used.

Since exchange rates fluctuate and cannot be predicted in advance, the most recent quarterly exchange rate would also be used to project payment rates in improved pension or parents' dependency and indemnity compensation (DIC) claims. Retroactive adjustments required by fluctuations in exchange rates would be performed annualy when the Eligibility Verification Report (EVR) is submitted and would be calculated using the exchange rate obtained by averaging the four most recent quarterly rates. Unusual medical expenses may be reported up to one year after the close of an EVR period, and adjustments to prior EVR periods would be calculated using the average of the four quarterly rates which were the most recent available as of the closing date of the twelve-month EVR period in question.

This method was chosen because it minimizes the administrative burdens as well as the complexity of the mathematical computations involved. Although other methods, such as one using daily bank rates, were considered, they are not being proposed because they would impose unreasonable administrative burdens while offering little or no additional benefit to claimants.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA) 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

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

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

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

The Catalog of Federal Domestic Assistance program numbers are 64.101, 64.104, 64.105 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pension, Veterans.

Approved: October 13, 1989.

Edward J. Derwinski,

Secretary.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is proposed to be amended by adding § 3.32 to read as follows:

§ 3.32 Exchange rates for foreign currencies.

When determining the rates of pension or parents' DIC or the amounts of burial, plot or headstone allowances or accrued benefits to which a claimant or beneficiary may be entitled, income received, or expenses paid, in a foreign currency shall be converted into U.S. dollar equivalents employing quarterly exchange rates established by the Department of the Treasury.

(a) *Pension and parents' DIC.* (1) Because exchange rates for foreign currencies cannot be determined in advance, rates of pension and parents' DIC shall be projected using the most recent quarterly exchange rate and shall be adjusted retroactively based upon actual exchange rates when an annual eligibility verification report is filed.

(2) Retroactive adjustments due to fluctuations in exchange rates shall be calculated using the average of the four most recent quarterly exchange rates. If the claimant reports income and expenses for a prior reporting period, the retroactive adjustment shall be calculated using the average of the four quarterly rates which were the most recent available on the closing date of the twelve-month period for which income and expenses are reported.

(b) *Burial, plot or headstone allowances and accrued benefits.* Payment amounts for burial, plot or headstone allowances and claims for accrued benefits as reimbursement from the person who bore the expenses of a deceased beneficiary's last illness or burial shall be determined using the quarterly exchange rate for the quarter in which the expenses forming the basis

of the claim were paid. If the claim is filed by an unpaid creditor, however, the quarterly rate for the quarter in which the veteran died shall apply. When entitlement originates during a quarter for which the Department of the Treasury has not yet published a quarterly rate, amounts due shall be calculated using the most recent quarterly exchange rate.

(Authority: 38 U.S.C. 210(c))

Cross-References: *Accrued benefits.* See § 3.1000. *Accrued benefits payable to foreign beneficiaries.* See § 3.1008.

[FR Doc. 89-25995 Filed 11-3-89; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-3678-3]

Assessment of Visibility Impairment; Extension of Comment Period

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

ACTION: Notice of comment period extension.

SUMMARY: This notice extends for 30 days the initial comment period for the proposed visibility regulations published on September 5, 1989 (54 FR 36984). The EPA is extending the deadline at the request of the Salt River Project, the operator and joint owner of Navajo Generating Station (NGS)—one of the sources potentially affected by the proposed regulations.

DATES: The public comment period will now end on December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Denise Scott at telephone number (919) 541-0870 or FTS 629-0870.

SUPPLEMENTARY INFORMATION: On December 2, 1980, EPA promulgated required visibility regulations (45 FR 80084 codified at 40 CFR 51.300 et seq.). Among other things, these regulations required 36 States listed in § 51.300(b) to develop a program to assess and remedy visibility impairment from new and existing sources. For various reasons, most of these States, including Maine, Arizona, and Utah, failed to submit revised State implementation plans (SIP's) to EPA addressing visibility protection in Class I areas. In December of 1982, the Environmental Defense Fund and other environmental groups sued EPA for failing to promulgate Federal implementation plans (FIP's) for the 35 affected States which failed to submit revised SIP's to EPA (*EDF* v. *Reilly*, No. C826850 RPA, northern district of California). A settlement agreement was negotiated between the EPA and the plaintiffs which the court approved by order on April 20, 1984. This agreement placed EPA on a schedule to promulgate FIP's for the affected States. Among other things, EPA was required to address certified visibility impairments in seven Class I areas. The settlement agreement was revised several times, most recently by court order dated July 6, 1989, in order to allow EPA time to collect and analyze data on the visibility impairments in these Class I areas. On September 5, 1989, EPA proposed actions for three Class I areas. In the September 5, 1989 **Federal Register** notice, EPA proposed not to revise the regulations for the States of Maine and Utah to address visibility impairments in Moosehorn Wilderness and Canyonlands National Park. Also in this notice, EPA proposed to attribute a significant portion of the visibility impairment observed during the winter months in Grand Canyon National Park to the NGS. The settlement agreement requires proposal of new emission limits for NGS by February 1, 1990.

The Salt River Project, which operates the NGS, has filed a motion with the court to delay the present deadlines. A court hearing on the motions is scheduled for November 9, 1989. In order to provide comments following the court hearing, the Salt River Project requested a 30-day extension of the comment period. The EPA is granting Salt River Project's request for a comment period extension to December 6, 1989.

Dated: November 1, 1989.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 89-26106 Filed 11-3-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 174

[CGD 87-094]

RIN 2115-AC87

Dry Cargo Ship Subdivision and Damage Stability Regulations

AGENCY: Coast Guard, DOT.

ACTION: Advance Notice of Proposed Rulemaking; reporting of the comment period.

SUMMARY: On April 6, 1988, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (53 FR 11440) advising the public that the Coast Guard was considering regulations to require new, oceangoing, foreign and domestic cargo ships greater than 330 feet (100 meters) in length and of 500 gross tons or over entering U.S. ports to meet a minimum standard of subdivision and damage stability. Draft regulations were included as an appendix and public comment was solicted. Since the publication of the ANPRM, the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO), revised the draft standard proposed by the IMO Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF), which was the basis for the Coast Guard's draft regulations. The Coast Guard is revising its draft regulations to conform to the proposed international standard and is reopening the comment period of the ANPRM.

DATES: Comments on this revision to the advance notice must be received on or before January 5, 1990.

ADDRESSES: Comments should be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3600), (CGD 87-094), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001. The comments and materials referenced in this notice will be available for examination and copying between 8 a.m. and 3 p.m., Monday through Friday, except holidays, at the Marine Safety Council, Room 3600, Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Randall R. Gilbert, Office of Marine Safety, Security, and Environmental Protection (G-MTH-3/13), Room 1308, U.S. Coast Guard Headquarters, Washington, DC 20593-0001, (202) 267-2988.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice as CGD 87-094 and the specific sections of the proposal to which their comments apply, and give reasons for the comments. If acknowledgment of receipt of a comment is desired, a stamped self-addressed postcard or envelope should

be enclosed. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Informing

The principal persons involved in the drafting of this proposal are Lieutenant Randall R. Gilbert, Project Manager, Office of Marine Safety, Security, and Environmental Protection, and Lieutenant Commander Don M. Wrye, Project Attorney, Office of Chief Counsel.

Discussion

The United States has been pressing for an international agreement on Dry Cargo Ship Subdivision since the 1960 SOLAS Convention. In 1985, the MSC instructed the SLF technical sub-committee to develop a subdivision and damage stability standard based on the probabilistic analysis method. The SLF draft standard was studied by all countries for two years. At the SLF meeting in September 1987 (SLF 32), the SLF draft standard was agreed upon and sent to the MSC for their review of the level of subdivision which should be required. In April 1988, shortly after the ANPRM was published, the MSC approved publication of the SLF draft standard and circulated it for one year in order to gain experience so the level of the required subdivision index (the "R" formula) could be determined.

The SLF standard was studied, and many countries, including the United States, submitted results of their calculations to the MSC so they could set the level of required subdivision and finalize the regulations. At the MSC meeting in April 1989 (MSC 57) there were detailed discussions concerning the level of safety indicated by the "R" formula, particularly for certain ships with difficulties in meeting the safety level which is represented by the "R" formula. An alternative formula was adopted which was just slightly lower than the formula published in the ANPRM on April 6, 1988.

This notice reflects changes to the SLF draft standard, which have been made and approved by the IMO Maritime Safety Committee, and which will be referred to now as the IMO standard. The IMO standard is now being circulated as a draft amendment to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 74/83), and is scheduled to be adopted in May 1990. If adopted as an amendment to SOLAS 74/83, the IMO standard would apply to oceangoing dry cargo vessels greater than 330 feet (100 meters) in length and 500 gross tonnage or over constructed on or after February 1, 1992.

The purpose of reopening this ANPRM is to solicit comments on both the technical merits and the probable economic effect of the revised Required Subdivision Index formula. Comments from the maritime community and any other interested parties are requested. All comments received will be considered in preparing the Notice of Proposed Rulemaking.

Specific Change to the Draft Regulations

Appendix 2—Draft Rules for the Subdivision and Damage Stability of Dry Cargo Ships

The Required Subdivision Index formula ("the 'R' formula") in Regulation 3 of the SLF draft standard published as Appendix 1 to the ANPRM, and in § XXX.210 in the Coast Guard's draft regulations published as Appendix 2 to the ANPRM, was as follows:

$R = (C_1 + C_2 L_s)^{1/3}$

where:
$C_1 = 0.0$
$C_2 = 0.0003048$, if L_s is in feet
$C_2 = 0.001$, if L_s is in meters

The amendment to the draft standard revises the coefficients C_1 and C_2 to read as follows:

$C_1 = 0.002$
$C_2 = 0.000274$, if L_s is in feet
$C_2 = 0.0009$, if L_s is in meters

The complete IMO standard, as amended, is detailed in MSC 57/WP.17, a copy of which may be obtained by contacting the person identified in **"FOR FURTHER INFORMATION CONTACT"** above. The setting of the Required Subdivision Index formula is the only significant change to the SLF draft standard published as Appendix 1 in the ANPRM. The other changes are either editorial in nature or add sections concerning the maintaining of the watertight integrity of the ship and its bulkheads.

Dated: September 21, 1989.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Maine Safety, Security and Environmental Protection.

[FR Doc. 89-26066 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-14-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; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by Jim Atkinson, requesting the allotment of Channel 289A to Imboden, Arkansas. See 54 FR 18557, May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 89-93, adopted September 29, 1989, and released October 30, 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.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26086 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-583, RM-6429]

Radio Broadcasting Services; Meeker, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by James H. Hicks, requesting the allotment of Channel 233A to Meeker, Colorado. See 54 FR 01196, January 3, 1989. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Ordee Pearson, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 88-583,

adopted September 29, 1989, and released October 30, 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.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26085 Filed 11–3–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–469, RM–6815]

Radio Broadcasting Services; Naples Park and Solana, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Wodlinger Broadcasting of Naples Inc., licensee of Station WIXI(FM), Channel 288A at Naples Park, Florida, proposing the substitution of Channel 288C3 for Channel 288A at Naples Park and modification of its license to specify operation on the higher class co-channel. In order to accomplish the Naples Park substitution, the substitution of Channel 285A for Channel 287A at the current site of the construction permit (BPH–860827MB) at Solana, Florida, is required. The coordinates for Channel 288C3 at Naples Park are North Latitude 28–13–56 and West Longitude 81–45–10, and the coordinates for Channel 285A at Solana are North Latitude 26–50–41 and West Longtitude 82–02–15. We are herein issuing Wayne L. Dilucente, permittee of construction permit (BPH–860827MB) at Solana, Florida, an *Order to Show Cause* regarding the proposal to change his channel.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20544.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Michael R. Miller, Southmayd, Powell & Taylor, 1764 Church Street, NW. Washington, DC 20036 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–469, adopted October 6, 1989, and released October 31, 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 proeeding.

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 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. 89–26082 Filed 11–3–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–466, RM–6906]

Radio Broadcasting Services; Oil City, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Stephen M. Olszowka seeking the allotment of Channel 242A to Oil City, Pennsylvania, as the community's second local FM service. Channel 242A can be allotted to Oil City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 41–25–30 and West Longitude 79–42–24. Canadian concurrence is required since Oil City is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: 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: Stephen M. Olszowka, WKQW Radio, 234 Elm Street, P.O. Box 1222, Oil City, Pennsylvania 16301 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89–466, adopted October 6, 1989, and released October 31, 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 contractor, 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 A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89–26081 Filed 11–3–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89-467, RM-7092]

Radio Broadcasting Services; Fairfield, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a proposal filed by Fairfield Broadcast Partners, requesting the substitution of FM Channel 228C3 for Channel 227A at Fairfield, Maine, and modification of its construction permit to specify the new channel. Canadian concurrence will be obtained for this allotment. The coordinates for Channel 228C3 are 44-45-00 and 69-41-15.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: 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: Gary S. Smithwick, Smithwick and Belendiuk, P.C., 2033 M Street NW., Suite 207, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Proposed Rule Making, MM Docket No. 89-467, adopted October 6, 1989, and released October 31, 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. 89-26083 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-468, RM-6889]

Radio Broadcasting Services; Aberdeen, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Tenn-Tom Broadcasting Corp. proposing the substitution of FM Channel 287C3 for Channel 287A at Aberdeen, Mississippi. Petitioner also requested modification of its license for Station WWZQ-FM, Channel 287A, to specify operation on Channel 287C3. The coordinates for Channel 287C3 are 33-50-20 and 88-18-30.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 8, 1990.

ADDRESSES: 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: Jim Buffington, President, Tenn-Tom Broadcasting Corp., P.O. Box 1240, Aberdeen, Mississippi 39730.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-468, adopted October 6, 1989, and released October 31, 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. 89-26084 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-465, RM-6905]

Radio Broadcasting Services; Norwich, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Craig L. Fox seeking the allotment of Channel 237A to Norwich, New York, as the community's second local FM service. Channel 237A can be allotted to Norwich in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) south to avoid a short-spacing to unoccupied but applied for Channel 235B at Frankfort, New York. The coordinates for this allotment are North Latitude 42-28-39 and West Longitude 75-33-55. Canadian concurrence is required since Norwich is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before December 22, 1989, and reply comments on or before January 9, 1990.

ADDRESSES: 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: Craig L. Fox, 1213 Madison Street, Syracuse, New York, 13210-2027 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.

89-465, adopted October 6, 1989, and released October 31, 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 contractor, 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 A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26079 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-420, RM-6845]

Radio Broadcasting Services; Brockport, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Commission corrects the Notice of Proposed Rule Making proposing the allotment of a second local FM service to Brockport, New York, by amending the class of Channel 288 to specify Class A rather than the incorrect Class B1. This proceeding was initiated at the request of John Rosenkrans.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the commission's Erratum MM Docket No. 89-420, released October 31, 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 contractor, 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 A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-26080 Filed 11-3-89; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC-19 (Sub-No. 41)]

Practices of Motor Common Carriers of Household Goods; Limitations of Liability

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to revise its regulation at 49 CFR Part 1056 to permit motor common carriers of household goods to file released rates that will limit their liability for loss or damage to items of "extraordinary" or "unusual" value under certain circumstances.

The present rule at 49 CFR Part 1056.12, which restricts a household goods mover's ability to limit its cargo liability, was prescribed in *Practices of Motor Common Carriers of Household Goods (Limitations of Liability)*, 124 M.C.C. 395 (1976), *aff'd. sub nom. Household Goods Carriers' Bureau* v. *I.C.C.*, 584 F.2d 437 (D.C. Cir. 1978) to protect the interests of consumers and to eliminate the ambiguities surrounding the application of the term "extraordinary" value by household goods movers. Adoption of the proposed rule would require shippers to list all items of extraordinary value or be subject to a reduction in payment of claims.

DATES: Comments are due on December 6, 1989.

ADDRESSES: Send comments (an original and 10 copies) referring to Ex Parte No. MC-19 (Sub-No. 41) to: Interstate Commerce Commission, Office of the Secretary, Case Control Branch, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Heber P. Hardy (202) 275-7148

or

John W. Fristoe (202) 275-7844 [TDD for hearing impaired (202) 275-1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to the Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th Street and Constitution Ave., NW., Washington, DC 20423, or call (202) 275-7428 [assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters].

Energy and Environmental Considerations

We preliminarily conclude that the proposed rule revision will not affect significantly either the quality of the human environment or the conservation of energy resources

Regulatory Flexibility Analysis

We preliminarily conclude that this action will not have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1056

Moving of household goods, Consumer protection.

Decided: October 27, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners André, Lamboley, and Phillips. Commissioner Lamboley commented with a separate expression.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1056 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

1. The authority citation for part 1056 continues to read as follows:

Authority: 49 U.S.C. 10321, 11109, and 11110; and 5 U.S.C. 553.

§ 1056.12 [Amended]

2. Section 1056.12 is proposed to be amended in paragraph (b) introductory text by substituting the word "instances" for the word "instance" in the last line of the introductory text and by adding a new paragraph (b)(2) to read as follows:

§ 1056.12 Liability of carriers.

* * * * *

(b) * * *

(2) Liability for loss of or damage to articles of extraordinary value may be limited to the declared value per pound for each pound of the lost or damaged article, unless the shipper specifically identifies in writing to the carrier that any currency, coin, precious metals, precious or semiprecious stones or gems, furs or fur garments, antiques, rare collectible items, computer software programs, and manuscripts or other rare documents, or other articles, not listed above, that have a value per pound of $100.00 or more, will be included in a shipment.

* * * * *

[FR Doc. 89-26089 Filed 11-3-89; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 54, No. 213
Monday, November 6, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-89-018]

Notice of Public Hearing Regarding the Conway and Loris, South Carolina, Tobacco Markets; Cancellation

ACTION: Notice of Cancellation.

SUMMARY: This notice announces the cancellation of the notice of public hearing previously published in the Federal Register October 24, 1989, (54 FR 43308) scheduled to be held at Conway, South Carolina, on November 7, 1989, to consider an application to consolidate the two markets. This action is taken at the request of the applicants.

Dated: November 2, 1989.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 89-26223 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

1989 Crop Soybeans

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determinations with respect to 1989 Crop Soybeans.

SUMMARY: The purpose of this notice is to affirm the announcement that the level of price support for the 1989 soybean crop is $4.53 per bushel. This announcement is made pursuant to section 201(i) of the Agricultural Act of 1949, as amended (the "1949 Act"). In accordance with section 1009 of the Food Security Act of 1985, as amended, any determinations with respect to implementation of cost reduction options will be made at a later date.

EFFECTIVE DATE: September 22, 1989.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Commodity Analysis Division, ASCS-USDA, P.O. Box 2415, Washington, DC 20013, Telephone (202) 447-4417. An impact analysis has been prepared and is available from the above named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under Department of Agriculture procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

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

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

Section 1017 of the Food Security Act of 1985 provides that the Secretary of Agriculture shall determine the rate of loans, payments and purchases under a program established under the Agricultural Act of 1949 (the "1949 Act") for any of the 1986 through 1990 crops without regard to the requirements for notice and public participation. Accordingly, public comments are not required with respect to the level of loans and purchases under the price support program for the 1989 crops of soybeans.

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

Section 201(i)(1)(A) of the 1949 Act provides that the price of soybeans for each of the 1986 through 1990 marketing years shall be supported through loans and purchases. Section 201(i)(1)(B) provides that the support price for the 1986 and 1987 crops of soybeans shall be $5.02 per bushel. Section 201(i)(1)(C) provides that the support price for each of the 1988 through 1990 crops shall be established at a level equal to 75 percent of the simple average price received by producers for soybeans in the preceding 5 marketing years excluding the years with highest and lowest prices, except that the level of support may not be reduced by more than 5 percent in any year and in no event below $4.50 per bushel. Calculating 75 percent of the simple average market price received by producers for soybeans for the 5 marketing years preceding the 1989 marketing year, excluding the years with the highest and lowest prices, results in a price of $4.19 per bushel. Since this price is more than 5 percent below the level of price support established for the preceding crop of soybeans (i.e. $4.77 per bushel), prior to any adjustments, the level of support for the 1989 crop of soybeans using this formula is $4.53.

If the Secretary of Agriculture determines in accordance with section 201(i)(2) that the price support level for soybeans determined for a marketing year would discourage the exportation of soybeans and cause excessive stocks of soybeans in the United States, the Secretary may reduce the price support level for soybeans by the amount the Secretary determines necessary to maintain domestic and export markets for soybeans, except that the price support level cannot be reduced by more than 5 percent in any year nor below $4.50 per bushel. Any reduction made in accordance with section 201(i)(2) in the price support level for soybeans shall not be considered in determining the price support level for soybeans for subsequent years.

Section 201(i)(5) of the 1949 Act provides that the Secretary shall make a preliminary announcement of the level of price support for a crop of soybeans not earlier than 30 days prior to September 1, the beginning of the soybean marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full information and statistics are available. The final level of price support must be announced no later than October 1 of the marketing year to which the announcement is applicable.

Since the final level of support cannot be less than that of the preliminary announcement, and the preliminary level of support has not been reduced, the preliminary and final levels of price support for the 1989-crop of soybeans are both established at $4.53 per bushel.

Section 201(i)(3) of the 1949 Act provides that, if the Secretary determines that such action will assist in maintaining the competitive relationship of soybeans in domestic and export markets after taking into consideration the cost of producing soybeans, supply and demand conditions, and world prices for soybeans, the Secretary may permit a producer to repay a loan for a crop at a level that is the lesser of (1) the announced loan level for such crop or (2) the prevailing world market price for soybeans, as determined by the Secretary. If the Secretary permits a producer to repay a loan as described above, the Secretary shall prescribe by regulation (1) a formula to define the prevailing world market price for soybeans and (2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for soybeans.

Section 1009(a) of the Food Security Act of 1985 provides that, whenever the Secretary determines that an action authorized by section 1009 (c), (d) or (e) will reduce the total of the direct and indirect costs to the Federal Government of a commodity program administered by the Secretary without adversely affecting income to small and medium sized producers participating in such programs, the Secretary shall take such action with respect to that commodity program. These actions include: (1) The commercial purchases of commodities by the Secretary; (2) the settlement of nonrecourse loans at an amount less than the total of the principal loan amount and accumulated interest, but not less than the principal amount, if such action will result in: (A) Receipt of a portion rather than none of the accumulated interest, (B) avoidance of default of the loan, and (C) elimination of storage, handling and carrying charges on the forfeited loan collateral; and (3) the reopening of a production control or loan program established for a crop at any time prior to harvest of such crop for the purpose of accepting bids from producers for the conversion of acreage planted to a program crop to diverted acreage in return for in-kind payments if the Secretary has determined that: (1) Changes in domestic or world supply or demand conditions have substantially changed after announcement of the program for that crop and (2) without action to further adjust production, the Federal Government and producers will be faced with a burdensome and costly surplus. Such payments are not subject to the maximum payment limitation provision of section 1001 of the Food Security Act of 1985 but are limited to $20,000 per year per producer for any one commodity.

A press release was issued on August 29, 1989, which made an announcement of the loan and purchase level for the 1989 crop of soybeans of $4.53 per bushel. Since the level of support has not been reduced, this establishes the preliminary and final announcement of loan and purchase level for the 1989 crop of soybeans. The purpose of this notice is to affirm that determination.

Determinations

A. Loan and Purchase Level

The announcement with respect to the price support level for the 1989 crop of soybeans is that it shall be $4.53 per bushel.

B. Cost Reduction Options

The decision to implement any cost reduction will be made at a later date.

Authority: Section 201 of the Agricultural Act of 1949, as amended, 63 Stat. 1052, as amended (7 U.S.C. 1446(i)).

Signed at Washington, DC, on October 31, 1989.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 89-26103 Filed 11-3-89; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 24-89]

Foreign-Trade Zone 70, Detroit, Michigan; Application for Subzone Alps Auto Parts Plant, Auburn Hills, MI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, requesting special-purpose subzone status for the testing and distribution facility of Alps Electric (USA), Inc., (Alps) (a subsidiary of Alps Electric Company, Ltd., Japan) located in Auburn Hills, Michigan, adjacent to the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 27, 1989.

The Alps facility (10 acres) is located at 1500 Atlantic Boulevard in Metro North Technology Park, Auburn Hills, Michigan, some 20 miles north of Detroit. The facility is used for the storage and distribution as well as testing of electronic components for automobiles, such as electro-mechanical switches and resistors. Most of the components are shipped to U.S. auto assembly plants.

Zone procedures would exempt Alps from Customs duty payments on merchandise that is reexported. On shipments into the Customs territory, Alps would pay duties at the rate on components (3.1 to 6.0 percent). Shipments to U.S. auto assembly plants with subzone status would qualify for the duty rate that applies to autos (2.5 percent), as if the components had been shipped directly from abroad. The application indicates that subzone status will help Alps compete with foreign facilities that ship products directly to U.S. auto subzones.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; William L. Morandini, District Director, U.S. Customs Service, North Central Region, 2nd Floor, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226; and Colonel John D. Glass, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, Michigan 48231.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 18, 1989.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Room 565, 1140 McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 2835, Washington, DC 20230

Dated: October 31, 1989.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 89-26131 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-427-001]

Sorbitol From France; Preliminary Results of Antidumping Duty; Administrative Review

AGENCY: International Trade Administration/Import Administration; Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In reponse to a request by a manufacturer/exporter, the Department of Commerce has conducted an administrative review of the antidumping duty order on sorbitol from France. The review covers the one known manufacturer/exporter of this merchandise to the United States and the period April 1, 1987 through March 31, 1988. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Robin Gray or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-1130/3601.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 21506) the final results of its last administrative review of the antidumping duty order on sorbitol from France (47 FR 15391, April 9, 1982). Roquette Freres requested in accordance with 19 section 353.53a(a) (1988) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation on May 23, 1988 (54 FR 18324). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

On September 19, 1988, Roquette Freres asked for revocation from the antidumping duty order and agreed to reinstatement of the order should the Department find future sales at margin. Pursuant to § 353.25 of the Department's regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.25), we preliminarily determine that Roquette Freres does not qualify for revocation because it has not demonstrated at least three consecutive years of sales at not less than foreign market value.

Scope of Review

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 that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of French crystalline sorbitol. Crystalline sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is used in the production of sugarless gum, candy, groceries, and pharmaceuticals. During the review period such merchandise was classifiable under item 493.6820 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item number 2905.44.00. The review covers the one known French manufacturer/exporter of crystalline sorbitol to the United States, Roquette Freres, and the period April 1, 1987 through March 31, 1988.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed, duty-paid, f.o.b. U.S. port price to unrelated purchasers in the United States. We made deductions, where applicable, for foreign inland freight, ocean freight, marine insurance, U.S. Customs duties, and brokerage fees. We made an addition for an import levy imposed by the European Community on corn which was not collected by reason of exportation of the sorbitol to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed delivered price to unrelated purchasers in the home market. We made adjustments, where applicable, for inland freight and differences in credit costs and packing. We disallowed claimed adjustments for warehousing and inventory carrying costs.

We found that any warehousing expenses that were incurred pursuant to the warehousing contract with one customer were incurred by the customer, not Roquette Freres, since the merchandise was stored in the customer's warehouse. In addition, any inventory carrying costs or interest expenses were incurred prior to the reported date of sale, and Roquette Freres failed to prove that any such presale inventory carrying costs were directly related to, or a condition of, the sales under review. Thus, the claimed expenses would have been borne regardless of whether the particular sales under review were made.

With respect to another customer, Roquette Freres also claimed that it incurred presale inventory carrying expenses or interest expenses. Roquette Freres maintains a sixty-day supply of merchandise in a separate silo in anticipation of future sales to this particular customer. Roquette Freres, however, failed to prove that such expenses were directly related to, or a condition of, the sales under review.

No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that a margin of .94 percent exists for the period April 1, 1987 through March 31, 1988.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written

comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in such comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided by § 353.22(c)(10) of our antidumping regulations, published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22(c)(10)), a cash deposit of estimated antidumping duties of .94 percent shall be required for all shipments of French sorbitol entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. Since the basis for Roquette Frere's revocation request was the absence of shipments for several years and no sales at margin in this administrative review period, and since our new regulations, effective April 27, 1989, do not permit revocation based on the absence of shipments, we will not further consider the firm for revocation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's new regulations (54 FR 12742, March 28, 1989) (to be codified at 19 CFR 353.22).

Dated: October 30, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26132 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-014]

Tuners (of the Type Used in Consumer Electronic Products) From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty finding on tuners (of the type used in consumer electronic products) from Japan. The review covers one exporter of this merchandise to the United States, Kanematsu-Gosho Ltd., and the period December 1, 1987 through November 30, 1988. There were no known shipments of the merchandise to the United States covered by the finding during the period

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 6, 1989.

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

SUPPLEMENTARY INFORMATION:

Background

On February 7, 1989, the Department of Commerce ("the Department") published in the **Federal Register** (54 FR 5994) the final results of its last administrative review of the antidumping duty finding on tuners (of the type used in consumer electronic products) from Japan (35 FR 16914, December 12, 1970). An exporter, Kanematsu-Gosho Ltd., requested in accordance with 19 CFR 353.53a(a) (1988) that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on April 6, 1989 (54 FR 13913). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

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 that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of tuners (of the type used in consumer electronic products) consisting primarily of television receiver tuners and tuners used in radio receivers such as household radios, stereo and high fidelity radio systems, and automobile radios. They are virtually all in modular form, aligned and ready for simple assembly in the consumer electronic product for which they were designed. The term "consumer electronic product" includes television sets, radios, and other electronic products of the type commonly bought at retail by household consumers, whether or not used in or around the household. Excluded are complete stereophonic tuners which are consumer products themselves, but not excluded are modular-type stereophonic tuners. During the review period, such merchandise was classifiable under items 685.0200 and 685.3300 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS items 8529.90.10 and 8529.90.50. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one exporter of Japanese tuners to the United States, Kanematsu-Gosho Ltd., and the period December 1, 1987 through November 30, 1988.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that there were no shipments of merchandise to the United States by Kanematsu-Gosho, Ltd. covered by the finding during the period December 1, 1987 through November 30, 1988, because all such merchandise was produced and sold for export to the United States by Alps Electric Co., Ltd. which was revoked from the finding on February 23, 1987 (52 FR 5478).

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

As provided for by section 751(a)(1) of the Tariff Act, no cash deposit of estimated antidumping duties shall be required on entries of tuners sold by Kanematsu-Gosho, Ltd., if the merchandise is produced by Alps Electric Co., Ltd. A cash deposit of estimated antidumping duties of 23.66 percent shall be required on entries of tuners sold by Kanematsu-Gosho, Ltd., if

the merchandise is produced by any manufacturer other than Alps Electric Co., Ltd. For any future shipments of this merchandise from the remaining known manufacturers/exporters not covered in this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review of those firms. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1988, and who is unrelated to any of the reviewed firms, or any previously reviewed firms, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese tuners (of the type used in consumer electronic products) entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1), and § 353.22(a) of the Commerce Department's revised regulations published in the **Federal Register** on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.22(a).

Dated: October 30, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26133 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Environmental Assessment of the Office of Ocean and Coastal Resource Management (OCRM) Section 306A Low-cost Land Acquisition and Construction Projects

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, Commerce.

ACTION: Notice of availability of an environmental assessment.

SUMMARY: Notice is hereby given that the OCRM has available an environmental assessment of the section 306A low-cost land acquisition and construction projects. This analysis reveals OCRM's determination that the majority of section 306A projects are small scale (under $100,000) and that any potential environmental impacts associated with these projects are minimal, and thus qualify as categorical exclusions (CEs) under the requirements of the NOAA's National Environmental Policy Act (NEPA) Directive 02.10. With regard to all future section 306A projects, OCRM maintains the option of reviewing projects that are not typical or not consistent with the kinds of projects that are described in this environmental assessment and therefore are not covered by the categorical exclusion determination as concluded in this document. OCRM maintains overview responsibilities of section 306A NEPA compliance requirements through the CZMA section 312 Evaluation reviews.

Comments on the Environmental Assessment should be made within 30 days of the date of this Notice. Address comments to: James P. Burgess, Chief, Coastal Programs Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 673-5181.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration

Dated: October 24, 1989.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 89-26139 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Halibut Select Group will hold a public meeting on November 9, 1989, at 5 p.m., at the Oregon Department of Fish and Wildlife, Commission meeting room, 506 S.W. Mill Street, Portland, OR. The Group, composed of representatives of the sport and commercial halibut fisheries in Washington, Oregon, and California, will discuss allocation for 1990 of the Pacific halibut resource between non-Indian sport and commercial fishermen, and among various fishing areas south of British Columbia.

FOR MORE INFORMATION CONTACT: Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 S.W. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: October 31, 1989.

David S. Crestin,

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

[FR Doc. 89-26124 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-22-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on November 29, 1989 at 2:00 p.m. at the Tokyo American Club, Board Room, Tokyo, Japan.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of Minutes
III. Outlook for Tourism
IV. Review of Far East Opportunities and Strategies
V. Rural Tourism Study
VI. Update on revision of National Tourism Policy Act
VII. 1990 Berlin Meeting
VIII. 1989 Annual Report Secretarial Recommendations
IX. Miscellaneous
X. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202-377-0140) will respond to public requests for information about the meeting.

Rockwell A. Schnabel,

Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 89-26055 Filed 11-3-89; 8:45 am]

BILLING CODE 3510-11-M

COMMISSION ON RAILROAD RETIREMENT REFORM

Meeting; Discussion of Benefit Analysis Study

ACTION: Meeting.

SUMMARY: The Commission on Railroad Retirement Reform ("the Commission") will hold a meeting on Tuesday, November 21, 1989. The Commission was established by section 2101 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203, enacted December 22, 1987.

Date, Time, and Place: November 21, 1989, 9:30 a.m.–3:30 p.m., Association of American Railroads, 50 F Street NW., Washington, DC (4th Floor Conference Center).

Status: The first hour of the meeting will be closed to discuss personnel and contract matters.

Agenda: The open portion of the meeting will include a discussion of the benefit analysis study conducted by Hay/Huggins, Inc., the coverage of divorced spouses under the Railroad Retirement Act, and a presentation by the Regional Railroad Association.

FOR ADDITIONAL INFORMATION: Contact Maureen Kiser, 202–254–3223, Commission on Railroad Retirement Reform, 1111 18th Street NW., Washington, DC 20036.

SUPPLEMENTARY INFORMATION: See **Federal Register**, volume 54 FR, No. 40, Thursday, March 2, 1989, Page 8856.

Kenneth J. Zoil,

Executive Director.

[FR Doc. 89–26071 Filed 11–3–89; 8:45 am]

BILLING CODE 6820–63–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

October 31, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: November 1, 1989.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6498. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories in Group I and the Group II limit are being increased, variously, for carryforward and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50438, published on December 15, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 31, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 12, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 1, 1989, the directive of December 12, 1988 is amended further to increase the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Pakistan:

Category levels in group I	Adjusted 12-month limit [1]
226/313	69,505,596 square meters.
315	50,977,107 square meters.
338	3,415,432 dozen.
339	783,866 dozen.
340	181,453 dozen.
341	313,748 dozen.
347/348	408,269 dozen.
363	29,800,575 numbers.
369–R [2]	6,036,229 kilograms.
Group II: 300, 301, 314, 317, 326, 330, 332, 333, 345, 349, 350, 353, 354, 359, 360–362, 369–S [3] and 369–O [4], as a group.	69,043,210 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 369–R, only HTS number 6307.10.2020.

[3] In Category 369–S, only HTS number 6307.10.2005.

[4] In Category 369–O, all HTS number except 6302.60.0010, 6302.91.0005 and 6302.91.0045 in Category 369–D; 6307.10.2020 in Category 369–R; and 6307.10.2005 in Category 369–S.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26052 Filed 11–3–89; 8:45 am]

BILLING CODE 3510–DR–M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

October 31, 1989.

AGENCY: Committee for the Implementation of Textile Agreement (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–6736. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and Singapore agreed to increase the current designated consultation level for Category 659–O.

Also, the current limit for Group II and certain categories in Groups I and II are being adjusted, variously, for swing, special shift and decreased carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50440, published on December 15, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 31, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 8, 1989 the directive of December 12, 1988 is being amended further to adjust the current limits for the following categories, as provided by the current agreement between the Governments of the United States and Singapore:

Category levels in group I	Adjusted 12-month limit [1]
239	334,401 kilograms.
331	324,580 dozen pairs.
335	132,236 dozen.
338/399	937,833 dozen of which not more than 535,345 dozen shall be in Category 338 and not more than 602,768 dozen shall be in Category 339.
341	122,012 dozen.
347/348	841,836 dozen of which not more than 521,783 dozen shall be in Category 347 and not more than 407,471 dozen shall be in Category 348.
435	2,051 dozen.
604	89,556 kilograms.
631	177,381 dozen pairs.
635	131,406 dozen.
638	696,923 dozen.
639	3,387,204 dozen.
640	95,130 dozen.
645/646	129,025 dozen.
647	362,089 dozen.
648	1,517,261 dozen.
Group II: 200–229, 237, 300/301, 313–330, 332, 333/633, 336, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359–369, 400–434, 436, 438, 439, 440–444, 445/446, 447, 448, 459–469, 600–603, 606, 607, 611–630, 632, 636, 642–644, 649, 650, 659–S [2], 659–V [3], 659–O [4], and 665–670, as a group. Sublevel in Group II	36,714,813 square meters equivalent.
237	99,008 dozen.
659–O	150,000 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

[2] In Category 659–S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[3] In Category 659–V, only HTS numbers 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0080.

[4] In Category 659–O, all HTS numbers except 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 in Category 659–S; and 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2049, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0080 in Category 659–V.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26053 Filed 11–3–89; 8:45 am]

BILLING CODE 3510–DR–M

Implementation of Certain Import Restraint Limits Based on Date of Entry

October 31, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold and Diana Solkoff, International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The purpose of this notice is to advise the public that, effective January 1, 1990, CITA reserves the right to implement all import restraint limits resulting from article 3 and section 204 calls based on date of entry rather than date of export for countries with agreements that have expired or will expire after November 6, 1988.

Consequently, the Chairman of CITA shall direct the Commissioner of Customs to charge to the appropriate level those goods which are entered into the United States for consumption, and withdrawn from warehouse for consumption, during the established retraint period, regardless of the date of export. Customs shall prohibit entry of goods entered during the restraint period in excess of the restraint limit.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89–26054 Filed 11–3–89; 8:45 am]

BILLING CODE 3510–DR–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contract.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has applied for designation as a contract market in options on Long-Term Japanese Government Bond futures. For this proposed futures option contract, the CBT's application also contains a petition for an exemption from the volume requirement for the underlying futures contract specified in the Commission's rules. The Director of the Division of Economic Analysis ("Division") of the Commission, acting pursuant to the authority delegated by Commission Regulation § 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before December 6, 1989.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBT Long-Term Japanese Government Bond option.

FOR FURTHER INFORMATION CONTACT: Please contact Steven Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, at (202) 254–7227.

SUPPLEMENTARY INFORMATION: In addition to requesting comment on the terms and conditions of the proposed option contract, the Division also is requesting comment on the merits of a petition filed by the CBT pursuant to § 33.11 of the Commission's rules. For the proposed Long-Term Japanese Government Bond option, the petition requests exemptive relief from the trading volume tests set forth in the Commission's rules. In that regard, § 33.4(a)(5)(iii) of the Commission's rules requires, as a condition of designation for proposed options on futures contracts, that the exchange demonstrate that:

> * * * the volume of trading in all contract months for futures delivery of the commodity for which the option designation is sought has averaged at least 3,000 contracts per week on such board of trade for the 12 months preceding the date of application for option contract market designation, or alternatively, that such futures contract market, based on its trading history, substantially meets this total volume requirement in less than the 12 months preceding the date of application. . . .

The Division notes that the CBT Long-Term Japanese Government Bond futures contract which will underlie the proposed option contract has not been listed for trading.[1] Therefore, the futures trading volume requirement for the proposed option contract has not been met.

As discussed in more detail in previous **Federal Register** notices (see, for example, 52 FR 41755, October 30, 1987), the Commission has stated that it believes that, at the minimum, a petition for exemption from the trading volume tests may be granted only if the underlying cash market for the commodity exhibits a high level of liquidity. Cash market liquidity would be evidenced by extensive and frequent trading activity, a large number of participants in the market, and tight bid/ask spreads. Further, the terms of the futures contract should ensure the opportunity for arbitrage and close alignment between the cash and futures markets. In combination, the liquidity of the underlying cash market and the opportunities for arbitrage are major factors in determining the extent to which a less liquid futures contract could be disrupted by the exercise of options and the alternatives available to those exercising the options. In addition, to enable position holders to evaluate accurately the value of their option positions in the absence of active trading in the underlying futures contract, the Commission stated its belief that there should exist an accurate and widely available price series which would be representative of values of the commodity underlying the future.[2]

In requesting comment on the CBT's proposed option on Long-Term Japanese Government Bond futures, the Division is seeking specific comment on whether it should grant the CBT's request for an exemption from the requirements of § 33.4(a)(5)(iii) for the proposed contract. Commenters are requested to consider the issues noted above. Also, commenters are requested to address whether, if the petition were granted, additional surveillance activities and expiration reviews, particularly at the outset of trading, should be implemented by the CBT for the proposed contract.

Copies of the terms and conditions of the proposed contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or argument on the terms and conditions of the proposed option contract, or with respect to other materials submitted by the CBT in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC on October 31, 1989.

Steven Manaster,

Director.

[FR Doc. 89–26050 Filed 11–3–89; 8:45 am]

BILLING CODE 6351–01–M

[1] The CBT was designated as a futures contract market in Long-Term Japanese Government Bonds on November 22, 1988

[2] The Division notes that in those cases where the underlying futures contract fails to develop a sufficient level of trading volume, the option on the futures contract would become subject to the delisting criteria set forth in § 5.4 of the Commission's rules. Specifically, if the volume in the underlying futures contract market falls below an average weekly volume of 1,000 contracts for all months listed for the six-month period following designation of the option contract, no new option contract months may be listed until the volume in the underlying futures contract rises above an average of 2,000 contracts per week for all trading months listed for a period of three consecutive months.

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of Change 2 to DoD 5025.1–I, DoD Directives System Annual Index

ACTION: Notice.

SUMMARY: This notice is to inform the public and U.S. Government Agencies other than the Department of Defense of the availability of Change 2 to DoD 5025.1–I, January 1989 edition. The Change may be purchased from the following organizations:

National Technical Information (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, Telephone number (703) 487–4600,

or

U.S. Naval Publications and Forms Center (NPFC), 5801 Tabor Avenue, Attention: Code 1062, Philadelphia, Pennsylvania 19120–5099, Telephone number (215) 697–3321.

Change 2 supersedes Change 1 of the Index. The NTIS accession number for Change 2 is PB89 100705; NPFC identifies it as Change 2 to DoD 5025.1–I.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bynum, Correspondence and Directives Directorate, Directives Division, Room 2A286, the Pentagon, Washington, DC 20301–1155, telephone number (202) 697–4111.

Dated: October 31, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26005 Filed 11-3-89; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 5, 1989; Tuesday, December 12, 1989; Tuesday, December 19, 1989; and Tuesday, December 26, 1989 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Dated: October 31, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26004 Filed 11-3-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 24, 1989.

The USAF Scientific Advisory Board Space Subpanel of the Strategic Cross-Matrix Panel will meet on 28-30 November 1989, from 8:00 a.m. to 5:00 p.m., at Rockwell, Los Angeles, CA; McDonnell Douglas, St. Louis, MO; and General Dynamics, Fort Worth, TX.

The purpose of this meeting will be to gather information on space-related technologies. The meeting at Rockwell, McDonnell Douglas, and General Dynamics will involve discussions of classified defense matters listed in section 552b(c) of title 5, United State Code, specifically subparagraph (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-26057 Filed 11-3-89; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of the Meeting: 28 November 1989.

Time: 0800-1700 hours.

Place: US Army Signal Center, Fort Gordon, Georgia.

Agenda: The Army Science Board 1989 Summer Study on Maintaining State-of-the-Art in the Army Command and Control System (ACCS) will meet to investigate the role of the Signal Center in ACCS with emphasis on the tactical communication systems being developed and fielded to support the Army Tactical Command and Control System. This meeting will be closed to the public in accordance with section 55(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., Appendix 2, subsection 10(d). Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202)-695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-26056 Filed 11-3-89; 8:45 am]

BILLING CODE 3710-8-M

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for Alternate Transportation Route for Munitions at Naval Weapons Station Concord, CA

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council of Environmental Quality regulations (40 CFR parts 1500-1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for creating an alternate transportation route for munitions that are moved from storage to outload facilities at Naval Weapons Station (NWS), Concord, California.

The NWS is composed of two main areas connected by a railroad and an access road. At present, it is necessary for munition trains and trucks to cross Port Chicago Highway at grade in order to get from the inland area to the tidal area. This movement necessitates a substantial law enforcement effort, involving Navy, Contra Costa County, and California Highway Patrol personnel in order to allow safe crossing of Port Chicago Highway. The purpose of the proposed action is to alleviate the problems associated with the transportation of munitions across Port Chicago Highway.

Alternatives identified thus far include:

1. Port Chicago Highway underpass at the main gate.
2. Navy railroad and tidal area access road overpass.
3. Relocation of the railroad and access road east of the town of Clyde.
4. Port Chicago overpass at the main gate.
5. Navy control of the section of Port Chicago Highway traversed during freight shipments between the inland and tidal areas.
6. No action.

Alternatives that are identified during the public scoping and review process will also be addressed in the EIS.

To determine the scope of issues related to this action, the Navy will hold a public scoping meeting on November 28, 1989 at 7 p.m., in the Contra Costa County Water District Board Room, 1331 Concord Avenue, Concord, California.

This meeting will be advertised in the Concord and Contra Costa County newspapers. A formal presentation will precede the request for public comments. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting, to be most helpful, the scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements should be mailed no later than December 15, 1989 to Commanding Officer, Western Division, Naval Facilities Engineering Command, Attn: Mr. Louis Rivero, P.O. Box 727, San Bruno, California 94066–0720.

Dated: November 2, 1989.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 89–26173 Filed 11–3–89; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.133E]

Office of Special Education and Rehabilitation Services' National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for A New Award Under the Rehabilitation Engineering Center Program for Fiscal Year 1990

Purpose of Program: A consolidated application package (CAP) for several programs sponsored by the National Institute on Disability and Rehabilitation Research (NIDRR) was published in the **Federal Register** at 54 FR 27570 on June 29, 1989. The CAP announced closing dates and other information for priorities that were published in the **Federal Register** on April 25, 1989 at 54 FR 17896. No applications were received for a Rehabilitation Engineering Center on Applications of Technology to the Rehabilitation of Children with Orthopedic Disabilities. However, the Department is convinced that this remains an important priority area. The purpose of this notice is to establish a new closing date for applications under this priority. Potential applicants should use the forms included in the CAP and refer to the notice of final funding priorities.

Deadline for Transmittal of Applications: February 12, 1990
Available Funds: $500,000
Estimated Number of Awards: One
Estimated Average Size of Award: $500,000

Applicable Regulations: The following regulations apply to this program: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, and 85, and (b) the program regulations in 34 CFR parts 350 and 353.

Note: The Department of Education is not bound by any estimates in this notice, except as otherwise provided by statute.

FOR FURTHER INFORMATION CONTACT: Peer Review Unit, National Institute on Disability and Rehabilitation Research, (202) 732-1207.

Authority: 29 U.S.C. 760-762.
Dated: October 31, 1989.

Robert R. Davila,
Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 89-26031 Filed 11-3-89; 8:45 am]
BILLING CODE 4000-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; State of Hawaii

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-011005-001

Title: State of Hawaii Terminal Agreement.

Parties: State of Hawaii, Matson Terminals, Inc.

Synopsis: The Agreement restates paragarph 5 of the basic agreement to provide that the annual rental as determined under section 24B of Exhibit A of the basic agreement shall be set forth in amendments filed with the FMC and effective under the Shipping Act of 1984.

By Order of the Federal Maritime Commission.
Dated: October 31, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-25996 Filed 11-3-89; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

ABN/LaSalle North America, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have 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.

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 each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 24, 1989.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. ABN/LaSalle North America, Inc., Chicago, Illinois; A.B.N.-Stichting, Amsterdam, The Netherlands; Algemene Bank Nederland N.V., Amsterdam, The Netherlands; and LaSalle National Corporation, Chicago, Illinois; to acquire Union Realty Mortgage Co., Inc., Chicago, Illinois, and thereby engage in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire Union Planters Investment Bankers Corporation, Memphis, Tennessee, and thereby engage in underwriting and dealing in obligations of the United States, general obligations of the states and their political subdivisions, and other obligations, including bankers' acceptances and certificates of deposit, pursuant to § 225.25(b)(16); providing portfolio investment advice and research and furnishing general economic statistical forecasting services and industry studies in connection with and incident to the proposed bank-eligible securities activities, pursuant to § 225.25(b)(4); acting as a futures commission merchant in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts for government securities, certificates of deposit, and other money market instruments that a bank may buy or sell in the cash market for its own account pursuant to § 225.25(b)(18); providing investment advice, including counsel, publications, written analyses and reports in connection with and incident to its activities as a futures commission merchant and as a commodity trading advisor, pursuant to § 225.25(b)(19); providing securities brokerage services, related securities credit activities, and incidental activities such as individual retirement accounts, pursuant to § 225.25(b)(15); acquiring and servicing loans or other extensions of credit for its own account or for the accounts of others, such as would be made by consumer finance companies, credit card companies, mortgage companies, commercial finance companies, and factoring companies pursuant to § 225.25(b)(1); and acquiring leases of personal property, subject to, and in accordance with prescribed restrictions pursuant to § 225.25(b)(5) of the Board's Regulation Y. These activities will be conducted out of the main office in Memphis, Tennessee, and out of branch offices in Schaumberg, Illinois; Little Rock, Arkansas; Sarasota, Florida; Seattle, Washington; and Houston, Texas.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Peoples National Bancshares of Checotah, Inc., Checotah, Oklahoma; to acquire a *de novo* subsidiary, Peoples Credit Insurance Agency, Inc., Checotah, Oklahoma, and thereby engage in credit-related insurance under § 225.25(b)(8)(i); and to acquire Cantwell Insurance Agency, Inc., Checotah, Oklahoma, and thereby engage in the sale of general insurance only in the town of Checotah, Oklahoma, which has a population of approximately 3,500 pursuant to § 225.25(b)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26044 Filed 11-3-89; 8:45 am]

BILLING CODE 6210-01-M

Auburn National Bancorporation; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(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 through 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 haring, 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 agtgrieved 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 November 24, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Auburn National Bancorporation, Auburn, Alabama; to engage *de novo* through its subsidiary, ANB Systems, Inc., Auburn, Alabama, in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the states of Alabama, Florida, and Georgia.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26045 Filed 11-6-89; 8:45 am]

BILLING CODE 6210-01-M

DBT Holding Co., 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 November 24, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. DBT Holding Company, Vidalia, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Darby Bank and Trust Company, Vidalia, Georgia.

2. First American Corporation, Nashville, Tennessee; to acquire 100 percent of the voting shares of First American Trust Company, N.A., Nashville, Tennessee.

3. Merchant Bankshares Group, Inc., Fort Myers, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Merchant National Bank, Fort Myers, Florida.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 LaSalle Street, Chicago, Illinois 60690:

1. First Mid-America Bancorp, Inc., Davenport, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of The State Bank of Annawan, Annawan, Illinois.

2. Goodenow Bancorporation, Wall Lake, Iowa; to acquire 80 percent of the voting shares of First Trust & Savings Bank, Armstrong, Iowa.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Financial Bancshares, Inc., St. Louis, Missouri; to acquire at least 30.2 percent of the voting shares of First Bank of East Prairie, East Prairie, Missouri.

2. First Eldorado Bancshares, Inc., Eldorado, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of First State Bank of Eldorado, Eldorado, Illinois.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26046 Filed 11-3-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

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 not later than November 17, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Kenneth J. Torsoe, Suffern, New York, to acquire 14.38 percent of the voting shares of U.S.B. Holding Co., Inc., Nanuet, New York, and thereby indirectly acquire Union State Bank, Nanuet, New York.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Barbara Forster, Wayzata, Minnesota; to acquire 92.2 percent of the voting shares of Eagle Agency, Inc., Eagle, Colorado, and thereby indirectly acquire First Bank of Eagle County, Eagle, Colorado.

Board of Governors of the Federal Reserve System, October 31, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26047 Filed 11-3-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement No. 005]

Cooperative Agreements for Minority Community-Based Human Immunodeficiency Virus (HIV) Prevention Projects

Introduction

The Centers for Disease Control (CDC) announces the availability of Fiscal Year 1990 funds for cooperative agreements for Human Immunodeficiency Virus (HIV) Prevention Projects for minority community-based organizations (CBOs) serving populations with and at risk of HIV infection and acquired immunodeficiency syndrome (AIDS). This supplements Announcements Number 908, **Federal Register**, January 9, 1989, [54 FR 663], (corrections January 24, 1989) [54 FR 3557] and February 16, 1989 [54 FR 7099], by expanding eligibility to 4 additional metropolitan statistical areas.

Authority

This program is authorized under the Public Health Service Act: section 301(a) [42 U.S.C. 241(a)], as amended and section 317 (42 U.S.C. 247b), as amended.

Eligible Applicants

Eligible applicants are nonprofit minority community-based organizations (MCBO), located in the Metropolitan Statistical Areas (MSAs) with minority communities most heavily affected by HIV infection/AIDS. Congress has authorized funds to provide direct financial and technical assistance to MCBOs in those areas where minority populations have been most heavily affected by the HIV epidemic so that they may work in their own communities to achieve a reduction of the risky behavior that leads to HIV transmission. In July 1989, MCBOs in 27 MSAs were awarded funds. This announcement extends eligibility to 4 additional MSAs where minority populations have been heavily affected by the HIV epidemic. These additional areas, as defined by cumulative number of AIDS cases in minority populations reported to CDC and entered into the CDC surveillance database as of June 1, 1988, are: Connecticut: Bridgeport-Milford, New Haven-Meriden; New Jersey: Middlesex-Hunterdon-Sommerset Counties; and Texas: San Antonio. Only MCBOs in these four MSAs are eligible under this announcement.

Eligible applicants located in the above MSAs must be nonprofit corporations or associations whose net earnings in no part lawfully accrue to the benefit of any private shareholder or individual and which represent and serve minority persons and whose governing body is composed of more than 50% racial and/or ethnic minority group members (Asians, blacks, Latinos/Hispanics, Native Americans, and Pacific Islanders).

Any of the following is acceptable evidence of nonprofit status:

A. A reference to the applicant organization's listing in the Internal Revenue Service's most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code;

B. A copy of a currently valid IRS tax exemption certificate;

C. A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net

earnings accrue to any private shareholders or individuals;

D. A certified copy of the organization's certificate of incorporation or similar document that clearly establishes nonprofit status; or,

E. Any of the above proof for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local nonprofit affiliate.

This proof must be included in the application. No award will be made without proof of nonprofit status.

Availability of Funds

It is expected that approximately $600,000 will be available in Fiscal Year 1990 to support approximately 4 projects. Awards will range from $20,000 to $200,000 with an average award of $150,000. Priority will be given to supporting at least one project in each of the eligible MSAs.

Awards will be made for a 12-month budget period within a 1 to 3 year project period. (Budget Period is the interval of time into which the project period is divided for funding and reporting purposes. Project Period is the total time for which a project has been programmatically approved.) Continuation awards for new budget periods within an approved project period are made on the basis of satisfactory performance and availability of funds. No funds will be provided for patient treatment or care. These funds may not be used to supplant existing funds. Funding estimates outlined above may vary and are subject to change.

Purpose

The purpose of this program is to provide assistance to minority CBOs to: (1) develop and implement innovative community-based HIV prevention programs related to achieving national goals, (2) establish collaboration among community organizations, HIV education/prevention service agencies, and public organizations including local and State health departments, and (3) evaluate the effectiveness of HIV prevention programs for which support is provided.

Cooperative Activities

Recipient Activities

1. Needs Assessment

Applicants should assess the need for the proposed program by:

A. Contacting their State or local health department AIDS Coordinators to obtain information on HIV prevalence in the target populations and HIV/AIDS related baseline knowledge, attitudes, beliefs, and, when available, behavior data and other information relevant to the needs of the target population;

B. Idenifying other organizations and agencies providing services to the target populations which are related to or supportive of the activities being proposed by the applicant; and briefly listing the services which these organizations and agencies are providing; and

C. Identifying gaps in HIV prevention activities directed to the target populations.

2. Health Education/Risk Reduction

Based on the needs assessment:

A. Develop specific, time-phased, and measurable program objectives.

B. Target these programs to racial and ethnic minority individuals whose behavior places them at increased risk of HIV transmission, including:

(1) infected persons;

(2) men who have or have had sex with men;

(3) individuals who exchange sex for drugs or money;

(4) intravenous drug users who share paraphernalia;

(5) persons with sexually transmitted diseases; and,

(6) persons who are or were sex or needle sharing partners of those listed above, especially female partners.

C. Develop and conduct culturally sensitive and language specific HIV prevention education programs to reduce or eliminate risky behavior. In addition, some members of the target population may have disabilities which hinder learning and which may require special approaches to communication.

D. Address the need for prevention and treatment of other sexually transmitted diseases in carrying out HIV prevention programs.

3. Collaboration

In implementing programs:

A. Plan and conduct program activities in collaboration and coordination with State/local health departments.

B. Collaborate and coordinate activities with other organizations involved in HIV prevention and education programs serving the target population in the local area, whenever possible. Such organizations would include, as appropriate:

(1) community groups/organizations, including churches and religious groups, especially those with a racial/ethnic minority membership and focus, and those that serve populations at increased risk;

(2) AIDS service organizations;

(3) schools, boards of education, and other local education agencies; and

(4) federally-funded community networks.

Examples of such collaboration include letters of support or workplans jointly developed with local health departments and other community organizations and agencies.

4. Evaluation

Develop and implement an evaluation plan to:

A. Monitor the accomplishment of program activities and progress toward achieving each objective; and

B. Determine how program activities affect the target population and how they will help ensure that State, local, and national HIV prevention goals are addressed. Collaboration with the State or local health department is essential for this activity.

Centers for Disease Control Activities

1. Provide consultation and technical assistance in planning, operating, and evaluating prevention activities.

2. Provide up-to-date scientific information regarding risk factors for HIV infection, prevention measures, and program strategies for prevention of HIV infection.

3. Assist in the evaluation of program effectiveness.

4. Assist recipients in collaborating with State and local health departments and other PHS supported HIV/AIDS recipients.

5. Facilitate the transfer of successful intervention programs to other areas.

Evaluation Criteria

Eligible applications submitted under this announcement number will be evaluated by a CDC convened review committee on an individual basis according to the following criteria:

A. The need for program support. (20 points)

B. Evidence of ability of the applicant to carry out the proposed program. (25 points)

C. The extent to which the proposed objectives are specific, measurable, and time-phased. (20 points)

D. The quality of the applicant's plan for conducting program activities. (20 points)

E. The extent to which the evaluation plan measures the accomplishment of program objectives. (15 points)

In addition, consideration will be given to the appropriateness and reasonableness of the budget request, proposed use of project funds, the extent to which the applicant is contributing its own resources to HIV/AIDS prevention

activities, and the need to provide support in each of the eligible MSAs.

Funding Priorities

Priority will be given to supporting at least one project in each of the eligible MSAs.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.118.

Other Requirements

Recipients must comply with the document titled: Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions (October 1988). In complying with the Program Review Panel requirements contained in the above document, recipients are encouraged to use an existing Program Review Panel such as the one created by the health department's AIDS/HIV Prevention Program.

[54 FR 10049, March 9, 1989]

Application Workshops

Technical assistance will be available in the form of workshops in locations convenient to the eligible MSA. Workshops for some MSA will be combined and will be held November 27, 1989, in San Antonio, November 30, 1989, in Hartford, Connecticut, and November 29, 1989, in Morris Plains, New Jersey. Preregistration for these workshops is encouraged and may be done by calling (404) 639-1235.

Application Submission and Deadline

The original and two copies of the application (PHS Form 5161-1) must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 300, Atlanta, GA 30305, on or before January 15, 1990.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable proof of timely mailing.

2. Late Applications: Applications which do not meet the criteria in 1.A. or B. will be considered late applications. Late applications will not be considered in the current funding cycle and will be returned to the applicant.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Nealean K. Austin, Marsha D. Driggans, and Carole J. Tully, Grants Management Specialists, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 300, Atlanta, GA 30305, (404) 842-6640.

Announcement Number 005, "Cooperative Agreements for Minority Community-Based Human Immunodeficiency Virus (HIV) Prevention Projects" must be referenced in all requests for information pertaining these projects.

Technical assistance may be obtained from Jack Kirby, Division of Sexually Transmitted Diseases, Center for Prevention Services, Centers for Disease Control, Atlanta, GA 30333, (404) 639-1230 or (404) 639-1235.

Dated: October 30, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89-26049 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Johnson & Johnson; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Johnson & Johnson. The NADA provides for the use of Surgicel® Absorbable Hemostat (oxidized regenerated cellulose) in dogs, cats, and horses. The firm requested the withdrawal of approval.

EFFECTIVE DATE: November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Johnson & Johnson, 501 George St., New Brunswick, NJ 08903-2400, is the sponsor of NADA 33-756, which was originally approved April 28, 1966. NADA 33-756 provides for use of Surgicel® Absorbable Hemostat (oxidized regenerated cellulose) in dogs, cats, and horses. The knitted fabric strips were approved for use to control capillary or venous bleeding or small arterial hemorrhage when conventional means of control are technically impractical.

By letter of June 12, 1989, the sponsor requested voluntary withdrawal of approval of the NADA on the grounds that the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act, sec. 512(e) (21 U.S.C. 360b(e)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 Withdrawal of approval of applications (21 CFR 514.115), notice is given that approval of NADA 33-756 and all supplements thereto is hereby withdrawn, effective November 16, 1989.

Dated: October 31, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-26072 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Nashville District Office, chaired by Patrick J. Pouzar, Acting District Director. The topic to be discussed is food labeling.

DATE: Tuesday, November 28, 1989, 1 p.m. to 4 p.m.

ADDRESSES: Ellington Agricultural Center, University of Tennessee Agricultural Extension Center, 5201 Marchant Dr., Nashville, TN 37222.

FOR FURTHER INFORMATION CONTACT: Sandra S. Baxter, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615-736-2088.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to

enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25998 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is food labeling.

DATE: Thursday, November 16, 1989, 9:30 a.m. to 12 m.

ADDRESSES: Federal Bldg., Rm. 2214-18, 1000 Liberty Ave., Pittsburgh, PA 15222.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837 or 412-644-3395.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-25999 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is food labeling.

DATE: Tuesday, November 21, 1989, 9:30 a.m. to 12 m.

ADDRESSES: William J. Green Bldg. (Federal Bldg.), Rm. 3306-10, Sixth and Arch Sts., Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-26000 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: .Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is food labeling.

DATES: Tuesday, November 21, 1989, 7 p.m. to 9 p.m.

ADDRESSES: Good Stay/Wilcastle Campus, University of Delaware, Morning Room, 2600 Pennsylvania Ave., Wilmington, DE 19806.

FOR FURTHER INFORMATION CONTACT: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-26001 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Minneapolis District Office, chaired by John Feldman, District Director. The topic to be discussed is food labeling.

DATE: Monday, November 27, 1989, 7 p.m.

ADDRESSES: International Diabetes Center, 5000 39th St., Minneapolis, MN 55416.

FOR FURTHER INFORMATION CONTACT: Donald Aird, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-334-4100.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 30, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-26002 Filed 11-3-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0465]

Drug Export, Abbott IMx® HBsAg Text Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Laboratories, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Abbott IMx® HBsAg test kit to Belgium, Denmark, Finland, The Netherlands, Norway, Sweden, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquires concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) 21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Abbott Laboratories, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Abbott IMx® HBsAg test kit to Belgium, Denmark, Finland, The Netherlands, Norway, Sweden, and The United Kingdom. The Abbott HBsAg assay test is a qualitative third generation Microparticle Enzyme Immunoassay for the detection of Hepatitis B Surface Antigen (HBsAg) in human serum or plasma. The complete application was received and filed in the Center for Biologics Evaluation and Research on October 19, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 16, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99–660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated October 25, 1989.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89–26073 Filed 11–3–89; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Rescission of Announcement for Retention Program for Health Professions Schools With Individuals From Disadvantaged Backgrounds

The Health Resources and Services Administration announced in the **Federal Register**, Vol. 54, No. 161, pages 34825 and 34826, dated Tuesday, August 22, 1989, that applications for Fiscal Year 1990 Retention Program for Health Professions Schools With Individuals From Disadvantaged Backgrounds Grants were being accepted under the authority of section 787A of the Public Health Service Act, as established by Public Law 100–607. That notice is hereby rescinded.

Section 787A authorizes a supplement grant program to award grants to schools of medicine, schools of osteopathic medicine, optometry, podiatric medicine, pharmacy, or public health that demonstrate sufficient graduation of students from disadvantaged backgrounds. It now appears that no funds will be available for that program in Fiscal Year 1990. Accordingly, the Department will not consider applications for section 787A grants during this fiscal year, and the August 22, 1989, announcement is rescinded.

Dated: October 31, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89–25997 Filed 11–3–89; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Meeting of the Biomedical Research Technology Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Research Technology Committee (BRTC), Division of Research Resources (DRR), November 13–14, 1989, at the Holiday Inn—Bethesda (Peppermill Room), 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

This meeting will be open to the public on November 13, from 8:30 a.m. to 10:30 a.m., during which time there will be comments by the Acting Director, DRR, the Chief of Review, DRR, and a report of the Director, Biomedical Research Technology Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 13, from 10:45 a.m. to 5 p.m., and November 14, from 8:30 a.m. to 5 p.m. for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would consitute a clearly unwarranted invasion of personal privacy.

Mr. Michael Fluharty, Acting Information Officer, Division of Research Resources, National Institutes of Health, Westwood Building, Room 857, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Daniel Eskinazi, Acting Executive Secretary, Biomedical Research Technology Review Committee, Division of Research Resources, National Institutes of Health, Westwood Building, Room 10A16, (301) 496–4390, will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program no. 13.371, Biotechnology Research, National Institutes of Health).

Dated: October 30, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89–26126 Filed 11–3–89; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-89-893, FR-2595]

Delegation of Authority; Office of the General Counsel

AGENCY: Office of the Secretary, HUD

ACTION: Delegation of authority to approve production or disclosure of HUD materials or information and requests for testimony in 24 CFR part 15, Subparts H and I.

SUMMARY: This delegation of authority designates the officials who may exercise the Secretary's authority to approve disclosure of HUD information in response to subpoenas and other demands and for requests for testimony of HUD employees under 24 CFR part 15, Subparts H and I.

EFFECTIVE DATE: November 6, 1989.

FOR FURTHER INFORMATION CONTACT: Gershon Ratner, Associate General Counsel for Litigation, Room 10258, Department of Housing and Urban Development, 451 7th Street, SW. Washington, DC 20410. Phone (202) 755-1300. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The delegation of authority published on January 31, 1989 at 54 FR 4913 is amended as follows:

1. By adding at the end of paragraph 1 in Section C (54 FR 4914) the following: "In addition, the same authority referenced in the preceding sentence shall be vested in each Associate General Counsel for HUD Headquarters employees in those programs for which the Associate provides legal advice, and each Regional Counsel for HUD employees within the territorial jurisdiction of his or her region."

2. And by adding the following new paragraph after paragraph 7 in the section entitled "Delegations Revoked": ¶"8. 53 FR 50586 (December 16, 1988) [Docket No. D-88-890]."

Authority: Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: September 12, 1989.

Jack Kemp,

Secretary.

[FR Doc. 89-26110 Filed 11-3-89; 8:45 am]

BILLING CODE 4210-32-M

Office of the Regional Administrator-Regional Housing Commissioner

[Docket No. D-89-907; FR-2710]

Redelegation of Authority; Region IV (Atlanta)

AGENCY: Department of Housing and Urban Development (HUD) Office of the Regional Administator-Regional Housing Commissioner, Region IV, Atlanta, Georgia.

ACTION: Notice of redelegation of authority.

SUMMARY: This Notice announces a redelegation of authority to officials of HUD Regional and Field Offices in Region IV. The Authority relates to section 255 of the National Housing Act.

EFFECTIVE DATE: September 28, 1989.

FOR FURTHER INFORMATION CONTACT: Neil A. Zittrauer, Acting Director, Office of Housing, Atlanta Regional Office, Department of Housing and Urban Development, Room 546, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404-331-4127. (This is not a toll free number.).

SUPPLEMENTARY INFORMATION: This redelegation of authority is made pursuant to a redelegation of authority issued by the Assistant Secretary for Housing-Federal Housing Commissioner on July 7, 1989, 54 FR 30112 (July 18, 1989).

Authorities Redelegated

A. Each Director of the Housing Development Division, Chief of the Mortgage Credit Branch, and Commitment Loan Specialist in the Mortgage Credit Branch is redelegted the power and authority of the Regional Administrator-Regional Housing Commissioner, Deputy Regional Administrator, Director of the Office of Housing in the Regional Office, Managers of the HUD Field Offices and Deputy Managers of the HUD Field Offices in region IV with respect to the following functions and responsibilities under section 255 of the National Housing Act, 12 U.S.C. 1715z-20.

1. Commit to insure and insure home equity conversion mortgages in accordance with section 255(c).

2. Cause mortgagees to make available to mortgagors, at the time of application, a list of third party information sources, as required by section 255(e)(1).

3. Cause disclosure information to be made available to mortgagors by mortgagees, both prior to the individual loan closing as required by section 255(e)(2), and annually thereafter in the form of summary statements as required by section 255(e)(3).

B. Each of the Housing Development Division, Chief of the Valuation Branch, and Commitment Appraiser in the Valuation Branch is redelegated the following function and responsibility.

1. Conditionally commit to insure home equity conversion mortgages in accordance with section 255(c).

C. Each Chief of the Mortgage Credit Branch, Chief of the Clerical Processing Unit, and Endorsement Clerk in the Mortgage Credit Branch/Clerical Processing Unit is redelegated the following function and responsibility.

1. Insure home equity conversion mortgages in accordance with section 255(c).

D. Each Director of the Housing Management Division, Chief of the Loan Management Branch, Chief of the Loan Management and Property Disposition Branch, Chief of the Single Family Loan Management Branch, Chief of the Property Disposition/Single Family Servicing Branch, Loan Specialist in the Loan Management Branch, Loan Specialist in the Loan Management and Property Disposition Branch, Loan Specialist in the Single Family Loan Management Branch, and Loan Specialist in the Property Disposition/Single Family Servicing Branch is redelegated the following functions and responsibilites.

1. Provide, or cause to be provided, counseling to mortgagors as specified in section 255(f), including the approval pursuant to section 255(e)(1) of information sources as being responsible and able to provide counseling information to mortgagors.

2. Cause disclosure information to be made available to mortgagors by mortgagees, both prior to the individual loan closing as required by section 255(e)(2), and annually thereafter in the form of summary statements as required by section 255(e)(3).

3. Pursuant to section 255(i)(1), provide funds to mortgagors when the mortgagee or other party responsible for making the equity conversion payments fails to make them; obtain, by legal, equitable, or administrative means, repayment from any source of funds disbursed; and take such actions described in section 255(i)(2) as may be necessary to enable funds to be provided to mortgagors and mortgagees.

4. Service and foreclose (or accept deeds in lieu of foreclosure) on mortgages assigned to the Secretary, sell, or otherwise convey interest in acquired property, and in all respects carry out the responsibilities of the Secretary under section 7(i) of the

Department of Housing and Urban Development Act, 42 U.S.C. 3535(i).

5. Enter into such contracts and agreements, including loan agreements with mortgagors, as may be necessary or desirable to carry out the responsibilities delegated above, with the exception of procurement contracts.

This Redelegation is effective September 28, 1989 and until such time as it may be expressly terminated or superseded.

Atlanta, Georgia, 1989.

Raymond A. Harris,

Regional Administrator, Regional Housing Commisioner.

[FR Doc. 89-26028 Filed 11-3-89; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intent To Prepare an Environmental Impact Statement; Alturas Resource Area, CA

AGENCY: Bureau of Land Management, Interior, Susanville District Office, Hayden Hill Gold Mine Operation, Susanville, California.

ACTION: Notice of intent to prepare an environmental impact statement/environmental impact report (EIS/EIR).

SUMMARY: The Bureau of Land Management, as a cooperating agency with the Forest Service, Department of Agriculture and Lassen County, California will prepare a combined (EIS/EIR) for the proposed open pit gold mine operation located in the Hayden Hill area of the Alturas Resource Area, Susanville District, California. The Lead Federal Agency will be the Susanville District of the Bureau of Land Management. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by January 15, 1990.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Lynda Roush, Area Manager, Alturas Resource Area, 120 S. Main Street, Alturas, CA 96101.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Lynda Roush, Area Manager, Alturas Resource Area, 120 S. Main Street, Alturas, CA 96101 or phone (916) 233-4666.

SUPPLEMENTARY INFORMATION: Hayden Hill Operating Company, a joint venture of AMAX Gold and U.S. Gold, has filed a plan of operation with the Bureau of Land Management, for an open pit gold mine in the Hayden Hill area. The project area is approximately 1,200 acres and consists of an open pit, waste rock disposal site, processing plants, heap leach systems, mill and tailing ponds, gold recovery processing plant and ancillary facilities and access roads. The present plan of operation proposes the waste rock site and tailings pond be adjacent to Forest Service administered lands, and the project will primarily be located on private and BLM managed lands. The plan proposes to have access and some ancillary facilities on National Forest System Lands. The BLM will issue an approval of the plan of operation or permits, for those activities occurring on BLM managed lands, based upon the Record of Decision.

In preparing the EIS/EIR, the agencies will identify and consider a range of alternatives for this site. One of these will be no development of the site. Other alternatives will consider relocation of the access route, waste rock and or tailings ponds.

Lynda Roush, Alturas Resource Area Manager, Bureau of Land Management, in Alturas, CA, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.70). The agencies will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft EIS/EIR. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The agencies will hold a public scoping meeting at the Adin Community Hall, Adin, California, from 3 p.m. til 9:30 p.m. on Thursday, November 30, 1989.

The draft EIS/EIR is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by May 1990. At that time EPA will publish a notice of availability of the DEIS/EIR in the FR.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the FR. It is very important that those interested in the management of the Hayden Hill area participate at that time. To be most helpful, comments on the Draft EIS/EIR should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NEDC*, 435 US 519, 553 (1978), and that environmental objections that could not have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc.*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the agencies at the time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the Draft EIS/EIR, the comments will be analyzed and considered by the agencies in preparing the final environmental impact statement. The final EIS/EIR is scheduled to be completed by July 1990. In the Final EIS/EIR, the agencies are required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision (ROD). After the

ROD is signed, the Plan of Operation can be authorized and that authorization will be subject to appeal under part 4, title 43 CFR.

Robert J. Sherve,

Acting, District Manager.

[FR Doc. 89-26059 Filed 11-3-89; 8:45 am]

BILLING CODE 4310-40-M

[OR-100-09-6310-02; GP0-036]

Roseburg District Advisory Council Meeting

AGENCY: Bureau of Land Management, Inerior.

ACTION: Notice.

SUMMARY: The District Advisory Council for the Bureau of Land Management, Roseburg District will meet December 5, 1989, beginning at 8:30 a.m. in the Roseburg District Office Auditorium. The meeting will be a continuation of the October 19 meeting and tour. The Council will consider the issues and the information presented at the previous meeting and offer recommendations and advice to the District Manager. The issues relate to public land management adjacent to rural residential areas.

ADDRESS: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Affairs Specialist Roseburg District (503) 672-4491.

SUPPLEMENTARY INFORMATION: The meeting is open to the public, and a public comment period will be provided at 9 a.m. Written statements for the Council can be mailed to the District Manager prior to the meeting or presented to the Council during the meeting. The Council will make recommendations on all or some of the following issues: Access, road maintenance, rights-of-way, potential impacts to the timber base, fire protection, slash burning, and trespass.

Dated: October 30, 1989.

James A. Moorhouse,

District Manager.

[FR Doc. 89-26785 Filed 11-3-89; 8:45 am]

BILLING CODE 4310-03-M

[Ca-940-00-5410-10-ZBKB; CACA 25717]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregative effect—conveyance of the reserved mineral interests.

SUMMARY: The private lands described in this notice, aggregating 200.00 acres are segregated and made unavailable for filings under the public land laws including the mining laws, to determine their suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those interests where the reservation interferes with or precludes appropriate nonmineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Lavonia C. Silva, California State Office, Federal Office Building, 2800 Cottage Way, Room 2845, Sacramento, California 95825, (916) 978-4820.

Serial Number—CACA 25717

T. 5 N., R. 17 W., SB Mer.
Sec. 27, NW;
Sec. 28, NE¼NE¼.
Except therefrom the easterly 270 feet of the southerly 150 feet of
Section 27.
Acres—199.07
County—Los Angeles

Upon publication of this Notice of Segregation in the **Federal Register** as provided in 43 CFR 2720.1-1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of publication of this notice, which ever occurs first.

Dated: October 24, 1989.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 89-26109 Filed 11-3-89; 8:45 am]

BILLING CODE 4310-40-M

[ID-010-90-4212-14; IDI-18816, IDI-18818, IDI-19796, IDI-26917 through IDI-26952, IDI-26954, IDI-26956 through IDI-26962 and IDI-26964 through IDI-26975]

Realty Action; Sale of Public Land in Owyhee County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Sale of Public land in Owyhee County, Idaho.

SUMMARY: The following-described lots have been identified as suitable for disposal by direct sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, at no less than the fair market value which will be determined by an appraisal.

Boise Meridian, Idaho

T. 5 S., R. 3 W., Section 6

Serial number	Building owner's name	Lot No.	Acres
IDI-26917	Nicholas K. or Dolores Ihli.	29	.21
IDI-26918	Roy M. Hoagland and Lester B. Nelson.	30	.23
IDI-26919	Mrs. Cleo Swayne.	31	.26
IDI-26920	John Rogge	32	.34
IDI-26921	Ms. Joan Bass Brogan.	33	.19
IDI-26922	John Burke	34	.14
IDI-26923	Loren E. Fredrickson.	35	.13
IDI-26924	Sandra Coverly and Karen Ford.	36	.13
IDI-26925	Mr. & Mrs. Donald Bowman et al.	37	.12
IDI-26926	Mrs. A.J. Swan.	38	.18
IDI-26927	Richard E. Birmingham and Kenneth W. Brown.	39	.18
IDI-26928	Mrs. Alice L. VanAtta and Jan Beckwith.	40	.19
IDI-26929	Joe Nettleton	41	.12
IDI-26930	Steve Ross and Joe Aman.	42	.15
IDI-26931	Clyde Snell	43	.16
IDI-26932	Phil Cramer	44	.27
IDI-26933	Norris Stimpson.	45	.19
IDI-26934	Melba School District.	46	.17
IDI-26935	Roman Catholic Diocese of Boise.	47	.73
IDI-26936	Ada Thomas	48	.27
IDI-26937	Ms. Eleanor Smith Beaman.	49	.84

Serial number	Building owner's name	Lot No.	Acres
IDI-26938	Douglas Hyslop.	50	.71
IDI-26939	Masonic Hall	51	.36
IDI-26940	Robert Ritchie	52	.17
IDI-26941	Ms. Emaline Nettleton.	53	.10
IDI-26942	Walt Adams	54	.15
IDI-26943	Keith Chadwick.	55	.21
IDI-26944	Ed Jagels	56	.38
IDI-26945	Donald C. Jamison and Roger Freeman.	57	.16
IDI-26946	Martin L. Peterson.	58	.25
IDI-26947	John Wilper and Peter Burril.	59	.23
IDI-26948	Phil Cramer	63	.56
IDI-26949	Alma Cram and Martha Burton.	64	.10
IDI-26950	Paul Nettleton	65	.10
IDI-26951	Mrs. Cleo Swayne.	66	.17
IDI-26952	Karl J. Laible Jr. and Susan Laible.	67	.20
IDI-26954	Grant and Carol Donner.	69	.20
IDI-26956	Galen Carr	71	.08
IDI-26957	Kenneth and Linda Jantz.	72	.39
IDI-26958	Keith Chadwick.	73	.55
IDI-26959	David Clark	74	.38
IDI-26960	E. Storm Spoljaric.	75	.19
IDI-26961	Gary A. or Patricia L. Machacek.	76	.14
IDI-26962	Donald L. Hasselbring.	77	.27
IDI-26964	James and Judith Barnes.	79	.46
IDI-26965	Robert Leonard.	80	.08
IDI-26966	Ed Jagels	81	.09
IDI-26967	Terrence Hasselbring.	82	.21
IDI-26968	Robert D. and Mary O'Malley.	83	.19
IDI-26969	I.O.O.F. Hall	84	.21
IDI-26970	Grete Estate	85	.25
IDI-18816	Donald L. or D. Darlene Reich.	86	.25
IDI-18818	Clarence Orton.	89	.16
IDI-26971	Mrs. Wilma Statham.	91	.46
IDI-26972	William and Dawn Statham.	92	.16
IDI-26973	Gloria Otto	93	.24
IDI-26974	H. Nettleton	94	.53
IDI-26975	Paul Sliger	95	.35
IDI-19796	Ms. Mary Hansen.	96	.28

Two lots are encumbered by the Florence Mining Claim. Sale of these lots will not be made until the lots are no longer encumbered by this mining claim.

DATES: The sale offering will begin on Tuesday, January 16, 1990, at 10:00 a.m. and continue until Tuesday, January 30, 1990, at 4:00 p.m., at which time and date this sale offering will be suspended.

The previously described lands are hereby segregated from appropriation under the public land laws and the mining laws except for direct sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, for a period of 270 days from the date of publication of this notice in the **Federal Register** or until patent is issued, whichever occurs first.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management at the address shown below.

ADDRESS: The sale offering will be held at the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the conditions of the sale can be obtained by contacting Blackie Bruegman at (208) 334–1582.

SUPPLEMENTARY INFORMATION: When patented, the lands will be subject to the following reservations:

1. Reservation to the United States of ditches and canals constructed by the authority of the United States as provided by the Act of August 30, 1890 (43 U.S.C. 945).

2. Reserving to the United States all minerals in the lands together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe.

3. Excepting and reserving to the public a right-of-way for existing roads across the lots for public access.

4. Patents will be subject to Silver City Zoning Ordinance Number 88–03 dated October 11, 1988.

The lots are being sold individually to the above identified current habitable building owners, by direct, non-competitive sales in order to give the Silver City community a more permanent character and the building owners a tenure interest in the land on which these buildings are located.

Selling these parcels to the building owners will provide incentive to maintain the buildings in the historical nature in which they were built, thus maintaining a valuable part of our early history in this historic mining district.

Offers must be submitted for at least fair market value. A thirty percent (30%) deposit must accompany each offer. The deposit must be paid by certified check, money order, bank draft or cashier's check. Offers will be rejected if accompanied by a personal check.

Federal law requires that purchasers must be U.S. citizens 18 years of age or older, or, in the case of a corporation, subject to the laws of any State of the U.S. Proof of citizenship shall accompany the offer. The remainder of the full price offer shall be paid within 180 days of the date of the sale. Failure to pay the full price within the 180 days shall disqualify the purchaser and cause the deposit to be forfeited to the Bureau of Land Management.

Objections to this Notice of Realty Action will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: October 20, 1989.

Gene L. Schloemer,

Acting District Manager.

[FR Doc. 89–25590 Filed 11–3–89; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–742358

Applicant: Denver Zoological Gardens, Denver, CO.

The applicant requests a permit to import two captive-bred Amur leopards (*panthera pardus orientalis*). The male will be imported from Helsinki Zoo, Finland. The female will be imported from the Rotterdam Zoo, Holland. The importation of these animals is for zoological exhibition and propagation.

PRT–683006

Applicant: Florida Power and Light Company, West Palm Beach, FL.

The applicant requests amendment of their current permit which allows take (relocate, radio-tag, perform environmental contaminant analysis on tissues taken from dead specimens or failed eggs and assess growth and survivorship of hatchlings) of American crocodiles (*Crocodylus actus*). The amendment would allow an increase in the total number of crocodiles to be

captured from 125 to 250, from their property, for scientific research and enhancement of propagation and survival.

PRT-742914

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import a pair of captive-born L'Hoest's monkeys (*Cercopithecus lhoesti*) from parc Zoologique et Botanique de la Ville de Mulhouse, Mulhouse, France and Naturierpark Strohen, Strohen, W. Germany for the purpose of enhancement of propagation.

PRT-689914

Applicant: Regional Director—Region 2, U.S. Fish and Wildlife Service.

The applicant requests a permit to amend an existing permit to include take of endangered and threatened sea turtles in the waters of southern California and possibly on land. Their current permit authorizes take (capture for radiotelemetry, blood sampling, banding, and determining abundance and distribution) within Region 2 and import of eggs, salvaged hatchlings, and salvaged parts from worldwide sources for scientific research or enhancement of propagation or survival.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm), Room 432, 4401 N. Fairfax Dr., Arlington VA 22203, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203-3507.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 31, 1989.

Karen Willson,

Acting Chief, Branch of permits, U.S. Office of Management Authority.

[FR Doc. 89-26023 Filed 11-3-89; 8:45 am]

BILLING CODE 4310-55-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029-0030), Washington, DC 20503, telephone 202-395-7340.

Title: State Process for Designating Areas Unsuitable for Surface Coal Mining Operations, 30 CFR part 764.

OMB approval number: 1029-0030.

Abstract: This part establishes the minimum requirements for designating areas as unsuitable for all or certain types of surface coal mining operations. The information requested will be used by the regulatory authority to make its decision to approve or disapprove a petition to designate an area as unsuitable for surface coal mining or to terminate such a designation. The information will also be used to maintain a data base and inventory system.

Bureau form number: None.

Frequency: On occasion.

Description of respondents: Persons petitioning to have land designated as unsuitable for surface coal mining operations or to have such a designation terminated, and State regulatory authorities who compile and maintain a data base and inventory system.

Estimated completion time: 168 hours.

Annual responses: 5.

Annual burden hours: 841.

Bureau clearance officer: Andrew F. DeVito 202-343-5954.

Dated: October 2, 1989.

Annetta L. Cheek,

Chief Regulatory, Development and Issues Management.

[FR Doc. 89-26108 Filed 11-3-89; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication.

Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523.

Date Submitted: October 27, 1989.

Submitting Agency: Agency for International Development.

OMB Number: 0412-0510.

Type of Submission: Renewal.

Title: Information Collection Requirements Contained in A.I.D.'s Handbook 13 (Grants and Cooperative Agreements).

Purpose: Section 635(b) of the Foreign Assistance Act (FAA) authorizes A.I.D. to make grants and cooperative agreements with any corporation or body of persons, whether within or without the United States, and international organizations in furtherance of the purposes and within the limitations of the FAA. A.I.D. is required to ensure the recipients are responsible and that they prudently manage public funds. These information collection and recordkeeping requirement are necessary for A.I.D. to review and monitor recipient's responsibility and compliances with U.S. Government requirements concerning use of funds.

Respondents will have a submission burden of one response per year.

Reviewer: Donald Arbuckle (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 26, 1989.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 89-26058 Filed 11-3-89; 8:45 am]

BILLING CODE 6116-01-M

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on Wednesday and Thursday, December 6-7, 1989. The topic to be discussed is "The Relationship Between United States Private Voluntary Organizations and Indigenous Non-Governmental Organizations."

Date: December 6-7, 1989

Time: Wednesday, December 6th, 9:00 a.m.-5:30 p.m., Thursday, December 7th, 9:00 a.m.-11:30 p.m.

Place: The National Press Club, 14th and F Streets, N.W., Washington, D.C. 20045

The meeting is free and open to the public. However, Notification by November 27, 1989 Through the Advisory Committee Headquarters is Required.

Persons wishing to attend the meeting must call Melissa Nuwaysir, (703) 875–4407, or write, not later than November 27th to: The Advisory Committee on Voluntary Foreign Aid, Room 310, SA–8, Agency for International Development, Washington, DC 20523.

Dated: October 26, 1989.

Sally H. Montgomery,

Deputy Assistant Administrator, Private and Voluntary Cooperation, Food for Peace and Voluntary Assistance.

[FR Doc. 89–26060 Filed 11–3–89; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31556]

CSX Transportation, Inc.; Trackage Rights Exemption

Live Oak, Perry and South Georgia Railway Company has agreed to grant overhead trackage rights to CSX Transportation, Inc., between milepost 26.5±, at Quitman, GA, and milepost 40.0+1.53±, at Foley, FL, a distance of approximately 56 miles. The trackage rights were to have become effective on October 23, 1989.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354, I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: October 31, 1989

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–25941 Filed 11–3–89; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–286 (Sub-No. 4X)]

New York, Susquehanna and Western Railway Corp.; Discontinuance to Trackage Rights Exemption in Hudson County, NJ

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue its trackage rights over a 5-mile line of Consolidated Rail Corporation (Conrail) between milepost 8.2, at North Bergen Township, and milepost 3.2, at Jersey City, Hudson County, NJ. Conrail will continue to operate over the line.

Applicant has certified that: (1) No local traffic has moved over the line under the trackage rights agreement for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on December 6, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues[1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by November 16, 1989. Petitions for reconsideration must be filed by November 27, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Michael F. Armani, The New York, Susquehanna and Western Railway Corporation, 1 Railroad Avenue, Cooperstown, NY 13326.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed as environmental report which addresses environmental or energy impacts, if any, from this discontinuance.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by November 8, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes avaiable to the public.

Environmental conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 1, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–26160 Filed 11–3–89; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See* Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to files its request as soon as possible in order to permit this commission to review and act on the request before the effective date of this exemption.

[2] *See* Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with departmental policy, 28 CFR 50.7 notice is hereby given that on October 5, 1989, a proposed consent decree in *United States of America* v. *Township of North Bergen, New Jersey*, consolidated with *United States* v. *City of Hoboken*, Civil Action No. 79–2030, was lodged with the United States District Court for the District of New Jersey. The proposed consent decree settles the United States' claims against North Bergen under the Clean Water Act, relating to discharges from North Bergen's Woodcliff sewage treatment plant in violation of effluent limitations and other applicable permit requirements.

The proposed consent decree requires North Bergen to expand and upgrade its Woodcliff facility to provide secondary treatment to all flows to that facility, by December 1, 1990. The decree also requires (1) payment of $58,000 in settlement of the United States' civil penalty claims, (2) compliance with interim effluent limitations until secondary treatment is achieved, and (3)

various interim operating improvements at North Bergen's existing treatment facilities.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of North Bergen*, D.J. Ref. 90-5-1-1-2494.

The proposed consent decree may be examined at the offices of the United States Attorney, Federal Building, 970 Broad Street, Newark, New Jersey 07102, and at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, NY 10278. A copy of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. Copies 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 $2.90 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 89-26061 Filed 11-3-89; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Advanced Television Test Center, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Advanced Television Test Center, Inc. ("the Test Center") on September 29, 1989 filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the members of this joint venture and (2) the nature and objectives of this joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to this joint venture, and its general areas of planned activity are given below:

The current parties to this joint venture are the following:

Advanced Television Test Center, Inc.
Association of Independent Television Stations, Inc.
Association of Maximum Service Telecasters, Inc.
Capital Cities/ABC, Inc.
CBS Inc.
Electronic Industries Association
National Association of Broadcasters, Inc.
National Broadcasting Company, Inc.
Public Broadcasting Service, Inc.

The area of planned activity of this joint venture is to design and conduct, either directly or through agreements with third parties, objective, subjective, and other tests relating to advanced television systems to provide the data that the Federal Communications Commission and its Advisory Committee on Advanced Television Service, as well as the Advanced Television Systems Committee, will require and utilize to determine appropriate actions with regard to the introduction of advanced television service in the United States. The parties to this joint venture may also undertake additional ATV tests not required by the Advisory Committee on Advanced Television Service.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-26063 Filed 11-3-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act for 1989

On October 31, 1989, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and the certifications are printed below.

Dated: October 31, 1989.

Roberts T. Jones,

Assistant Secretary of Labor

October 31, 1989.

Secretary of Labor

The Honorable Nicholas F. Brady,
Secretary of the Treasury, Washington, DC 20220

Dear Nick: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending October 31, 1989. One is required with respect to normal Federal unemployment tax credit by section 3304 of the Internal Revenue Code of 1986, and the other is required with respect to additional tax credit by section 3303 of the Code.

The certification pursuant to section 3304 lists all 53 jurisdictions, except New Jersey. New Jersey is ommitted from both certifications because of unresolved issues concerning the requirements of section 3304(a) of the Internal Revenue Code of 1986. If these issues are resolved satisfactorily, I will, of course, forward to you the certifications with respect to New Jersey. The certification pursuant to section 3303 also omits Puerto Rico because the unemployment compensation law of this jurisdiction contains no experience rating provisions and permits no reduced rates of contributions.

With my warmest regards,

Sincerely,

Elizabeth Dole.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1989, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

State	
Alabama	Maryland
Alaska	Massachusetts
Arizona	Michigan
Arkansas	Minnesota
California	Mississippi
Colorado	Missouri
Connecticut	Montana
Delaware	Nebraska
District of Columbia	Nevada
Florida	New Hampshire
Georgia	New Mexico
Hawaii	New York
Idaho	North Carolina
Illinois	North Dakota

Indiana	Ohio
Iowa	Oklahoma
Kansas	Oregon
Kentucky	Pennsylvania
Louisiana	Puerto Rico
Maine	Rhode Island
South Carolina	Virginia
South Dakota	Virgin Islands
Tennessee	Washington
Texas	West Virginia
Utah	Wisconsin
Vermont	Wyoming

This certification is for the maximum normal credit allowable under section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1989.

Elizabeth Dole,

Secretary of Labor.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1989:

State

Alabama	Montana
Alaska	Nebraska
Arizona	Nevada
Arkansas	New Hampshire
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Louisiana	Vermont
Maine	Virginia
Maryland	Virgin Islands
Massachusetts	Washington
Michigan	West Virginia
Minnesota	Wisconsin
Mississippi	Wyoming
Missouri	

This certification is for the maximum additional credit allowable under section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 1989.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 89-26116 Filed 11-3-89; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

Southern California Edison Co., et al.; San Onofre Nuclear Generating Station, Units 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF-10 and No. NPF-15 issued to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Units 2 and 3, located in San Diego County, California.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would revise Technical Specification 3/4.1.3.4, "CEA Drop Time" and its associated Bases, to use both an arithmetic average control element assembly (CEA) drop time and a maximum individual CEA drop time. The maximum individual CEA drop time restriction would be used to limit the CEA drop time distribution from the arithmetic average.

The Need for the Proposed Action

The proposed amendments are required to allow effective use of the new CEA Drop Time Test software methodology in use at San Onofre Nuclear Generating Station, Unit Nos. 2 and 3. In order to preclude a delayed entry into Mode 2 (Startup) following testing using the new methodology, the proposed amendments would allow an increase in the margin between the Technical Specification limit and the measured values derived from the new methodology.

Environmental Impacts of the Proposed Action

The proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than previously determined. The proposed amendments do not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed amendments do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on September 7, 1989 (54 FR 37172). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981 and its Errata dated June 1981.

Agencies and Persons Consulted

The NRC staff has reviewed the licensees' request that supports the proposed amendments. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated July 31, 1989 which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library,

University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 31st day of October, 1989.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-26047 Filed 11-3-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-27405; File No. SR-DTC-89-12]

Self-Regulatory Organizations; Depository Trust Company; Order Approving a Proposed Rule Change Concerning Clarification and Technical Revision of Depository Trust Company's Rules

October 30, 1989.

On July 3, 1989, the Depository Trust Company ("DTC") filed a proposed rule change (SR-DTC-89-12) with the Commission pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act"). On July 31, 1989, the Commission published notice in the **Federal Register** to solicit comments from interested parties.[2] On September 6, 1989, DTC consented to extend the time period for consideration of its proposal to September 29, 1989.[3] No comments were received. As discussed below, the Commission is approving this proposal.

I. Introduction

The proposed rule change would make certain technical revisions to DTC's rules. These revisions would clarify the meaning of DTC's rules and would make some technical drafting changes to DTC's rules to reflect the current technological state of the securities industry. Because these revisions do not change the substance of DTC's rules, they will not be discussed in this release.

The proposed rule change also makes two substantive changes to DTC's rules. First, DTC is eliminating its requirement that securities eligible for DTC's services must have a transfer agent that is located in the United States. In addition, DTC is changing its rule governing the circumstances under which DTC may reverse a delivery made by a participant to the National Securities Clearing Corporation ("NSCC") through DTC's facilities.

II. Description

DTC proposes to change its rules concerning the securities eligible for the services offered by DTC. Under DTC's current rules, an issue of securities may be eligible for the services provided by DTC if (i) such issues lawfully may be transferred by book-entry; and (ii) the transfer agent for such securities is located in the United States. DTC proposes to revise this rule by eliminating the second requirement. This would expand the number of issues of securities eligible for DTC's services.

DTC also proposes to change its rules with respect to the circumstances under which it may reverse a delivery made from a participant's account to NSCC. The proposal allows DTC to combine all of a participant's account positions in DTC's next-day funds settlement ("NDFS") system in a single security issue when DTC determines the extent to which it may reverse a participant's CNS deliveries (defined below) before they become final,[4] thus shifting all the losses resulting from the participant's activity in NSCC's continuous net settlement ("CNS") system from DTC to NSCC. Under DTC's current rules,[5] a participant, or NSCC acting as a special representative of such participant ("Participant"), may instruct DTC to deliver securities from the Participant's account to NSCC's account at DTC ("CNS instruction"). DTC, however, will not deem such a delivery to be final until DTC determine either (i) that the Participant's net credit balance exceeds his net debit balance for the day; or (ii) the Participant pays his net debit balance for the day. If DTC ceases to act [6] for the Participant before such delivery becomes final, and, as a consequence, (i) securities which another participant ("Delivering Participant") was obligated to deliver to the Participant's account at DTC ("subject account") were either retained by the Delivering Participant or sold out by DTC (because the Participant defaulted); (ii) the Participant's subject account is reduced by virtue of DTC's delivery of securities to NSCC ("CNS delivery"); (iii) the Participant has a short position in his subject account as a result of such actions; and (iv) the securities which the Participant instructed DTC to deliver to NSCC's account are of the same issue as that in which the Participant has a short position ("subject securities"), then the CNS instruction will not be effective and DTC will reverse the deliveries it made from the Participant's subject account to NSCC's account to the extent necessary to offset the Participant's net debit obligation for that day. If such a reversal causes NSCC to have a short position in its DTC account (because it has already delivered out the securities delivered to it by DTC), NSCC would be required to deliver securities to DTC in an amount sufficient to cover its short position. NSCC must deposit on demand an amount equal to 100% of the market value of its short securities position until such delivery is made.

As an example, assume a Participant has both a proprietary account and an agency account at DTC, has 150 shares of XYZ in his proprietary account, is expecting to receive 150 shares of XYZ into his agency account in a transaction versus payment, and that the value of XYZ is $1.00 per share. The Participant instructs DTC to transfer 150 shares of XYZ to NSCC from his proprietary account and to transfer 150 shares of XYZ to NSCC from his agency account. Assume the Participant defaults on his obligation to pay the Delivering Participant for the 150 shares of XYZ and that the Delivering Participant retains such shares as a result. Further assume that the Participant has a net debit obligation to DTC of $300 on the day these transactions occur. Under DTC's current rules, DTC would be able to reverse its delivery of 150 shares of XYZ delivered out of the Participant's agency account to cover the Participant's net debit obligation.[7] However, DTC does not have the authority to reverse the delivery of XYZ shares made out of the Participant's proprietary account. As a result, DTC would suffer a loss of $150.

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[1] 15 U.S.C. § 78s(b)(1) (1982).

[2] 54 FR 31601 (July 31, 1989).

[3] *See* letter from Richard B. Nesson, General Counsel, DTC, to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, dated September 6, 1989.

[4] Under DTC's rules, a delivery is final when the participant receiving the delivery is determined to have a NDFS credit balance or the participant pays its NSFS debit balance. *See* DTC Rule 9(B).

[5] *Id.*

[6] DTC may cease to act for a participant if, among other things, the participant has failed to pay any amounts owing with respect to securities delivered to it. *See* DTC Rule 10, section 1(iv).

[7] After such a reversal, NSCC, as a settlement guarantor with respect to CNS transactions, must buy-in the subject securities to deliver to the receiving participant. Such a buy-in may cause NSCC to suffer a loss which may first be recovered by reversing any credit balance the Participant has at NSCC. Because the Participant probably has no credit balance (otherwise he would not have defaulted), NSCC must then assess the Participant's contribution to NSCC's clearing fund to cover any loss caused by the buy-in. *See* NSCC Rule 4, section 3. If the Participant's clearing fund contribution is insufficient to satisfy the loss, NSCC would then have to satisfy such loss out of its retained earnings or a pro-rata assessment of the clearing fund contributions of all of the members. *See* NSCC Rule 4, section 4.

The effect of this rule is to allocate a loss arising out of a Participant's CNS activity between DTC and NSCC. DTC's current rule attempts to allocate such loss to NSCC by allowing DTC to reverse the deliveries it made from the Participant's subject account to NSCC to the extent of the Participant's net debit obligation to DTC. However, as illustrated by the above example, because DTC's authority to reverse CNS deliveries of subject securities is limited to reversing only those CNS deliveries made from the Participant's subject accounts, these reversals may not be sufficient to cover the losses incurred by DTC.

DTC proposes to revise its method of determining which deliveries are eligible for reversal under the above scenario. Under DTC's proposal, DTC would have the authority to reverse CNS deliveries of subject securities made from all of the Participant's accounts, subject to existing limitations designed to protect fully-paid securities held in the account. Consequently, under the above example, DTC could also reverse the delivery of 150 shares of XYZ made from the Participant's proprietary account, thus satisfying the Participant's net debit obligation to DTC for that day.

III. Rationale

DTC believes that its proposal is consistent with section 17A of the Act because it facilitiates the immobilization and book-entry transfer of securities. DTC believes that its proposal is consistent with section 17A(b)(3)(A) [8] of the Act in general because it facilitates the immobilization and book-entry transfer of foreign securities. In addition, DTC believes that its proposal is consistent with section 17A(b)(3)(B) of the Act, which provides that, subject to certain exceptions, the rules of a registered clearing agency must allow any other clearing agency.[9] DTC believes that its proposal facilitates such participation because it allows DTC to maintain the appropriate balance between encouraging other registered clearing agencies (and their participants) to participate in DTC while adequately protecting DTC from losses arising out of such participation.

IV. Discussion

One of the purposes of section 17A of the Act is to encourage the immobilization of securities in depositories and the transfer of such immobilized securities by book-entry.[10] Since section 17A was enacted, the securities markets have become increasingly internationalized.[11] For example, with respect to trading of equity securities, some foreign equity exchanges have formed trading links with domestic equity exchanges.[12] In addition, linkages also have been developed between various domestic and foreign clearance and settlement systems.[13]

The Commission believes that DTC's proposal to include as eligible for DTC's safekeeping services securities issued by non-U.S. entities and serviced by non-U.S. transfer agents is consistent with the Act and the development of facilities for improved clearance and settlement of transactions in securities. Improvements in mail and courier delivery services during the last decade appear to reduce the likelihood that foreign security certificates will be lost or delayed in transit to a non-U.S. transfer agent, and the availability of book-entry delivery facilities in the United States would appear to be essential to efficient clearance and settlement of trades among U.S. broker-dealers and U.S. investors in those securities.[14]

The Commission believes DTC's proposal concerning its authority to reverse certain deliveries is consistent with section 17A(b)(3) (A) and (B) of the Act [15] because it appropriately allocates the risk of loss from CNS activities to NSCC and increases DTC's protection in the event of member default. Under NSCC's rules, members using NSCC's CNS system must establish an account at a qualified depository such as DTC before being allowed to use the CNS system.[16] To make a delivery against payment in the CNS system, a NSCC participant directs NSCC to instruct DTC to deliver securities from the participant's securities account at DTC to NSCC's securities account at DTC; and NSCC instructs DTC to deliver securities from NSCC's securities account to the receiving participant's securities account at DTC.[17] All money obligations relating to such deliveries settle at NSCC in next day funds.[18]

As explained above, under its current rules, DTC may reverse a CNS delivery of subject securities only if the delivery was made from the same account of the Participant with respect to which the Participant previously received the subject securities in a delivery versus payment transaction. Any CNS delivery of subject securities made from another one of the Participant's account is not subject to reversal. Thus, if the value of the securities subject to reversal is insufficient to satisfy the Participant's net debit obligation to DTC, DTC may not reverse CNS deliveries of the subject securities made from a different account of the Participant to cover the shortfall. DTC proposes to change this result by allowing it to aggregate all of the Participant's CNS deliveries of subject securities regardless of the account from which such deliveries were made. By doing so, any shortfall in the Participant's net debit obligation to DTC which is not offset by reversing a CNS delivery of the subject securities from one of the Participant's accounts may be satisfied by reversing CNS deliveries of the subject securities made from another one of the Participant's accounts. As a consequence, DTC would have increased protection in the event Participants are unable to satisfy their obligations which arise out of CNS activity.

The Commission also believes that DTC's proposal is consistent with section 17A(b)(3)(F) of the Act [19]

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[8] *See* 15 U.S.C. 78q–1(b)(3)(A) (1982).

[9] *See* 15 U.S.C. 78q–1(b)(3)(B) (1982).

[10] *See* Senate Report 94–75, which sets forth the legislative history of the Securities Acts Amendments of 1975 (April 14, 1975).

[11] For a thorough description of this development, *see* Internationalization of the Securities Markets, Report of the Staff of the United States Securities and Exchange Commission ("Internationalization Report") (July 27, 1987).

[12] *See* chapter 5 of the Internationalization Report at 49–60.

[13] *See* chapter 5 of the Internationalization Report at 61–70. *See also* letters from Jonathan Kallman, Assistant Director, Division of Market Regulation, to Karen L. Saperstein, Associate General Counsel, International Securities Corporation, dated March 23, 1988 and September 20, 1988.

[14] The Commission understands that the proposal eliminates an existing obstacle in DTC's rules to DTC's ability to make non-U.S. securities issues eligible for DTC services. At such time as DTC determines to make eligible securities serviced by transfer agents located outside of North America, however, the Commission expects DTC to file notice for review under section 19(b)(1) of the Act.

[15] Section 17A(b)(3)(A) requires that the rules of a registered clearing agency must be designed, among other things, to facilitate the prompt an accurate clearance and settlement of securities transactions for which it is responsible. *See* 15 U.S.C. 78q–1(b)(3)(A) (1982). Section 17a(b)(2)(B) provides that the rules of a registered clearing agency must provide that any . . . other registered clearing agency . . . may become a participant in such clearing agency. *See* 15 U.S.C. 78q–1(b)(3)(B) (1982).

[16] *See* NSCC Rule 29.

[17] *See* NSCC Rule 11, section 3.

[18] *See generally* NSCC Rule 12.

[19] Section 17A(b)(3)(F) provides that the rules of a registered clearing agency must be designed . . . to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. *See* 15 U.S.C. 78(b)(3)(F) (1982).

because it facilitates the development of the national system for the prompt and accurate clearance and settlement of securities transactions. Immobilizing securities in depositories and transferring such securities by book-entry is one of the essential elements of a national clearance and settlement system. NSCC's CNS system plays a major role in encouraging the immobilization and book-entry transfer of securities by providing a facility whereby members may make a number of money and securities transfers by book-entry and still arrive at one net money settlement obligation and one net securities settlement obligation at the end of the day that are guaranteed by NSCC. In addition, by allowing a member to carry his securities settlement positions forward from day to day, NSCC's CNS system encourages a member to stay within the book-entry environment by reducing the need for him to go outside of such environment to meet his securities delivery obligations. However, because NSCC itself is not a depository, the CNS system can function only if NSCC participants immobilize their securities in a NSCC-approved depository such as DTC. Consequently, because of its role as an ajunct to the CNS system, DTC may end up effecting securities transfers on behalf of members of a facility for which DTC is not primarily responsible. As demonstrated by the above example, this may expose DTC to substantial financial risk. Therefore, it seems reasonable to allow DTC and NSCC to allocate losses arising out of CNS activity to NSCC. Failing to allow DTC to allocate losses in this manner would discourage DTC (or any other depository) from allowing NSCC participants to establish accounts at DTC in connection with CNS activity. This, in turn, would impede the development of the national clearance and settlement system by inhibiting the immobilization and book-entry transfer of securities.

The Commission acknowledges that DTC's proposal may expose NSCC to greater uncertainty and increased financial exposure by subjecting it to more reversals. However, DTC's proposal does not increase the amount of risk involved in the national clearance and settlement system as a whole, because either DTC or NSCC would have to bear the loss resulting from the Participant's default. Instead, it merely transfers the risk of loss resulting from CNS activity from DTC to NSCC. Because NSCC sponsors the CNS system, monitors its members' activity in such system and structures its financial safeguards accordingly,[20] NSCC appears to be better suited to bear any such loss and to protect against such loss.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–89–12) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26119 Filed 11–3–89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34–27404; File No. SR–MBS–89–5]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by MBS Clearing Corp. Relating to Fees for Failure to Resolve Uncompared or Inconsistent Settlement Balance Order ("SBO") Information, Appearing on the Advisory Report

October 30, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1989, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is MBSCC's proposed revision to its fee schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to impose fees for delinquent notifications of SBO settlements. Under MBSCC's rules and procedures, participants are required to promptly notify MBSCC of the settlement of SBO transactions. If MBSCC receives inconsistent information regarding settled SBO transaction(s), MBSCC prepares and distributes Advisory Reports. Participants are then required, within specified time frames, to resolve (by either deleting or matching) uncompared or inconsistent information appearing on Advisory Reports. (During the past several months, both MBSCC and individual Participants have increased and enhanced the automation of the input and output of SBO settlement notification).

In order to ensure compliance with MBSCC rules and procedures regarding the prompt notification of SBO settlement, as well as the matching and the resolution of uncompared or inconsistent open SBO settlement items, MBSCC has established a fee for delinquent Participant activity. The fees are effective October 3, 1989. Specific fees, ranging from $25 to $50 per day are imposed on participants failing to take required actions within required time frames, including the failure to delete or match uncompared or inconsistent open SBO settlement information.

The revised fee schedule is consistent with section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among MBSCC Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Participants were formally advised of the proposed fees on July 18, 1989. No written comments have been received.

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[20] For example, NSCC has the authority to require members who participate in the CNS system that maintain positions in "high risk" or "volatile" securities (as defined by NSCC) to make additional mark to market payments. *See* NSCC Rule 11, section 6.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise is furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written statements should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization.

All submissions should refer to file number SR–MBS–89–5 and should be submitted by November 27, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

EXHIBIT A

Action	Notification of settlement period (Clearance date +1)	Challenge period (Nos entry date +1–3)	Warning period (Nos entry date +3.–5, close of business)	Penalty period (Nos entry date +6, at close of business until matched/deleted)
Deletion of an *Unchallenged* Uncompared Condition.	N/A	No Fee	No Fee	No Fee.
Deletion of *Challenged* Uncompared Condition.	N/A	No Fee	No Fee	$25 per day/NOS for each date a *challenged* uncompared condition existed in a penalty period.
Matching of an *Unchallenged* Advisory Condition.	N/A	No Fee	No Fee	$25 per day/NOS for each day an *unchallenged* advisory condition existed in a penalty period.
Matching of a *Challenged* Advisory Condition.	N/A	No Fee	No Fee	$50 per day/NOS for each day a *challenged* advisory condition existed in a penalty period.

[FR Doc. 89–26019 Filed 11–3–89; 8:45 am]
BILLING CODE 8010–01–M

[Rel. No. 34–27409; File No. SR–NASD–89–5]

Self-Regulatory Organizations; Filing of Amendment to Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Prompt Receipt and Delivery of Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") Amendment No. 3 [1] to the above-numbered proposed rule change, as described in Items I, II, and III below. Notice of the original proposed rule change, and Amendment No. 1 thereto, was given by the issuance of a Commission release (Securities Exchange Act Rel. No. 26746, April 20, 1989) and by publication in the **Federal Register**, (54 FR 18185, April 27, 1989).

In response to several negative comment letters,[2] the NASD has revised the text of the proposed rule change in the present amendment, and the Commission is publishing this notice to solicit comments on the revised proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the NASD Board of Governor's Interpretation on Prompt Receipt and Delivery of Securities (the "Interpretation"). The amendment would require members to make an affirmative determination, before effecting a short sale for their own accounts, that the security will be borrowed or delivered prior to the settlement date, except in certain specified circumstances.

The following is the complete text of the revised proposed rule change. Language added by Amendment No. 3 is italicized.

(b) No member shall effect a "short" sale for its own account in any security unless the member makes an affirmative determination that it can borrow the securities or otherwise provide for delivery of the securities by the settlement date. This requirement will not apply to transactions in corporate debt securities, to bona fide market making transactions by a member in securities in which it is registered as a NASDAQ market maker, *to bona fide market maker transactions in the non-NASDAQ securities in which the market maker publishes a two-sided quotation to an independent quotation medium,* or to transactions which result in fully hedged or arbitraged positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD Included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] Amendment No. 2, filed August 21, 1989, added new language to the text of the proposed rule change. Amendment No. 3 revised the language added by Amendment No. 2 and added an explanation of the reasons for the new language.

[2] A copy of the complete file on the proposed rule change, including the comment letters, is available in the Commission's Public Reference Room.

places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Over the last several years, the NASD Board of Governors has adopted rules providing for additional regulation of short sale practices in the over-the-counter market. In addition, it has amended its Interpretation on Prompt Receipt and Delivery of Securities to establish requirements for accepting customer short sale orders.

The Interpretation currently prohibits members from accepting a short sale order from a customer unless the member makes an affirmative determination that it will receive delivery of the security from the customer or that it can borrow the security on behalf of the customer for delivery by settlement date. The term "customer," as defined in Article II, section 1(f) of the NASD Rules of Fair Practice, excludes brokers and dealers.

The proposed rule change would impose a similar requirement upon members effecting short sales for their own accounts. Under the proposed rule change, a member would be prohibited from effecting a short sale for its own account in any security unless the member makes an affirmative determination that it can borrow the security or otherwise provide for delivery of the security by the settlement date. The proposed amendment is intended to address unnecessary speculation in connection with the short selling of broker-dealers' proprietary positions caused by the member's ability to go short without securities to cover the short position. The proposed amendment would not apply to transactions in corporate debt securities. It would also not apply to bona fide market making transactions by a member in securities in which it is registered as a NASDAQ market maker, to bona fide market maker transactions in non-NASDAQ securities in which the market maker publishes two-sided quotations to an independent quotation medium, or to transactions which result in fully hedged or arbitraged positions. These latter exemptions have been included to recognize that many short selling transactions are engaged in for risk reduction and market liquidity and to ensure their availability for bona fide purposes only.

Amendment No. 3 to the original rule filing adds to the list of transactions exempted from the requirement to make an affirmative determination that delivery can be made, market making transactions in non-NASDAQ securities for which the member is publishing two-sided quotations to an independent quotation medium. The amendment is in response to comments received on the original filing that argued that the market making exemption was too narrowly drawn, applying as it did to NASDAQ securities only. The Board determined that transactions in non-NASDAQ over-the-counter securities should be afforded the exemption, provided the member was engaged in bona fide market making, as evidenced by its publication of a two-sided quotations to a quotation medium, such as the "pink sheets."

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, among other things. By requiring members to make an affirmative determination that they can borrow a security or otherwise provide for delivery of the security prior to settlement date before effecting a short sale for their own account, the proposed rule change will enhance the integrity of the market, correct the anomaly that now exists between the obligations of customers and members, and prevent abuses that harm public investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The previous publication of the proposed rule change by the Commission elicited several comments regarding the failure to include within the exemptions bona fide market making transactions in non-NASDAQ over-the-counter stocks. The amended rule change is in response to such comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the propsoed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 27, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: October 31, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26020 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Chicago Board Options Exchange, Inc. (File No. 7-5434)

October 26, 1989.

The Chicago Board Options Exchange, Inc. ("CBOE") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1) (B) and (C) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 thereunder for unlisted trading privileges ("UTP") in American Greetings Corporation and John H. Harland Company for the purpose of trading the common stock of these securities as part of a market basket on

the Standard & Poor's 500 and 100 Indexes ("Index").[1] As indicated in their application, American Greetings Corporation is an over-the-counter ("OTC") security that is quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") and that is not registered on any national securities exchange.[2] Last sale information in the stock is reported through NASDAQ facilities. John H. Harland Company is listed and registered on the New York Stock Exchange, Inc. and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 16, 1989 written data, views and arguments concerning the above-referenced application.[3] Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(2) of the Act. Under this Section the Commission can only approve the UTP application if it finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

Further, in considering the CBOE's application for extension of UTP in a stock not registered on another national securities exchange, section 12(f)(2) of the Act requires the Commission to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension of the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commission may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26013 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

[1] *See.* proposed rule filing SR-CBOE-88-20. The CBOE previously applied for UTP in the 500 stocks comprising the Standard and Poor's 500 Index to accommodate CBOE's proposal to trade market baskets. *See* Securities Exchange Act Release No. 27237, 54 FR 38475. After that application, however, Standard & Poor's announced the two securities as replacement stocks for the Index.

[2] In its previous application the CBOE also registered UTP for 31 OTC stocks.

[3] Notice already has been sent to the issuer and the relevant markets.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

October 30, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

ACME Electric Corp.
Common Stock, $1.00 Par Value (File No. 7-5435)
Benetton Group
American Depository Shares (File No. 7-5436)
IDEX Corp.
Common Stock, $.01 Par Value (File No. 7-5437)
Integrated Resources
$4.25 Cm. Cv. Pfd., $1.00 Par Value (File No. 7-5438)
Network Equipment Technologies
Common Stock, $.01 Par Value (File No. 7-5439)
Total System Services, Inc.
Common Stock, $.10 Par Value (File No. 7-5440)
Weirton Steel Corp.
Common Stock, $.01 Par Value (File No. 7-5441)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26016 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 30, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Weatherford International, Inc.
Common Stock, $.10 Par Value (File No. 7-5442)
American Realty Trust, Inc.
Common Stock, $2.00 Par Value (File No. 7-5443)
Carolco Pictures, Inc.
Warrants expiring 6/1/93, No Par Value (File No. 7-5444)
Central Pacific Corporation of California
Common Stock, No Par Value (File No. 7-5445)
First National Corporation
Common Stock, No Par Value (File No. 7-5446)
Pacific Western Bancshares
Common Stock, No Par Value (File No. 7-5447)
Westamerican Bancorporation
Common Stock, No Par Value (File No. 7-5448)
Bristol-Myers Squibb Company
Common Stock, $1.00 Par Value (File No. 7-5449)
American Opportunity Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-5450)
Chile Fund (The), Inc.
Common Stock, $.001 Par Value (File No. 7-5451)
Cable & Wireless PLC
American Depositary Shares, No Par Value (File No. 7-5452)
LSI Logic Corp.
Common Stock, $.01 Par Value (File No. 7-5453)
Putnam Diversified Premium Income Trust
Shares of Beneficial Interest, No Par Value (File No. 7-5454)
Enron Oil & Gas Company

Common Stock, Without Par Value (File No. 7–5455)
T/SF Communications Corporation
Common Stock, $.10 Par Value (File No. 7–5456)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26014 Filed 11–3–89; 8:45 am]

BILLING CODE 8013–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 31, 1989.

The Midwest Stock Exchange, Inc. ("MSE") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") and Rule 12f–1 thereunder for unlisted trading privileges ("UTP") in the 16 securities listed below solely for the purpose of trading these securities as part of a portfolio transaction traded through the MSE's Portfolio Trading System during its Secondary Trading Session. The 16 securities listed below are all over-the-counter securities that are quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ").[1] Last sale information for these securities are reported through NASDAQ facilities.

Andrew Corp.
Common Stock, $.01 Par Value (File No. 7–5465)
Bassett Furniture
Common Stock, $5.00 Par Value (File No. 7–5466)
Charming Shoppes
Common Stock, $.10 Par Value (File No. 7–5467)
Coors (Adolph)
Class B Common Stock, No Par Value (File No. 7–5468)
Cross & Tecker
Common Stock, $1.00 Par Value (File No. 7–5469)
Jerrico, Inc.
Common Stock, No Par Value (File No. 7–5470)
Noxell Corp.
Class B Common Stock, $1.00 Par Value (File No. 7–5471)
Oshkosh B'Gosh
Class A Common Stock, $.01 Par Value (File No. 7–5472)
Paccar, Inc.
Common Stock, $12 Par Value (File No. 7–5473)
Roadway Services
Common Stock, No Par Value (File No. 7–5474)
St. Paul Cos.
Common Stock, $1.50 Par Value (File No. 7–5475)
Safeco Corp.
Common Stock, No Par Value (File No. 7–5476)
Westmoreland Coal
Common Stock, $2.50 Par Value (File No. 7–5477)
Wetterau, Inc.
Common Stock, $1.00 Par Value (File No. 7–5478)
Worthington Industries
Common Stock, $.01 Par Value (File No. 7–5479)
Yellow Freight Systems
Common Stock, $1.00 Par Value (File No. 7–5480)

Interested persons are invited to submit on or before November 16, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f) of the Act. Under this Section the Commission can only approve the UTP application if it finds, after this notice and opportunity for hearing, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

Further, in considering the MSE's application for extension of UTP in the 16 NASDAQ stocks, Section 12(f)(2) of the Act requires the Commision to consider, among other matters, the public trading activity in such securities, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system. The Commisison may not grant such application if any rule of the national securities exchange making an application under section 12(f)(1)(C) of the Act would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26118 Filed 11–3–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–27410; File No. SR–OCC–89–06]

Self Regulatory Organization; The Options Clearing Corporation; Order Approving a Proposed Rule Change Increasing the Minimum Required Contribution to OCC's Clearing Fund and Allowing OCC to Charge Certain Losses and Deficiencies Against Retained Earnings

October 31, 1989.

On June 28, 1989, the Options Clearing Corporation ("OCC") filed a proposed rule change (File No. SR–OCC–89–06) pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule would increase the minimum required contribution to OCC's Stock Clearing Fund ("Stock Fund") and Non-Equity Securities Clearing Fund ("Non-Equity Fund") (collectively "Clearing Fund"). The proposed rule also gives OCC's Board of Directors ("Board") more flexibility in dealing with OCC's financial affairs. Notice of the proposed rule change appeared in the **Federal Register** on July 27, 1989.[2] No comments

[1] None of the securities on which UTP has been requested are registered on another national securities exchange under section 12(b) of the Act.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] *See* Securities Exchange Act Release No. 27048 (July 20, 1989), 54 FR 31276.

were received. This release approves OCC's proposed rule change.

I. Description of the Proposal

OCC's proposed rule change amends OCC's Rules by increasing a member's minimum required contribution to OCC's Clearing Fund. The proposal amends Rule 1001(a) [3] by increasing a member's minimum required contribution to the Stock Fund from $10,000 to $75,000. It also amends Rule 1001(b) [4] by increasing a member's minimum required contribution to the Non-Equity Fund from $50,000 to $75,000.

The proposal also amends OCC's By-laws by giving OCC's Board of Directors ("Board") more discretion in dealing with OCC's financial affairs. The proposal grants the Board the authority to increase a member's minimum required contribution to the Clearing Fund during the first three months of membership.[5] The proposal further allows OCC to charge any loss caused by a clearing member's default or a deficiency in a member's required clearing fund contribution against OCC's retained earnings.[6]

II. OCC's Rationale

OCC believes that the proposed rule change is consistent with Section 17A of the Act [7] because it will provide additional financial integrity to OCC's guaranty of the clearance and settlement of exchange-traded options. OCC believes that its proposal will increase investor confidence by ensuring that OCC maintain an independent source of liquidity with sufficient funds to cover losses arising out of member default.

III. Discussion

A. Increase in Minimum Required Contribution to Clearing Fund

Section 17A of the Act provides that the rules of a clearing agency must, among other things, be designed to assure the safeguarding of funds and securities which are in the custody or control of the clearing agency or for which it is responsible. A clearing agency's rules must also be designed to protect investors and the public interest.[8] As explained in the Division of Market Regulation's standards for review of clearing agency registration applications ("Standards"),[9] one way to protect participants from risk is for clearing agencies to establish, by rule, an appropriate level of clearing fund contributions based, among other things, on an assessment of the risks to which they are subject.[10] OCC has reassessed the risks to which it is subject in light of the events of October, 1987[11] and, based on that assessment, believes that increasing the minimum required contribution to the Clearing Fund is appropriate at this time.[12]

The Commission believes that OCC's decision to increase minimum required contribution to its Clearing Fund is appropriate and consistent with the Act.[13] OCC's minimum required contribution to its Stock Fund and Non-Equity Fund have remained constant since 1972 (the year of OCC's inception) and 1984 respectively. Since these dates, activity in OCC-issued stock and non-equity options has increased dramatically. For example, volume for combined equity and non-equity options increased (on an average daily basis) 30% between 1985 and 1988.[14] In addition, average non-equity option premiums have increased over 50% between 1984 and 1988.[15]

The Commission also believes that raising OCC's minimum required contribution to the Stock Fund will better protect OCC from any realistic exposure inherent in options trading.[16] For example, OCC's minimum required contribution to the Stock Fund ($10,000) has not been increased since OCC's formation in 1972. Thus, because of the effects of inflation, this amount no longer provides OCC with the same degree of coverage that it initially provided.

The Commission recognizes that increasing the minimum required contribution to OCC's Clearing Fund may serve as a barrier to entry to prospective clearing members, particularly for members and prospective members who desire to participate only in the stock option markets. The Commission believes, however, that the benefits of enhancing OCC's protection against member default outweighs any additional cost to prospective members and existing members with limited capital resources by increasing the amount of capital necessary to participate in OCC. Any prospective member or existing member, who is precluded from becoming or remaining a member because it can not meet OCC's minimum required Clearing Fund contribution, may participate indirectly in OCC by entering into correspondent relationships with other OCC clearing members.

Although the Commission traditionally has not attempted to determine whether a specific dollar amount of Clearing Fund contributions are appropriate,[17] the Commission must review the proposed fund contributions to determine whether the minimum contribution level set by OCC is reasonable in relation to the risks posed

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[3] *See* OCC Rules ("Rules"), chapter 10, Rule 1001(a).

[4] *See* Rules, Chapter 10, Rule 1001(b).

[5] *See* Section III.B., *infra*.

[6] *See* Section III.C., *infra*.

[7] 15 U.S.C. 78q-1 (1982).

[8] *See* 15 U.S.C. 78q-1(b)(3)(F) (1982).

[9] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

[10] *Id.* at 41929.

[11] On October 19, 1987, OCC, among others, was monitoring the financial condition of one of its clearing members, Shaine, because of its difficulty in meeting settlement obligations and its high risk exposure in uncovered S&P 100 put options. Because of the dramatic decrease in the price of such options on October 19, Shaine was unable to meet its margin calls on that day. Consequently, on October 20, Shaine was placed in liquidation. OCC converted Shaine's margin and clearing fund deposits to cash, netted out Shaine's open positions, and closed out Shaine's netted positions by the end of the day. OCC sustained an $8.5 million loss on the liquidation and allocated such loss pro-rata among OCC's clearing members. This was the first time that OCC's members had been assessed pro-rata for losses caused by a clearing member's default.

Because almost all of Shaine's positions were in non-equity options, 99.25 percent of the loss was charged to the Non-Equity Fund and 0.75 percent was charged to the Stock Fund. *See The October 1987 Market Break*, Report by the Division of Market Regulation, United States Securities and Exchange Commission, at 10-45, (February, 1988) ("Market Break Report").

[12] On August 31, 1988, a subcommittee of OCC's margin committee issued a report to OCC's Board of Directors analyzing various aspects of OCC's risk management policies and procedures. ("Backup System Report"). The subcommittee recommended that in view of the events of October, 1987, the minimum required contribution to the Stock Fund and Non-Equity Fund be increased to $75,000. *See* Backup System Report at 58.

[13] The President's Working Group on Financial Markets recommended that clearing organizations review the adequacy of their required clearing fund contributions. *See* Interim Report of the President's Working Group on Financial Markets (May 1988) Appendix D ("Working Group Report").

[14] OCC's combined equity and non-equity contract volume has increased from 776,400 (on an average daily basis) at the end of 1984 to an average of 1,012,000 (on an average daily basis) for the period 1985 through 1988. *See* Securities Exchange Act Release No. 27048 (July 20, 1989) 54 FR 31276.

[15] OCC's average non-equity options premium has increased from $247.08 per contract in 1984 to an average of $371.12 per contract for the period between 1985 through 1988. *See* Securities Exchange Act Release No. 27048 (July 20, 1989) 54 FR 31276.

[16] OCC studied the impact of its proposed increase in minimum required clearing fund contributions by picking an arbitrary date (June 30, 1989) and examining whether its clearing fund, as increased under OCC's proposal, would be sufficient to cover OCC's five largest net pays and collects on that date. OCC has informed the Commission that its clearing fund levels on June 30, 1989 would have been three times greater than the total of the five largest net pays to OCC, and fifteen times greater than the total of the five largest collects from OCC.

[17] *See* Securities Exchange Act Release No. 19999 (July 21, 1983), 48 FR 34554.

to OCC by the activity of its members and is consistent with OCC's obligation to safeguard funds and securities in its custody and control under section 17A of the Act.[18]

The Commission believes that OCC's proposed minimum required clearing fund contributions enhance OCC's ability to safeguard funds and securities and are adequate in light of the risks posed to OCC by its members' trading activity.[19] As an initial matter, OCC's proposal would result in approximately a 3 percent increase in the overall dollar amount of OCC's Clearing Fund.[20] Moreover, the composition of OCC's Clearing Fund is such that OCC is assured of having a liquid pool of assets to draw upon in the event of a member default. Under OCC's Bylaws, contributions to its Clearing Fund must be in the form of cash or U.S. Treasury securities.[21] OCC protects the assets in its Clearing Fund against market risk by marking to market daily the Treasury securities contributed to the Clearing Fund. OCC also protects the assets in the Clearing Fund against liquidation risk by valuing short term Treasury securities (i.e., those with less than one year to maturity) at the lesser of their par value or their current market value. Similarly, all other Treasury securities are valued at the lesser of their par value or 95 percent of their current market value.

OCC's proposal also allows OCC's Clearing Fund to better fulfill one of its basic objectives. For many years, OCC has attempted to set its Clearing Fund requirements at a level sufficient to replace the individual margin deposits of all but the very largest clearing members. OCC has studied whether the proposed increase to its minimum required Clearing Fund contribution would meet this standard by examining the extent to which the Clearing Fund, as increased under OCC's proposal, would cover the margin requirements of its members on a particular day. OCC has informed the Commission that its Stock Fund and Non-Equity Fund on April 15, 1988, would have been sufficient to cover the margin requirements of all but three or four, respectively, of its members' margin requirements on that date.[22] In addition, OCC also has examined whether its Clearing Fund, as increased under the proposal, would be sufficient to cover its five largest net pays and collects under normal market conditions. OCC has informed the Commission that its Clearing Fund levels on April 15, 1988, would have been nine times greater than the total of the five largest net pays to OCC, and eleven times greater than the five largest net collects from OCC on that date.[23]

Firm A	$109.76 million
Firm B	$108.52 million
Firm C	$89.43 million
Firm D	$75.07 million
Firm E	$61.07 million
Firm A	$126.62 million
Firm B	$94.26 million
Firm C	$73.03 million
Firm D	$63.69 million
Firm E	$50.14 million

It is important to note that OCC's Clearing Fund is just one aspect of the systems OCC has in place to protect against the risks posed by member trading activity. Since the October, 1987 market break, OCC has taken a number of steps to increase its level of protection against member default.[24] For example, OCC has increased its members' initial and maintenance net capital requirements from $150,000 and $100,000 to $1,000,000 and $750,000, respectively. OCC has also increased the capital requirements for clearing members that clear for other firms as facilities managers.[25] Moreover, OCC also has a concentration monitoring system in place which monitors its members' positions on a real time basis to determine whether any member has established an unusually large position in a single class of options.[26] OCC has also taken steps to reduce the number of intermarket payment flows by entering into a cross-margining agreement with the Chicago Mercantile Exchange.[27] In addition, OCC has decreased from 45 to 15 minutes the amount of time needed to calculate variation (i.e. intraday) margin calls and has established procedures allowing it to debit its members' accounts directly to fund these calls.

OCC has also taken steps to improve the quality of information it receives about its members' financial situation. For example, OCC is a member of the Securities Clearing Group, a group of seven clearing agencies that have agreed to consult with one another whenever a common member has been placed on surveillance and to facilitate the monitoring of common member financial condition.[28] OCC also has agreed to participate in the Chicago Board of Trade Clearing Corporation's ("CBTCC") centralized pay and collect system.[29] The Commission believes that, viewed as a whole, all of the above actions will reduce the systemic risk inherent in the clearance and settlement process by better enabling OCC to fulfill

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[18] Under section 17A(b)(3)(A), a registered clearing agency must be so organized and have the capacity to safeguard funds and securities that are subject to its custody or control, or for which it is responsible. *See* 15 U.S.C. 78q–1(b)(3)(A) (1982).

[19] After approval of the instant proposal, OCC's clearing fund will incorporate most of the recommendations suggested by the Working Group Report, the Back-up System Report and the Market Break Report.

[20] This figure is derived by calculating the total dollar amont of assets in OCC's Clearing Fund on April 15, 1988, under OCC's present Clearing Fund formula and under OCC's proposed Clearing Fund. Under OCC's proposal, those amounts would be increased to $59.6 million and $38.39 million respectively.

[21] *See* Article 8, section 3 of OCC's By-laws. OCC's policy of accepting only cash or Treasury securities as acceptable forms of clearing fund deposits is consistent with the Working Group's recommendation that clearing organizations reduce their clearing funds' reliance on letters of credit and increase the liquidity of such funds by accepting only highly liquid assets (such as U.S. Treasury securities) as acceptable forms of deposit.

[22] For example, OCC's five largest equity option margin requirements on April 15, 1988, were as follows:

Under OCC's proposal, OCC would have had $83.39 million in its Stock Fund on the above date.

Under OCC's proposal, OCC would have had $59.63 million in its Non-Equity Fund on the above date. Telephone conversation between Michael Cahill, Assistant Vice-President, OCC, and Ross Pazzol, Attorney, Division of Market Regulation, October 3, 1989.

[23] On April 15, 1988, the five largest net pays to OCC totaled $14.99 million, while the five largest net collects from OCC totaled $12.49 million. Under OCC's proposed increase, OCC would have had $143.02 million in its Clearing Fund on April 15, 1988. Telephone conversation between Michael Cahill, Assistant Vice-President, OCC, and Ross Pazzol, Attorney, Division of Market Regulation, October 3, 1989.

[24] Many of the actions taken by OCC were suggested by either the Market Break Report, the Working Group Report or the Backup System Report.

[25] *See* Securities Exchange Act Release No. 26840 (May 19, 1989), 54 FR 23004.

[26] OCC determines the theoretical liquidating value of a member's position with a projection of the margin interval (*i.e.*, the assumed maximum one-day price movement in the asset or index underlying the option) on each option product at three times its regular interval. The projected theoretical portfolio liquidating value is then compared to the margin requirement for the position at its regular interval. The difference between the projected value and the current margin is compared to the excess net capital of the member. This analysis is done by option class and product group for each member account. OCC's surveillance staff reviews any account in which the difference between the projected value and the current margin held exceeds 40 percent of the member's excess net capital. OCC reviews any account where such difference is 100 percent in greater detail. If OCC determines that a member's position poses concentration risk, OCC first requires that member to provide cover for short call positions. OCC also may require members to reduce their exposure to large market moves by purchasing or selling options contracts to hedge their position. OCC also may require members to maintain higher than normal margin deposits for concentrated positions. *See* Backup System Report at 47–49.

[27] *See* Securities Exchange Act Release No. 27290 (September 26, 1989) [File No. SR–OCC–89–1]. This development also implements one of the recommendations made in the Working Group Report.

its role as the guarantor of its members' settlement obligations.[30]

It should be noted that OCC's proposal, would, for the first time, establish parity between the minimum required contribution to the Stock Fund and the Non-Equity Fund. Under section 17A(b)(3)(D) of the Act,[31] the rules of a clearing agency must provide for the equitable allocation of reasonable dues, fees and other charges among its participants. The Commission believes OCC's proposal is consistent with this standard for the reasons provided below.

Historically, OCC's minimum required clearing fund contribution for non-equity options always has been higher than its minimum required clearing fund contribution for stock options. This disparity was the result of a number of factors. For example, the premium [32] for non-equity options generally was higher than the premium for stock options.[33] Further, the value of the unit of trading for non-equity options generally was greater than such value for equity options.[34]

In addition, OCC, along with all other market participants, sought to provide adequate protection against unforseen risks of loss when non-equity options were first introduced. Thus, OCC believed that its exposure in connection with members non-equity options activity was greater than its exposure resulting from members' stock options activity.[35]

After gaining some experience with respect to non-equity options, OCC, in 1984, reassessed the risks associated with such options and decreased its minimum required Non-Equity Fund contribution from $100,000 to $50,000.[36] OCC believed that decrease was appropriate because the majority of non-equity option trading involved options on broad-based stock indices whose premiums were at approximately the same level as equity option premiums.[37] In addition, because of the high volume of non-equity options trading in general, and of stock index option trading in particular, OCC estimated that the volume weighted average dollar amount of a non-equity options contract was much lower than expected.[38] Even after this decrease became effective, however, OCC still required a minimum contribution to its non-equity clearing fund which was five times greater than the minimum required contribution to OCC's Stock Fund.

The Commission believes that OCC's proposal to establish parity between the minimum required contributions to its Stock Fund and Non-Equity Fund is consistent with section 17A(b)(3)(D) of the Act. OCC has a number of mechanisms in place which help it offset any possible additional risks associated with the issuance, clearance and settlement of non-equity options. For example, OCC monitors its members' positions on a real time basis to determine whether any member has established an unusually large position in a single class of options.[39] OCC also uses a sophisticated portfolio analysis to determine the appropriate level of a member's daily non-equity options margin requirement.[40] Finally, OCC has gained substantial experience with a wide variety of non-equity options during different market conditions and is familiar with the risks associated with such options. Accordingly, the Commission believes that OCC's identical minimum contribution requirements are appropriate under section 17A(b)(3)(D).

B. Board of Directors Discretion to Increase a New Member's Minimum Required Clearing Fund Deposit

OCC is also amending its rules to grant the Board the authority to increase a member's minimum required clearing fund deposit during its first three months as a member. Currently, OCC requires new members to deposit the minimum required amount to the appropriate clearing fund upon admission to membership at OCC. This amount remains constant during the member's first three months of membership.[41] After such time period, a member's minimum required clearing fund contribution may be increased to reflect the risks posed to OCC by such member's trading activity. OCC proposes to grant the Board the authority to increase a member's minimum required clearing fund contribution during the first three months of its membership.

The Commission believes that the proposal serves to protect investors and the public interest and is thus consistent with section 17A. As stated previously,[42] The Standards require a clearing agency to make an assessment of the risks to which it is subject and set its clearing fund requirements accordingly. The Commission views this obligation to be fluid rather than static and believes that a clearing agency's rules should give it the flexibility to make adjustments to its minimum required clearing fund contributions as circumstances may necessitate.

Under OCC's current rules, a new member's required clearing fund contribution is fixed for three months, but a member's level of options activity is not limited accordingly during such period. The anomalous result is that OCC is required to allow a new member to maintain a minimum required clearing fund deposit which may bear no reasonable relationship to the risk such member's options activity poses to OCC during the initial phase of its membership.[43] Such a result is inconsistent with the policy established by the Standards and with OCC's previous actions.[44] Therefore, the

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[28] *See* Securities Exchange Act Release No. 27044 (July 18, 1989), 54 FR 30963.

[29] The CBTCC has in place a system for the routine electronic exchange of pay and collect data provided by various futures clearing organizations and OCC. OCC's participation in this system follows the Working Group's recommendation that securities and futures clearing organizations work toward developing a centralized facility for the collection of pay and collect data.

[30] The Commission notes that OCC has still not completed action on some of the recommendations made in the Backup Report, including, guaranteeing trades as they are compared, instead of making OCC's guarantee conditional upon payment of the premium.

[31] *See* 15 U.S.C. 78q-1(b)(3)(D) (1982).

[32] The "premium" of an option is its contract price.

[33] *See* Securities Exchange Act Release No. 19139 (October 14, 1982), 47 FR 46940.

[34] *Id.*

[35] *See* Securities Exchange Act Release No. 21437 (October 31, 1984), 49 FR 44347.

[36] *Id.*

[37] *Id.*

[38] *See* note 26, *supra.*

[39] Both OCC's equity and non-equity option margin calculations are based, in part, on options premiums. In both systems, margin is marked to market daily based on closing ask prices. The second component of equity options margin is based on a flat 30% of the current value of the underlying securities. The second component of non-equity options margin is more flexible and is adjusted according to the current risk posed to OCC by the member's position. *See* Market Break Report at 10–50.

OCC's non-equity options margin system uses options price theory to project the cost of liquidating a member's position in the event of an assumed "worst-case" change in the price of the underlying asset or index. The margin requirement on the same class of options equals the premium plus the additional margin for that class group. OCC calculates the additional margin by determining the assumed maximum one-day price movement in the underlying assets and by projecting the liquidating value of such position. To provide additional protection, OCC presumes that the cost of liquidating a member's out of the money positions would increase by a minimum of 25% of the margin interval. *See* Market Break Report at 10–36. For a more detailed description of OCC's non-equity options margin system, *see* Backup System Report at 24–28. OCC recently filed a proposed rule change with the Commission which would apply OCC's non-equity options margin methodology to equity options. *See* File No. SR–OCC–89–12.

[40] *See* Article 8, section 2 of OCC's By-laws.

[41] See discussion at note 10, *supra.*

[42] Other protective measures reduce the potential risk to OCC. For example, a new member's margin deposit requirement is not subject to any fixed limit and will vary depending on the risk associated with the member's options positions. *See* note 26, *supra.*

Commission believes that OCC's proposal to give the Board the flexibility to adjust a new member's minimum required clearing fund contribution is designed to safeguard securities and funds in OCC's custody or control or for which it is responsible under section 17A(b)(3)(A).

C. Charging Losses to Retained Earnings

OCC also is amending its rules to permit it to charge losses resulting from clearing member, bank or clearing organization defaults to OCC's retained earnings, instead of charging such losses either pro-rata to the clearing fund contributions of non-defaulting clearing members or to OCC's current earnings. Similar to OCC's proposal to give the Board discretion to increase a member's minimum required clearing fund deposit, the discretion to charge losses to retained earnings gives OCC additional flexibility in dealing with losses by providing it with an additional source of funds to draw upon in the event of a default. Accordingly, the Commission believes that this proposal is consistent with section 17A of the Act.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the proposed filing (SR–OCC–89–06) be, and is hereby, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26120 Filed 11–3–89; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

October 30, 1989

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Allstate Municipal Income Trust III
Shares of Beneficial Interest, $.01 Par Value (File No. 7–5457)

Crown Cork and Seal Company, Inc.
Common Stock, $5 Par Value (File No. 7–5458)

Federal Home Loan Mortgage Corp.
Voting Common Stock, $2.50 Par Value (File No. 7–5459)

Woolworth Corporation
Common Stock, $1 Par Value (File No. 7–5460)

Texaco, Inc.
Series C Variable Rate Cm. Pfd. Stock (File No. 7–5461)

First Union real Estate Equity and Mortgage Investments
Shares of Beneficial Interest, $1 Par Value (File No. 7–5462)

Gundle Environmental Systems, Inc.
Common Stock, $0.01 Par Value (File No. 7–5463)

Lomas Mortgage Securities Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–5464)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 21, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–26015 Filed 11–3–89; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17197; 812–7360]

Boston Capital Tax Credit Fund II Limited Partnership and Boston Capital Associates II Limited Partnership; Notice of Application

October 31, 1989.

Agency: Securities and Exchange Commission ("SEC").

Action: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Boston Capital Tax Credit II Limited Partnership, a Delaware limited partnership (the "Partnership"), and its general partner, Boston Capital Associates II Limited Partnership ("General Partner").

Relevant 1940 Act Sections: Exemption under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order exempting the Partnership from all provisions of the 1940 Act and the rules thereunder to permit the partnership to invest in other limited partnership that in turn will engage in the development, rehabilitation, ownership, and operation of housing for low and moderate income persons.

Filing Date: The application was filed on July 26, 1989 and amended on August 23, 1989, September 25, 1989, and October 19, 1989. An amendment, the substance of which has been set forth in letters to the Commission dated October 25 and 27, 1989, will be filed during the notice period.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 24, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 313 Congress Street, Boston, Massachusetts 02110–1232.

For Further Information Contact: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

Supplementary Information: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representtions

1. The Partnership was organized on June 28, 1989, under the Delaware Revised Uniform Limited Partnership Act. Pursuant to registration under the Securities Act of 1933, the Partnership plans to offer 20,000,000 units of beneficial interest of $10.00 each with a minimum investment of $5,000. Purchasers of these units ("Investors" or "BAC Holders") will become holders of

beneficial assignee certificates ("BACs") evidencing an assignment of the limited partnership interest in the Partnership of BCTC II Assignor Corp., a Delaware corporation (the "Assignor Limited Partner").

2. The Assignor Limited Partner was formed for the sole purpose of acting as assignor of all of its limited partnership interest in the Partnership and will not engage in any other business. After the admission of Investors, the Assignor Limited Partner will not retain any ownership interest in the Partnership. The Assignor Limited Partner must vote the assigned limited partnership interests as directed by the BAC Holders. Each BAC Holder will be entitled to all the economic benefits of a limited partner of the Partnership. In addition, the Partnership's counsel will render an opinion stating that the BAC Holders, more likely than not, will be able to realize the tax benefits disclosed in the Prospectus, and unqualified opinions that BAC Holders will be treated as limited partners of the Partnership for federal income tax purposes and that all of the rights granted to BAC Holders by the Partnership Agreement are valid and enforceable under Delaware law. The BACs are used solely for administrative convenience and to facilitate transferability.

3. The Partnership will operate as a "two-tier" entity, *i.e.*, the Partnership, as a limited partner, will invest in other limited partnerships ("Operating Partnerships") which will acquire, develop, construct and/or rehabilitate, operate and maintain multifamily residential apartment complexes ("Apartment Complexes") each of which will qualify for the low-income housing tax credit under Section 42 of the Internal Revenue Code of 1986 (the "Code"). The investment in the Operating Partnerships is in accordance with the purposes and criteria set forth in Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456"). The Partnership intends to realize: (i) A potential capital appreciation through increases in value and, to the extent applicable, amortization of the mortgage indebedness of the Apartment Complexes; (ii) to the extent available, limited cash flow from operations; (iii) cash distributions from liquidation, sale or refinancing of the Apartment Complexes; and (iv) certain tax benefits including low-income housing tax credits.

4. The Partnership will generally attempt to acquire a 51% to 99% interest in the profits, losses, and tax credits and a 20% to 99% interest in the distributable cash flow of each Operating Partnership, with the balance remaining with the operating general partners ("Operating General Partners"). However, regardless of the percentage interest in an Operating Partnership, the Partnership will have certain rights under the terms of the Operating Partnership Agreements which will include, subject only to a determination that the existence or exercise of any such rights will jeopardize the limited liability of the Partnership as a limited partner: (a) The right to approve or disapprove any sale or refinancing of an Apartment Complex; (b) the right to replace an Operating General Partner on the basis of performance; (c) the right to approve or disapprove the dissolution of an Operating Partnership; (d) the right to approve or disapprove amendments to an Operating Partnership Agreement materially and adversely affecting the Partnership's investment; and (e) the right to direct the Operating General Partner to convene meetings and submit matters to a vote. In addition, the Partnership will require all Operating Partnerships to provide to the limited partners thereof substantially all of the rights required by Section VII of the Statement of Policy on Real Estate Programs adopted by the North American Securities Administrators Association, Inc. (the "NASAA guidelines").

5. When placing an order for BACs, each Investor must represent in writing that he/she or it meets the following applicable suitability standards: (a) Each Investor must have (i) a net worth (exclusive of home, home furnishings, and automobiles) in excess of $75,000, or (ii) annual gross income of $35,000 and a net worth (exclusive of home, home furnishings, and automobiles) of not less than $35,000, and (iii) for those noncorporate Investors who do not have or anticipate having any net passive income, a maximum adjusted gross income of $250,000; and (b) for corporate Investors (i) a corporation that is neither closely held nor a personal service corporation and is not subject to Subchapter S of the Code (a "C Corporation") may use the low-income tax credits to offset income from all sources, but should reasonably expect to have sufficient federal taxable income from all sources to use the low income tax credits and losses for ten to twelve years after investing in BACs, and (ii) a closely-held C Corporation that is not a personal service corporation should reasonably expect to have sufficient active or passive income, but not portfolio income, to use the low-income tax credits and losses for approximately ten to twelve years after investing in BACs. In addition, the Partnership Agreement requires evidence of a transferee's suitability in order to record a transfer on its books. Units will be sold in certain states only to persons who meet different standards which will be set forth in the Prospectus. In no event shall the Partnership employ suitability standards which are less restrictive than those set forth above except to the extent that the standard in item (a)(iii) above is modified as a result of changes in federal income tax law or with respect to investments in Apartment Complexes expected to qualify for state housing tax credits, in addition to the federal low income housing tax credits, where the $250,000 adjusted gross income maximum is inapplicable.

6. The Partnership will be controlled by its General Partner. The Investors, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. However, a majority in interest of the Investors will have the right to amend the Partnership Agreement, dissolve the Partnership, remove any General Partner and consent to a successor General Partner. In addition, under the Partnership Agreement, each Investor is entitled to review all books and records of the Partnership at any and all reasonable times.

7. The Partnership Agreement provides that certain significant actions cannot be taken by the General Partner without the express consent of a majority in interest of the Limited Partners. Such actions include: (a) The sale of the Partnership's interests in the Operating Partnerships or the sale at any one time of all or substantially all of the assets of the Partnership; (b) dissolution of the Partnership; (c) consent to the sale of a substantial portion of the Apartment Complexes by the Operating Partnerships; and (d) the admission of a successor or additional General Partner.

8. Boston Capital Services, Inc., an affiliate of the General Partner (the "Selling Agent"), will receive selling commissions, dealer-manager fees, and reimbursement of due diligence expenses in connection with BACs. The Selling Agent may reallow a portion of its dealer-manager fees and due diligence expense reimbursement to other soliciting dealers. Any selling

commissions and fees charged by the Selling Agent or other soliciting dealers will be consistent with the guidelines of the National Association of Securities Dealers, Inc.

9. During the offering and organizational phase, the General Partner and its affiliates will receive from the Partnership reimbursement of organizational and offering expenses.

10. Acquisition phase fees payable by the Partnership to the General Partner or its affiliates in connection with the acquisition of interests in Operating Partnerships will be limited by the NASAA guidelines. During the operating phase, the Partnership may pay additional fees or compensation to the General Partner or its affiliates, including an annual management fee and reimbursement for administrative services. In addition to the foregoing fees and interests, the General Partner will be allocated generally one percent of profits and losses of the Partnership.

11. None of the fees payable to the General Partners and their affiliates has been or will be negotiated at arm's length. All such fees and compensation, however, will be fair and shall be no greater than the amount the Partnership would be required to pay to independent third parties for comparable services in the same geographic location. The Partnership believes that all potential conflicts of interest, including the receipt of commissions, fees, and other compensation by the General Partner and its affiliates, will be disclosed in the Prospectus. The Partnership Agreement and the Prospectus will contain various provisions designed to eliminate or significantly reduce these conflicts. For example, the Partnership Agreement provides that in the event an investment in an Operating Partnership becomes available that would satisfy the investment criteria of the Partnership and any other public partnership in which General Partner and/or its affiliates have an interest, the following criteria will be followed with respect to determining which entity should acquire such investment. The General Partner and its affiliates will review the investment portfolio of each such entity (including any series being offered by each such partnership) and will in their sole determination decide which such entity will acquire the investment of the basis of various factors such as the amount of funds available; the length of time such funds have been available for investment; the cash requirements of each such entity; and the effect of the acquisition on each such entity's portfolio. If funds should be available to two or more public limited partnerships to purchase a given investment and all factors have been evaluated and deemed equally applicable to each entity (including any series being offered by each such partnerhsip), then the General Partner and its affiliates will acquire such investments for the entities on a basis of rotation, with the order of priority determined by the dates of formation of the entities.

12. All proceeds of the offering of Units will initially be deposited and held in trust for the benefit of the Investors in an escrow account or accounts with the Bank of New England, N.A. The Partnership intends to apply such proceeds to the acquisition of Operating Partnership interests as soon as possible. Such proceeds may be temporarily invested in bank time deposits, certificates of deposit, bank money market accounts, and government securities. The Partnership will not trade or speculate in temporary investments.

13. The Partnership Agreement provides for indemnification of the General Partner and its affiliates for losses, liability or damage incurred by them in connection with the business of the Partnership. However, the Partnership has been advised that in the opinion of the SEC, indemnification for liabilities under federal securities laws is contrary to public policy and therefore unenforceable.

Applicants' Legal Conclusions

1. The exemption of the Partnership from all provisions of the 1940 Act is both necessary and appropriate in the public interest, because: (a) Investment in low and moderate income housing in accordance with the national policy expressed in Title IX of the Housing and Urban Development Act of 1968 is not economically suitable for private investors without the tax and organizational advantages of the limited partnership form; (b) the limited partnership form insulates each Investor from personal liability, limits his financial risk to the amount he has invested in the program, and permits the pass-through to the Investor, on his individual tax return, of his proportionate share of the income and losses from the investment; (c) the limited partnership form of organization is incompatible with many provisions of the 1940 Act, such as the requirement of annual approval by investors of a management contract and the requirements concerning election of directors and the termination of the management contract; and (d) the concerns underlying the asset coverage limitations of section 18 of the 1940 Act are not justified in real estate investments and are inapposite to the mortgage financing and other government assisted programs developed for low income and moderate income housing. Also, an exemption from these basic provisions is necessary and appropriate in the public interest so as not to discourage two-tier limited partnership arrangements or frustrate the public policy established by the housing laws.

2. Release No. 8456 contemplates that the exemptive power of the SEC under section 6(c) may be applied to two-tier partnerships which engage in the kind of activities in which the Partnership will engage, that is, "two-tier partnerships that invest in limited partnerships engaged in the development and building of housing for low and moderate income persons . . . ." The release lists two conditions, designed for the protection of investors, which must be satisfied in order to qualify for such an exemption: (1) "Interests in the issuer should be sold only to persons for whom investments in limited profit, essentially tax-shelter, investments would not be unsuitable;" and (2) "requirements for fair dealing by the General Partners of the issuer with the limited partners of the issuer should be included in the basic organizational documents of the company." The Partnership will comply with these conditions and will otherwise operate in a manner designed to insure investor protection.

3. The contemplated arrangement of the Partnership is not susceptible to abuses of the sort the 1940 Act was designed to remedy. The requirements for fair dealing provided by the Partnership's governing instruments, and pertinent governmental regulations imposed on the Operating Partnerships by various federal, state and local agencies, provide protection to Investors comparable to, and in some respects greater than, that provided by the 1940 Act. An exemption would therefore be entirely consistent with the protection of Investors and the purposes and policies of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26117 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application To Withdraw From Listing and Registration; Knoll International, Inc., 9⅞% (formerly 8⅛%) Subordinated Debentures Due August 15, 2003; 11⅜% Senior Subordinated Debentures Due April 15, 2001 (File No. 1-8535)

October 26, 1989.

Knoll International, Inc. ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

As of August 18, 1989, there were 53 registered holders of the Subordinated Debentures. Additionally, since the original issuance of the Subordinated Debentures in August of 1983, trading volume has been relatively low. For example, in 1988, there were 51 transactions in the Subordinated Debentures with a total volume of $599,000 and in 1989 (through August 19, 1989), there were 19 transactions with a total volume of $205,000. Furthermore, the continued listing of the Subordinated Debentures is costly to the Company.

The Company believes that a delisting of the Senior Subordinated Debentures from the AMEX is warranted. As of August 18, 1989, there were 15 registered holders of the Senior Subordinated Debentures. Additionally, since the original issuance of the Senior Subordinated Debentures in April of 1986, trading volume has been relatively low. For example, in 1988, there were two transactions in the Senior Subordinated Debentures with a total volume of $45,000, and in 1989 (through August 30, 1989), there was one transaction with a total volume of $10,000. Finally, the continued listing of the Senior Subordinated Debentures is costly to the Company.

Any interested person may, on or before November 17, 1989, submit by letter to the Secretary of the 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. 89-26011 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-11-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; Oregon Steel Mills, Inc., Common $.01 Par Value (File No. 1-9887)

October 26, 1989.

Oregon Steel Mills, Inc. ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company's common stock recently was listed on the New York Stock Exchange ("NYSE"). Trading in the Company's stock on the NYSE commenced on October 19, 1989. In making the decision to withdraw its common stock from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and the AMEX. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before November 17, 1989, submit by letter to the Secretary of the 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. 89-26012 Filed 11-3-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before December 6, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Request for Approval of Joint Venture Agreement.
Form Nos.: N/A.
Frequency: On occasion.
Description of respondents: 8(a) firms entering into a joint venture agreement.
Annual Responses: 20.
Annual Burden Hours: 100.

Title: Notice of Change of Ownership.
Form Nos.: N/A.
Frequency: On occasion.
Description of respondents: 8(a) firms proposing a change in their ownership.
Annual Responses: 50.
Annual Burden Hours: 100.

Title: Request for Eligibility Reconsideration.
Form Nos.: N/A.
Frequency: On occasion.
Description of respondents: 8(a) applicants seeking eligibility reconsideration.
Annual Responses: 600.
Annual Burden Hours: 2,400.
Title: Submission of Business Financial Statement.
Form Nos.: N/A.
Frequency: Quarterly.
Description of respondents: 8(a) participating firms.
Annual Responses: 3,100.
Annual Burden Hours: 3,100.
Title: Nomination for the Small Business Prime Contractor of the Year Award and Nomination for the Small Business Subcontractor of the Year Award.
Form Nos.: SBA 883 and SBA 1375.
Frequency: Annually.
Description of respondents: Small Business Entrepreneurs nominated for the small business contractor and subcontractor of the year awards.
Annual Responses: 311.
Annual Burden Hours: 1,244.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-26025 Filed 11-3-89; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before December 6, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340

Title: Request for Advanced Payment and Schedule of Advanced Payment Requirements
Form Nos.: N/A
Frequency: On occasion
Description of Respondents: 8(a) firms seeking Advance Payment
Annual Responses: 700
Annual Burden Hours: 7000

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-26026 Filed 11-3-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

[Docket No. 46577]

Chicago-Prestwick/Glasgow Service Proceeding; Prehearing Conference

Served November 1, 1989.

Notice is hereby given that a prehearing conference in the above-titled proceeding will be held by the Presiding Judge on November 9, 1989 at 10:00 a.m. (local time) in Room 5332, U.S. Department of Transportation, 400 Seventh Street, NW., Washington, DC.

The parties are directed to submit one copy to each other and three copies to the Judge of (1) any proposals for changes in the evidence request contained in the Appendix to Order 89-10-62, (2) proposed stipulations, (3) a statement of and/or delineation of the issues, and (4) a statement of position. This material shall be submitted on or before November 6, 1989.

Daniel M. Head,

Administrative Law Judge.

[FR Doc. 89-26152 Filed 11-2-89; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD14 89-01]

Vessel Certificates and Exemptions Under the International Regulations for Preventing Collisions at Seas (72 COLREGS)

AGENCY: Coast Guard, DOT.

ACTION: Notice of granting of Certificates of Alternative Compliance to vessels.

SUMMARY: This notice lists a vessel granted a Certificate of Alternative Compliance. This notice lists a vessel which, due to its special construction and purpose, cannot comply fully with certain provisions of the International Regulations for Preventing Collisions at Sea (72 COLREGS) without interfering with the vessel's special functions. The intent of this notice is to allow the mariner to be aware of the listing of this vessel that has been granted a Certificate of Alternative Compliance.

EFFECTIVE DATE: October 20, 1989.

FOR FURTHER INFORMATION CONTACT: CDR Arthur E. Adkins, Chief, Commercial Vessel Safety Branch, U.S. Coast Guard, Commander (mvs), Fourteenth Coast Guard District, PJKK Federal Bldg., 300 Ala Moana Blvd., Room 9149, Honolulu, Hawaii 96850-4982. Telephone (808). 541-2114.

SUPPLEMENTARY INFORMATION: Under the provisions of subsection 1605(c) of title 33 United States Code, the Coast Guard publishes, in the **Federal Register**, a listing of vessels granted Certificates of Alternative Compliance. Certificates of Alternative Compliance are based on a determination that a vessel cannot comply fully with International Rules of light(s), shape(s) and sound signal provisions without interference with the vessel's special function. The listing consists of vessels granted certificates after authority of issuance was transferred to the Chief of the Marine Safety Division of the Coast Guard Districts on April 1, 1982 (33 CFR 81). The alternative allowed results in the closest possible compliance with Annex I of the 72 COLREGS. The following vessel is not in compliance with 72 COLREGS and has been issued a Certificate of Alternative Compliance.

Vessel and Official Number

The following vessel's after masthead light separation from the forward masthead light is less than one half the length of the vessel (Annex I(3)(a)). The length overall of the vessel is 168 feet and the horizontal separation between the lights is 44 feet vice the required 84 feet.

"COURAGEOUS"—299091.

Dated: October 20, 1989.

A.E. Tanos,

Captain, U.S. Coast Guard, Chief, Marine Safety Division, Fourteenth Coast Guard District.

[FR Doc. 89-26067 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-14-M

[CGD 89-094]

Lower Mississippi River Waterway Safety Advisory Committee; Aids to Navigation Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Aids to Navigation Subcommittee of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, November 28, 1989 at the Crescent River Port Pilots' Office, 409 Belle Chasse Highway South, Belle Chasse, Louisiana. The meeting is scheduled to begin at 9:00 a.m. The agenda for the meeting consists of the following items:

1. Old VTS New Orleans.
2. Vessel management systems now in operation in the Mississippi River System.
3. Status of Proposal in Washington concerning VTS New Orleans.
4. Any discussion concerning present or proposed aids to navigation.
5. Adjournment.

Attendance is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander Gary A. Bird, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-3074.

Dated: October 23, 1989.

W.F. Merlin,

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

[FR Doc. 89-26068 Filed 11-3-89; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 3, 1989.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1019
Form Number: Schedule S (Form 706)
Type of Review: Resubmission
Title: Increased Estate Tax on Excess Retirement Accumulations
Description: Schedule S (Form 706) is used by estates to compute any pay the increased estate tax imposed by Internal Revenue Code section 4980A(d). IRS uses the information to determine whether the tax was correctly computed and paid.
Respondents: Individuals or households
Estimated Number of Respondents: 1,000
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping: 40 minutes
Learning about the law or the form: 32 minutes
Preparing the form: 45 minutes
Copying, assembling, and sending the form to IRS: 25 minutes
Frequency of Response: On occasion
Estimated Total Recordkeeping/Reporting Burden: 2,160 hours
OMB Number: 1545-1036
Form Number: 8716
Type of Review: Resubmission
Title: Election to Have a Tax Year Other Than a Required Tax Year
Description: Form 8716 is filed by partnerships, S Corporations, and personal service corporation, under section 444(a), to retain or to adopt a tax year that is not a required tax year. Service Centers accept Form 8716 and use the form information to assign master-file codes that allow the Center to accept the filer's tax return filed for a tax year (fiscal year) that would not otherwise be acceptable.
Respondents: Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 40,000
Estimated Burden Hours Per Response/Recordkeeping:
Recordkeeping: 2 hours, 23 minutes
Learning about the law or the form: 1 hour, 12 minutes
Preparing and sending the form to IRS: 1 hour, 12 minutes
Frequency of Response: Nonrecurring, one-time filing to elect a nonrequired tax year
Estimated Total Recordkeeping/Reporting Burden: 198,250 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Officer Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 89-26021 Filed 11-3-89; 8:45 am]

BILLING CODE 4810-25-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 670; Ref. ATF O 1100.151]

Delegation Order—Authority To Issue Firearms and Explosives Licenses and Permits Under 27 CFR Part 55, Commerce in Explosives, and Part 178, Commerce in Firearms and Ammunition

Delegation Order

1. Purpose

This order delegates the authority to issue firearms and explosives licenses and permits under 27 CFR parts 55 and 178.

2. Background

The authority to issue firearms and explosives licenses and permits now resides in the Regional Directors (Compliance). In order to take advantage of a more efficient technology, the licensing function is being consolidated into one office in Atlanta, Georgia, under the authority of the Chief, Firearms and Explosives Licensing Center. Regional Directors (Compliance) will retain the authority for denial and revocation of such licenses and permits.

3. Delegation

Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120-01, effective July 1, 1972, and by 26 CFR 301.7701-9, authority is hereby delegated to the Chief, Firearms and Explosives Licensing Center, to issue licenses and permits under 27 CFR parts 55 and 178. This authority does not extend to denials or revocations of licenses or permits, which remain within the authority of Regional Directors (Compliance).

4. Redelegation

The authority delegated herein may not be redelegated.

5. For Information Contact

J. Barry Fields, Firearms and Explosives Operations Branch, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, (202) 789–3026.

6. Effective Date

This delegation order becomes effective on November 6, 1989.

Approved: October 30, 1989.

Stephen E. Higgins,

Director.

[FR Doc. 89–26006 Filed 11–3–89; 8:45 am]

BILLING CODE 4810–31–M

Internal Revenue Service

Tax on Certain Imported Substances; Notice of Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance under Notice 89–61, 1989–21 I.R.B. 25, of petitions requesting that *butyl acrylate, methyl acrylate, ethyl acrylate,* and *2-ethylhexyl acrylate* be added to the list of taxable substances in section 46721(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATE: Written comments and requests for a public hearing relating to these petitions must be delivered or mailed by January 5, 1990.

ADDRESS: Send comments and requests for a public hearing to the Internal Revenue Service, Attention: CC:CORP:T:R (Petition), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Ruth Hoffman, Office of Assistant Chief Counsel (Passthoughs and Special Industries). Telephone 202–566–4475 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on August 18, 1989. The petitioner is Hoechst Celanese, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Butyl Acrylate

Harmonized Tariff System number: 2916.12.50 308
Schedule B number: 2916.12.5030
Chemical Abstract Service number: 141–32–2

This substance is derived from the taxable chemicals *propylene* and *methane*. Butyl acrylate is produced by esterification of acrylic acid with butanol. Acrylic acid is produced by oxidation of propylene. Butanol is produced from propylene using the vapor phase technology.

The stoichiometric material consumption formula for this substance is:

$2\ C_3H_6$ propylene + $1.5\ O_2$ oxygen + CH_4 methane ——> $CH_2CHCOOC_4H_9$ butyl acrylate + H_2 hydrogen + H_2O water

According to the petition, taxable chemicals constitute 67.6 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.38 per ton. This is based upon a conversion factor for propylene of 0.7841 and a conversion factor for methane of 0.162.

Methyl Acrylate

Harmonized Tariff System number: 2916.12.40 102
Schedule B number: 2916.125020
Chemical Abstract Service number: 96–33–3

This substance is derived from the taxable chemicals *propylene* and *methane*. Methyl acrylate is produced by esterification of acrylic acid with methanol. Acrylic acid is produced by oxidation of propylene. Methanol is obtained by steam reforming natural gas.

The stoichiometric material consumption formula for this substance is:

C_3H_6 propylene + $1.5\ O_2$ oxygen + CH_4 methane ——> $CH_2CHCOOC_3$ methyl acrylate + H_2 hydrogen + H_2O water

According to the petition, taxable chemicals constitute 54.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.29 per ton. This is based upon a conversion factor for propylene of 0.5534 and a conversion factor for methane of 0.463.

Ethyl Acrylate

Harmonized Tariff System number: 2916.12.50 102
Schedule B number: 2916.12.5010
Chemical Abstract Service number: 140–88–5

This substance is derived from the taxable chemicals *propylene* and *ethylene*. Ethyl acrylate is produced by esterification of acrylic acid with ethanol. Acrylic acid is produced by oxidation of propylene. Ethanol is produced from ethylene.

The stoichiometric material consumption formula for this substance is:

C_3H_6 propylene + $1.5\ O_2$ oxygen + C_2H_4 ethylene ——> $CH_2CHCOOCH_2CH_3$ ethyl acrylate + H_2O water

According to the petition, taxable chemicals constitute 59.3 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.85 per ton. This is based upon a conversion factor for propylene of 0.4861 and a conversion factor for ethylene of 0.3039.

2-Ethylhexyl Acrylate

Harmonized Tariff System number: 2916.12.50 406
Schedule B number: 2916.12.5040
Chemical Abstract Service number: 103–11–7

This substance is derived from the taxable chemicals *propylene* and *Methane*. 2-ethylhexyl acrylate is produced by direct esterification of acrylic acid with 2-ethylhexanol in the presence of sulfuric acid. Acrylic acid is obtained from propylene by two stage oxidation. 2-ethylhexanol is produced from propylene, using n-butyraldehyde as an intermediary.

The stoichiometric material consumption formula for this substance is:

$3\ C_3H_6$ propylene + $1.5\ O_2$ oxygen + $2\ CH_4$ methane ——> $CH_2CHCOOC_2CHC_2H_5C_4H_9$ 2-ethylhexyl acrylate + H_2O Water + $2\ H_2$ hydrogen

According to the petition, taxable chemicals constitute 76.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.08 per ton. This is based upon a conversion factor for propylene of 0.9741 and a conversion factor for methane of 0.2376.

Dale D. Goode,

Chief, Regulations Unit, Assistance Chief Counsel (Corporate).

[FR Doc. 89–26143 Filed 11–3–89; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

Great Plains Savings Association, F.A., Weatherford, OK; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Great Plains Savings Association, F.A., Weatherford, Oklahoma ("Association") with the Resolution Trust Corporation as sole

Receiver for the Association on October 26, 1989.

Dated: October 30, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-26038 Filed 11-3-89; 8:45 am]

BILLING CODE 6720-01-M

Great Plains Federal Savings and Loan Association of Weatherford, Weatherford, OK; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(a) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Great Plains Federal Savings and Loan Association of Weatherford, Weatherford, Oklahoma ("Association") on October 26, 1989.

Dated: October 30, 1989.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-26039 Filed 11-3-89; 8:45 am]

BILLING CODE 6720-01-M

[Order No. AC-8; OTS No. 1079]

Falls Savings Bank, f.s.b.; Final Action—Approval of Conversion Application

Date: October 26, 1989.

Notice is hereby given that on October 20, 1989, the General Counsel, Office of Thirft Supervision, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Falls Savings Bank, f.s.b., Cuyahoga Falls, Ohio, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and Supervisory Agent, Office of Thrift Supervision, Cincinnati District Office, 2000 Atrium TWO, 221 E. 4th Street, Cincinnati, Ohio 45202.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-26035 Filed 11-3-89; 8:45 am]

BILLING CODE 6720-01-M

[Order No. AC-9; OTS No. 3641]

Great Southern Savings and Loan Association; Final Action—Approval of Conversion Application

Dated: October 26, 1989.

Notice is hereby given that on October 23, 1989, the General Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Great Southern Savings and Loan Association, Springfield, Missouri, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and Supervisory Agent, Office of Thrift Supervision, Des Moines District Office, 907 Walnut Street, Des Moines, Iowa 50309.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-26036 Filed 11-3-89; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-7]

Mutual Federal Savings and Loan Association, Terre Haute, IN; Final Action—Approval of Conversion Application

Dated: October 20, 1989.

Notice is hereby given that on October 20, 1989, the General Counsel and the Senior Deputy Director for Supervision-Operations ("Supervision"), or their respective designees, acting pursuant to delegated authority, approved the application of Mutual Federal Savings and Loan Association, Terre Haute, Indiana ("Mutual"), for permission to convert to the stock form of organization pursuant to a voluntary supervisory conversion and the acquisition of the assets and liabilities of Mutual by Household International, Inc., Prospect Heights, Illinois through the merger of Mutual with and into Household Bank, f.s.b., Newport Beach, California the wholly-owned subsidiary of Household International, Inc.

By the Office of Thrift Supervision.

M. Danny Wall,

Director.

[FR Doc. 89-26037 Filed 11-3-89; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam Veterans will be held November 16 and 17, 1989. This is a regularly scheduled meeting for the purpose of reviewing VA and other relevant services to Vietnam veterans, to review Committee work in progress and to formulate Committee recommendations and objectives. The meeting on both days will be held in the Lafayette Building, Room 442, 811 Vermont Avenue, NW., Washington, DC 20420.

The meetings on November 16 and 17 will both begin at 8:30 a.m. and conclude at 4 p.m. The agenda for November 16 will consist of internal Committee review, disucssion and planning regarding reports and other work activities in progress. Topics to be covered will include field visit reports regarding VA medical centers and vet centers in maine and Massachusetts, services to incarcerated Vietnam veterans, the clinical mission and administration of VA vet centers, post-war readjustment needs of veterans of other eras, and the compensation and treatment of war-related post-traumatic stress disorder. The agenda for November 17 will address Committee procedural issues, a review of Committee organization and role, and a planning session regarding Committee objectives and field visits for the coming year. The meeting on November 17 will also include a presentation on VA drug and alcohol treatment programs. Both days' meetings will be open to the public to the seating capacity of the room.

We were unable to give the 15 days public notice due to administrative delays.

Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Department of Veterans Affairs, (phone number: 202 233-3317/3303).

Dated: October 26, 1989.

By direction of the Secretary.

Sylvia Chavez Long,

Committee Management Officer.

[FR Doc. 89-26051 Filed 11-3-89; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 213
Monday, November 6, 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:00 p.m. on Tuesday, October 31, 1989, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Application of Provident Bank—Dallas, Dallas, Texas ("Provident Bank"), an insured State nonmember bank, for consent to merge, under its charter and title, with The Security State Bank of Commerce, Commerce, Texas ("Commerce"), DeSoto State Bank, DeSoto, Texas ("DeSoto"), and First State Bank, Wylie, Texas ("Wylie"), insured State nonmember banks, and Provident Bank-Denton, Denton, Texas ("Denton"), an insured State member bank, for consent to establish the five offices and two facilities of Commerce, DeSoto, Wylie, and Denton as branches of Provident Bank, and for consent to operate a full service branch at 13655 Preston Road, Dallas, Texas, a former main office location of Provident Bank.

Administrative enforcement proceedings.

Matters relating to the Corporation's assistance agreement with an insured bank.

Recommendations regarding the liquidation of a depository institution's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. FL-89-0013
Capital Federal Savings & Loan Assocation, Mount Pleasant, Iowa
Case No. FL-89-0015
Sunbelt Savings, FSB, Dallas, Texas

Matters relating to the possible closing of an insured bank.

Matters relating to the Corporation's corporate activities.

Personnel matter.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director M. Danny Wall (Director of the Office of Thrift Supervision), 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)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: November 1, 1989.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 89-26192 Filed 11-2-89 2:04 pm]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 1, 1989.

TIME AND DATE: 10:00 a.m., Wednesday, November 8, 1989.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Clinchfield Coal Company*, Docket No. VA 89-67-R. (Issues include whether the judge erred in extending the time for abatement of a violation and whether the time for abatement should be extended further.)

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(1)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Clinchfield Coal Company*, Docket No. VA 89-67-R. (See oral argument listing)

It was determined by a unanimous vote of Commissioners that this item be discussed in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 Toll Free.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-26183 Filed 11-2-89; 2:03 pm]

BILLING CODE 6735-01-M

SECRUITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Secruities and Exchange Commission will hold the following meeting during the week of November 6, 1989.

A closed meeting will be held on Tuesday, November 7, 1989, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 7, 1989, at 2:30 p.m., will be:

Institution of injunctive actions.

Settlement of injunctive actions.

Institution of administrative proceeding of an enforcement nature.

Formal order of investigation.

Settlement of administrative proceeding of an enforcement nature.

Regulatory matter regarding financial institutions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Ronald Mueller at (202) 272-2200.

Dated: November 1, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26189 Filed 11-2-89; 12:06 pm]

BILLING CODE 8010-01-M

federal register

Monday
November 6, 1989

Part II

Department of Education

Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Closing Date for Institutions To File "Request for Institutional Eligibility for Program"; Notice

DEPARTMENT OF EDUCATION

Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Closing Date for Institutions To File "Request for Institutional Eligibility for Programs"

AGENCY: Department of Education.

ACTION: Notice of closing date for Institutions to file "Request for Institutional Eligibility for Programs" (ED Form E–40–34P, OMB #1840–0098 approved through December 31, 1989) to participate in the Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs for the 1990–91 Award Year.

SUMMARY: The Secretary invites currently ineligible institutions of higher education that filed a Fiscal Operations Report and Application to Participate (FISAP) (ED Form 646–1) in one or more of the "campus-based programs" for the 1990–91 award year to submit to the Secretary an institutional eligibility application form.

The campus-based programs are the Perkins Loan Program, the College Work-Study Program, and the Supplemental Educational Opportunity Grant Program and are authorized by Title IV of the Higher Education Act of 1965, as amended. The 1990–91 award year is July 1, 1990 through June 30, 1991.

DATES: *Closing Date for Filing Application.* To participate in a campus-based program in the 1990–91 award year, a currently ineligible institution must mail or hand deliver its "Request for Institutional Eligibility for Programs" form to the address indicated below on or before January 12, 1990.

ADDRESSES:

Applications Delivered by Mail.

An institutional eligibility application delivered by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: DEC/DCMAS/OPE, 400 Maryland Avenue, SW., Washington, DC 20202–4725.

An applicant must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Institutions that submit eligibility applications after the closing date will not be considered for funding under the campus-based programs for award year 1990–91.

Applications Delivered by Hand. An institutional eligibility application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center (ACC), Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC. The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Eastern Standard Time) daily, except Saturdays, Sundays, and Federal holidays. An application for the 1990–91 award year eligibility that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

SUPPLEMENTARY INFORMATION: Under the three campus-based programs, the Secretary allocates funds to eligible institutions of higher education. The Secretary will not allocate funds under the campus-based programs for award year 1990–91 to any currently ineligible institution unless the institution files its "Request for Institutional Eligibility for Programs" form (ED Form E–40–34P) by the closing date. If the institution submits its institutional eligibility application after the closing date, the Secretary will use this application in determining the institution's eligibility to participate in the campus-based programs beginning with the 1991–92 award year.

For purposes of this notice, ineligible institutions only include:

(1) An institution that has not been designated as an eligible institution by the Secretary but has previously filed a FISAP.

(2) An off campus site of an eligible institution that is currently not included in the Department's eligibility certification for that eligible institution but has been included in the institution's 1990–91 FISAP.

(3) A branch campus that is currently part of an eligible institution but has filed its own FISAP and is seeking eligibility as a separate institution of higher education.

The Secretary wishes to advise institutions that the institutional eligibility form "Request for Institutional Eligibility for Programs" (ED Form E–40–34P) should not be confused with the FISAP (ED Form 646–1) that institutions were required to submit, by September 8, 1989 for paper FISAP filers and September 29, 1989 for electronic FISAP filers, in order to be considered for funds under the campus-based programs for the 1990–91 award year.

Applicable Regulations

The following regulations apply to the campus-based programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) Perkins Loan Program, 34 CFR part 674.

(3) College Work-Study Program, 34 CFR part 675.

(4) Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(5) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR part 600.

FOR FURTHER INFORMATION CONTACT: For information concerning designation of eligibility, contact Carol F. Sperry, Director, Division of Eligibility and Certification, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–5242. Telephone: (202) 732–4906.

For technical assistance concerning the FISAP and/or other operational procedures of the campus-based programs, contact: Robert R. Coates, Chief, Campus-Based Programs Branch, Division of Program Operations and Systems, 400 Maryland Avenue, SW., Washington, DC 20202–5347. Telephone: (202) 732–3711. (20 U.S.C. 1807 *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*)

(Catalog of Federal Domestic Assistance, Supplemental Educational Opportunity Grant Program, 84.007; College Work-Study Program, 84.033; Perkins Loan Program, 84.038).

Dated: October 26, 1989.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 89–26030 Filed 11–3–89; 8:45 am]

BILLING CODE 4000 01–M

federal register

Monday
November 6, 1989

Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 190, 193, and 195

Amendment of an Operator's Plans or Procedures

49 CFR Parts 192 and 195

Operation and Maintenance Procedures for Pipelines

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 190, 193, and 195

[Docket No. 114; Notice No. 1]

RIN 2137-AB77

Amendment of an Operator's Plans or Procedures

AGENCY: Office of Pipeline Safety (OPS), RSPA, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: OPS is proposing to make changes in the procedures and policy by which it addresses deficiencies in procedures and plans. As proposed, OPS would move to part 190 the substance of current § 195.402(b), relating to the process for amending an operator's procedures for conducting normal operations and maintenance activities, and handling abnormal operations and emergencies, making it applicable to gas and LNG pipeline facilities as well as to hazardous liquid pipeline facilities. The amendment process would also be applicable to other plans and procedures required by part 193 and § 199.7. In addition, OPS is proposing to make operators subject to all enforcement sanctions under the Natural Gas Pipeline Safety Act of 1968, as amended (NGPSA) (49 App. U.S.C. 1671 *et seq.*), and the Hazardous Liquid Pipeline Safety Act of 1979, as amended (HLPSA) (49 App. U.S.C. 2001 *et seq.*), for failure to maintain all plans and procedures in accordance with applicable requirements.

DATES: Comments must be received on or before December 6, 1989. Late filed comments will be considered to the extent practicable.

ADDRESSES: Address comments to the Dockets Unit, Office of Pipeline Safety, Room 8417, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Comments should identify the docket and notice number and be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments should include self-addressed stamped postcards. This notice and all docketed materials are available for inspection and copying in Room 8421, between 8:30 a.m. and 5:00 p.m. each working day, or telephone the Dockets Unit on (202) 366-5046.

FOR FURTHER INFORMATION CONTACT: Cesar De Leon on (202) 366-1640.

SUPPLEMENTARY INFORMATION: The proposals in this notice will clarify the exercise of OPS's delegated authority under the NGPSA and HLPSA to assure that operations and maintenance (O&M) and related plans and procedures are adequate to achieve safe operations. In accordance with section 13 of the NGPSA (49 App. U.S.C. 1680) and section 210 of the HLPSA (49 App. U.S.C. 2009), OPS administers a statutory process for amending plans it finds to be inadequate. At the present time, however, this process has been implemented in regulation only in parts 193 and 195. Therefore, OPS proposes to move the current procedures found in §§ 195.402(b) and 193.2017(b) (with appropriate modification) to a new § 190.9, which would be applicable to all plans and procedures in parts 192, 193, 195, and 199. To accommodate this change, paragraph (b) of §§ 193.2017 and 195.402 would be deleted, and the remainder of the latter section redesignated.

OPS is also proposing to strengthen its enforcement of the inspection and maintenance requirements prescribed in the NGPSA and the HLPSA, which it has traditionally viewed as a compliance and enforcement focus separate from other subjects regulated under those statutes. These other subjects—for example, testing, cathodic protection, and leak surveying—have been addressed with the statutory enforcement tools of civil penalties and compliance orders or, where appropriate, with hazardous facility orders.

There is no reason to restrict enforcement of written plans and procedures to the amendment process. The current approach to correcting deficient O&M plans has had the effect of limiting the enforcement tools available to the Department in addressing the quality and effectiveness of O&M plans, which are the foundation of sound operations. Consequently, OPS should have the widest latitude to assure that operators develop O&M and related plans that comply with applicable safety requirements, and that operators and their employees, as their agents, in turn comply with the plans. Therefore, if adopted, operators would be subject to the assessment of civil penalties (and criminal penalties if a violation is committed knowingly and willfully) and any other appropriate sanction available under either the NGPSA to the HLPSA. In the case of civil penalties, an operator's due process protections would be substantially the same as those afforded under the O&M amendment process, including prior notice and an opportunity for an informal hearing before final agency action is taken.

Miscellaneous

Sections in part 190 concerning or referencing hearings would be revised for consistency.

Administrative Procedures

Because these proposals relate to agency procedures and policy, notice and public procedure are not required. However, OPS is providing 30 days' notice for comment because it believes a brief comment period is in the public interest, and because it seeks comment on whether any plans or procedures required by parts 192, 193, 195, and 199 should not be subject to all enforcement sanctions in part 190.

Paperwork Reduction Act

The rule proposed by this notice contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Impact Assessment

The rule proposed by this notice is considered to be nonmajor under Executive Order 12291 and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Because it proposes no substantive revisions that could be expected to require significant changes in operator procedures or compliance burdens, and because the economic impact would be slight, a full regulatory evaluation is not required.

Accordingly, I certify under section 605 of the Regulatory Flexibility Act that the rule proposed by this notice, if adopted as final, will not have a significant economic impact on a substantial number of small entities.

OPS has analyzed this rulemaking action in accordance with the principles and criteria of E.O. 12612 (52 FR 41685) and has determined that it does not have sufficient Federalism implications to warrant preparing a Federalism Assessment.

List of Subjects

49 CFR Part 190

Enforcement, Operations and maintenance procedures, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Operations and maintenance procedures, Pipeline safety, Procedural

manual, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, Code of Federal Regulations, parts 190, 193, and 195 would be amended as follows:

PART 190—[AMENDED]

1. The authority citation for part 190 is revised to read as follows:

Authority: 49 App. U.S.C. 1672, 1677, 1679a, 1679b, 1680, 1681, 1804, 2002, 2006, 2007, 2008, 2009, and 2010; 49 CFR 1.53.

2. Section 190.9 would be added to read as follows:

§ 190.9 Amendment of plans or procedures.

(a) A Region Chief, OPS, begins a proceeding to determine whether an operator's plans or procedures required under parts 192, 193, 195 and 199 of this chapter are inadequate to assure safe operation of a pipeline facility by issuing a notice of amendment. The notice shall provide an opportunity for a hearing under § 190.211 and shall specify the alleged inadequacies and the proposed action for revision of the plans or procedures. The notice shall allow the operator 30 days after receipt of the notice to submit written comments or request a hearing. After considering all material presented in writing or at the hearing, the Director, OPS, shall determine whether the plans or procedures are inadequate as alleged and, if they are inadequate, order the required amendment, or withdraw the notice. In determining the adequacy of an operator's plans and procedures, the Director, OPS, shall consider:

(1) Relevant available pipeline safety data,

(2) Whether the plans or procedures are appropriate in accordance with the requirements of this chapter for the particular type of pipeline transportation or facility,

(3) The reasonableness of the plans or procedures, and

(4) The extent to which the plans or procedures contribute to public safety.

(b) The amendment of an operator's plans or procedures prescribed in paragraph (a) of this section is in addition to, and may be used in conjunction with, the appropriate enforcement actions prescribed in subpart B of this part.

3. Section 190.211(a) would be revised to read as follows:

§ 190.211 Hearing.

(a) A request for a hearing provided for in this part must be accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations in the notice, the proposed corrective action, or the proposed civil penalty amount. A respondent's failure to specify an issue may result in waiver of his right to raise that issue at the hearing. The respondent's request must also indicate whether or not he will be represented by counsel at the hearing.

* * * * *

4. Section 190.233(a) would be revised to read as follows:

§ 190.233 Hazardous facility orders.

(a) Except as provided by paragraph (b) of this section, if the Director, OPS, finds, after reasonable notice and opportunity for hearing in accordance with paragraph (c) of this section and § 190.211(a), a particular pipeline facility to be hazardous to life or property, he shall issue an order pursuant to this section requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

* * * * *

PART 193—[AMENDED]

5. The authority citation for part 193 continues to read as follows:

Authority: 49 App. U.S.C. 1671 *et seq.*; 49 CFR 1.53.

§ 193.2017 [Amended]

6. In § 293.2017, paragraph (b) would be removed, and the designation (a) would be removed from the remaining paragraph.

PART 195—[AMENDED]

7. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2002; and 49 CFR 1.53.

§ 195.402 [Amended]

8. In § 195.402, paragraph (b) would be removed and paragraphs (c), (d), (e), and (f) would be redesignated as paragraphs (b), (c), (d), and (e), respectively, and all internal references in the newly designated paragraphs would be changed accordingly.

§§ 195.404 and 195.408 [Amended]

9. In §§ 195.404(a)(1)(vi) and 195.408(b)(1), the reference to "§ 195.402(c)(9)" would be changed to read "195.402(b)(9)".

Issued in Washington, DC, on October 31, 1989.

Richard L. Beam,

Director, Office of Pipeline Safety.

[FR Doc. 89–25940 Filed 11–3–89; 8:45 am]

BILLING CODE 4910–60–M

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49 CFR Parts 192 and 195

[Docket No. PS–113; Notice 1]

RIN 2137–AB 44

Operation and Maintenance Procedures for Pipelines

AGENCY: Office of Pipeline Safety (OPS), RSPA, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to clarify and delineate the items that must be addressed in procedures for operations and maintenance (O&M) of gas pipeline facilities. The current rule is not sufficiently detailed to assure that operators take timely and appropriate actions under normal conditions or in responding to abnormal situations. More detailed O&M procedures should reduce the likelihood of failures and provide a better basis for personnel training. In addition, operators of gas and hazardous liquid pipelines would be required to establish procedures for personnel safety in trenches where there may be a hazardous accumulation of vapor or gas.

DATE: Comments must be received by February 5, 1990. Late filed comments will be considered so far as is practicable.

ADDRESSES: Send comments in duplicate to the Dockets Unit, Room 8417, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8426 between 8:30 a.m. and 5:00 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Bernard Liebler, (202) 366–2392, regarding changes to safety standards; or the Dockets Unit, (202) 366–5046, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

Between November 1984 and February 1986, a major operator of gas

transmission pipelines experienced four accidents that resulted in four deaths, 36 injuries, and significant property damage. This unusually high accident rate prompted OPS to form a Task Force to review, among other things, the operator's O&M procedures.

The Task Force, which comprised personnel from OPS's Eastern, Southern, Southwest, and Central Region offices, spent three months inspecting the pipeline facilities and reviewing the written O&M procedures. The reviewers found the procedures, established under §§ 192.603 and 192.605, to be performance oriented, very much like the part 192 standards they were intended to implement. In many areas, the procedures simply repeated the part 192 requirements rather than specifying precisely how to perform required tasks.

As a result of this finding, the Task Force examined the O&M procedures of five other major pipeline operators. The purpose of examining the procedures of the other operators was to establish whether the performance-oriented presentation adopted by the operator having the four incidents was the exception or the rule. The Task Force found disparity in the scope and depth of coverage of the five operators' procedures. This disparity prompted the Task Force to make the following recommendation:

OPS should revise § 192.605, "Essentials of operating and maintenance plans," to provide more guidance (similar to § 192.615 regarding emergency plans, and § 195.402 regarding liquid pipeline procedural manuals).

Need for Action

The primary section governing O&M procedures for gas pipeline facilities in part 192 is § 192.605, Essentials of operating and maintenance plan. This section comprises a list of five broad categories of activities that must be covered in O&M procedures:

(a) Instructions for employees covering operating and maintenance procedures during normal operations and repairs.

(b) Items required to be included by the provisions of Subpart M [Maintenance] of this part.

(c) Specific programs relating to facilities presenting the greatest hazard to public safety either in an emergency or because of extraordinary construction or maintenance requirements.

(d) A program for conversion procedures, if conversion of a low-pressure distribution system to a higher pressure is contemplated.

(e) Provisions for periodic inspections to ensure that operating pressures are appropriate for the class location.

[Note that a sixth activity, concerning reporting safety-related conditions, has been added to § 192.605 as paragraph (f), effective September 29, 1988, (53 FR 24950). This activity is not a subject of this proceeding, but is included in the proposed revised text of § 192.605 as paragraph (d)].

While these requirements are fairly comprehensive, they are also extremely general in their description. For example, subsection (a) mandates the inclusion of instructions for normal operations and repair activities, but does not specify precisely what activities the instructions should cover. Similarly, subsection (b) refers the operator to Subpart M, which in three instances (§§ 192.706, 192.723, and 192.727) requires operators to develop O&M procedures, but is vague about the content of the procedures. Finally, subsection (c) requires "specific programs" relating to facilities of unusual hazard, but does not say what the purpose or goal of the programs must be.

The intent of § 192.605 is to ensure that personnel who operate or maintain a gas pipeline have available to them a document that provides procedures for the proper operation and maintenance of the pipeline under part 192 standards. It has been, and remains, RSPA policy to write pipeline safety standards as much as possible in performance language to permit operators flexibility in compliance and to allow for innovation in the industry. This is particularly important with respect to requirements for O&M procedures under § 192.605 because of the many variations in gas pipeline systems. Such flexibility is not desirable, however, in documents meant to implement § 192.605 and guide individuals in performing their duties. A document providing specific requirements would better serve the intent of the regulations and reduce the likelihood of confusion or the application of poor judgment by individuals.

The consequences of inadequate O&M procedures can be serious. Vague, unspecific procedures lead to inconsistent handling of repairs and maintenance activities. Such inconsistency can then result in unpredictable operating conditions and, ultimately, failures. OPS has found that operators with adequate O&M procedures and personnel trained to execute them minimize the opportunity for failures.

In 1986 the National Transportation Safety Board (NTSB) investigated two Texas Eastern incidents at Beaumont and Lancaster, Kentucky and recommended that RSPA:

Amend 49 CFR parts 192 and 195 to require that operators of pipelines develop and conduct selection, training, and testing programs to annually qualify employees for correctly carrying out each assigned responsibility which is necessary for complying with 49 CFR parts 192 and 195 as appropriate. (P-87-2)

Although this proceeding is not addressing qualification of employees (a matter that is the subject of a separate notice of proposed rulemaking to be published later this year), the NTSB recommendation is pertinent in that training and testing in the implementation of very generally stated O&M procedures are not feasible. If a procedure is not specific, the range of available responses is so broad that it is not possible to anticipate a response and project its ramifications comprehensively in a training course. Furthermore, an individual trained under such a regimen does not have sufficient guidance from the regulations in how to discharge his responsibilities.

In response to its Task Force recommendation, OPS published an Advance Notice of Proposed Rulemaking (Docket PS-94) (52 FR 9189, March 23, 1987) to elicit the opinions of other interested parties on the broader issue of personnel qualifications. As part of that notice, OPS asked how regulations governing O&M procedures for gas pipeline operators should differ from the part 195 regulations governing O&M procedures for hazardous liquid pipelines. Two-thirds of the respondents stated that the two sets of regulations (§§ 192.605 and 195.402) need not be parallel. About one-fourth of the commenters suggested that the two could be similar, but several recommended that distinctions be made between transmission and distribution systems or among the products carried. Still another group also believed that the two need not be the same, but recommended changes to part 192 to include requirements for training personnel in the aspects of the O&M procedures needed to perform their duties and to gather all part 192 requirements pertaining to O&M procedures into a single location.

OPS does not agree with the position that parallelism need not be maintained between the O&M procedure requirements of parts 192 and 195. The very existence of two separate sets of regulations is an acknowledgment of the distinctions between gas and liquid pipelines. However, OPS believes that the O&M similarities vastly outnumber the differences and that compliance (particularly for operators who have both liquid and gas pipelines) is

enhanced by making the two regulations reasonably similar while honoring the technical distinctions between gas and liquid pipelines.

The primary goal of this proceeding is to clarify and specify the existing requirements of § 192.605 by including a specific list of essentials that must be covered by gas pipeline O&M procedures. The intended effect of the rulemaking is to cause gas pipeline operators to develop effective O&M procedures and use them to take timely and appropriate action in conducting normal activities and in responding to abnormal situations. A subsidiary goal of this proceeding is to implement RSPA's policy to make the regulations governing O&M procedures for gas and liquid pipelines as similar as practicable. Training connected with O&M procedures is scheduled for rulemaking in Docket PS–94.

Current and Proposed Requirements

The requirements governing O&M procedures for hazardous liquid pipelines are in § 195.402, Procedural manual for operations, maintenance, and emergencies. Some of these requirements parallel those in §§ 192.603 and 192.605, but are significantly more detailed. The following discussion will compare § 195.402 with §§ 192.603 and 192.605 and propose appropriate amendments.

Section 195.402(a), in addition to requiring that the operator prepare and follow a manual of written procedures for conducting O&M activities and for handling emergencies, requires the operator to evaluate its effectiveness annually and update and revise the manual as necessary. The subsection also requires that appropriate parts of the manual be available at locations where operations and maintenance activities are conducted. This subsection also states that the manual must be prepared before initial operation of a pipeline system commences. Section 192.603(b) requires operators to establish a written O&M plan, but not in manual form. The remaining provisions of § 195.402(a) are not matched in §§ 192.603 and 192.605. Sections 192.603(b) and 192.605(a) would be revised to agree with § 195.402(a).

Section 195.402(c) requires procedures for several different, specifically-referenced O&M activities, many of which, although pertinent to gas systems, are not addressed directly or are addressed in less detail in part 192, as discussed below.

Section 195.402(c)(1) requires the operator to make construction records, maps, and operating history available to O&M personnel as necessary for safe operation and maintenance. In contrast, § 192.603(b) simply requires the operator to "keep records necessary to administer" the O&M plan. This section does not have the same effect in regard to availability or kinds of records as § 195.402(c)(1). As set forth below, the proposed § 192.605(b)(3) is comparable to § 195.402(c)(1).

Section 195.402(c)(2) requires procedures for the collection of data needed for reporting accidents to RSPA. Section 192.605 does not require that operators have similar procedures. Therefore, a new § 192.605(b)(4) is proposed to agree with § 195.402(c)(2).

Section 195.402(c)(3) requires procedures for operating, repairing, and maintaining the pipeline system in accordance with the O&M regulations in subpart F of part 195. Sections 192.603(b) and 192.605(b) have similar intent, but it is not as clearly stated. The existing § 192.605(b) would be revised and redesignated as the proposed § 192.605(b)(1) to agree with § 195.402(c)(3).

Section 195.402(c)(4) requires procedures for determining which facilities require immediate response in the event of failure or malfunction. Section 192.605 does not address this issue. A new § 192.605(b)(5) is proposed to agree with § 195.402(c)(4).

Section 195.402(c)(5) covers analyzing pipeline accidents to determine their causes, and procedures for this topic are covered adequately by § 192.617. However, for conformity with § 195.402, OPS is proposing under § 192.605(e) that these procedures be included in the O&M manual. This proposal would serve to unite all O&M procedures in a single manual and clarify that the accident investigation procedures required by § 192.617 must be written.

Section 195.402(c)(6) requires procedures for minimizing potential hazards at those locations identified under § 195.402(c)(4) and for minimizing the recurrence of accidents. Section 192.605(c) requires "[s]pecific programs relating to facilities presenting the greatest hazard to public safety," but does not elaborate on the intent of the programs. A new § 192.605(b)(6) is proposed to parallel § 195.402(c)(6) with regard to minimizing the potential for hazards. Procedures to minimize accident recurrence are required by § 192.617.

Section 195.402(c)(7) requires procedures for pipeline startup and shutdown within appropriate operating parameters. Part 192 does not contain a similar requirement, except with regard to compressor stations under § 192.729. Gas pipelines are shut down, intentionally and unintentionally, and restarted, and appropriate procedures are vital for maintaining the safety of the pipeline. The proposed § 192.605(b)(7) is comparable to § 195.402(c)(7).

Sections 195.402(c)(8) and (c)(9) pertain to monitoring pipelines that are not equipped to fail safe for operation outside of normal limits. Part 192 does not contain a similar requirement. Liquid pipelines can fail in extremely short times as a result of pressure excursions. Gas pipelines do not exhibit similar behavior. Therefore, provisions comparable to (c)(8) and (c)(9) need not be added to § 192.605.

Section 195.402(c)(10) requires procedures for abandoning pipeline facilities. In part 192, § 192.727 covers this topic in appropriate detail and requires that procedures for abandonment be included in each operator's O&M plan. Thus, there is no need for further treatment of this topic under § 192.605.

Section 195.402(c)(11) addresses minimizing the potential for ignition of vapors at locations determined to require immediate response under § 195.402(c)(4) where the potential exists for the presence of flammable liquids or gases. Section 192.751 similarly requires operators to minimize the potential for gas ignition in structures and other locations where the presence of gas constitutes an ignition or explosion hazard. Although this section does not require written procedures, they would have to be prepared and included in the O&M manual under the proposed § 192.605(b)(1), which would require procedures for implementing all subpart M maintenance standards. OPS is not proposing any other change to § 192.605 to compare with § 195.402(c)(11).

Section 195.402(c)(12) addresses establishing and maintaining liaison with police, fire, and other public officials so that operator and public response capabilities are known in advance of any emergency. part 192 covers this topic adequately in § 192.615(c), and it need not be added to § 192.605.

Section 195.402(c)(13) requires periodic review of the work of operator personnel to determine the effectiveness of O&M procedures. It requires further that the operator correct any deficiencies encountered. Section 192.605 does not require similar review and revision of O&M procedures. Thus, § 192.605(b)(10) is proposed to compare with § 195.402(c)(13).

The proposed § 192.605(b)(11) is the existing § 192.605(e).

The existing requirements of § 192.605(d) regarding the conversion of

a low-pressure distribution system to a higher pressure would be deleted because such conversion is equivalent to uprating, and § 192.553(c) requires a written procedure to ensure compliance with subpart K, Uprating.

Section 195.402(d) addresses abnormal operations. It requires procedures to provide safety when operating design limits are exceeded, as indicated by, among other items, operation of safety devices, unintended closure of valves or shutdowns, pressure excursions beyond normal limits, and loss of communications. Part 192 does not currently require procedures to respond to abnormal operations, but OPS believes such procedures are appropriate for transmission lines. Since abnormal conditions on transmission lines can worsen, creating an imminent hazard or emergency, they should properly be addressed in the O&M procedures. Therefore, a new § 192.605(c) is proposed to agree with § 195.402(d). Section 195.402(d)(3) has not been included because it would be redundant with the proposed § 192.605(c)(1)(ii).

Section 195.402(e) covers emergency response procedures. Under part 192, such procedures are required by § 192.615. However, for conformity with § 195.402, OPS is proposing under § 192.605(e) that the gas pipeline emergency procedures be included in the O&M manual. Many operators now do so. This proposal would serve to unite all O&M procedures in a manual. The public education program required by § 192.615(d) would be restated as § 192.616 to not confuse it with the emergency procedures to be added to the O&M manual. Also, § 195.440 separates similar education requirements from requirements for emergency procedures.

Also, to unite all O&M procedures in a manual, the proposed § 192.605(e) would require that the surveillance procedures operators must prepare under § 192.613(a) be included in the O&M manual.

Personnel Safety

The intent of the Federal minimum safety standards embodied in parts 192 and 195 is to protect the public from the hazards attendant to the transportation of gas and hazardous liquids by pipeline. Included implicitly in this statement is the goal of protecting pipeline personnel, as they also constitute a part of the general public.

Personnel protection is for the most part an indirect consequence of the regulations and need not often be addressed explicitly. However, OPS has identified two areas that do merit direct address. A large fraction of pipeline maintenance, particularly leak repair, is done in excavated trenches where escaping gas or evaporating liquid can create a hazardous environment. Although pipeline personnel are generally trained to work in such environments, OPS believes that, to ensure the safety of personnel, each O&M procedures manual should include procedures for: (1) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas; and (2) making available at the excavation emergency rescue equipment, including a breathing apparatus and a rescue harness and line. The proposed § 192.605(b)(12) and § 195.402(b)(14) would establish these requirements.

Other Related Sections

In subpart I of part 192, § 192.453 requires gas operators to establish procedures to implement the corrosion control requirements of the subpart. In keeping with OPS's objective of requiring gas operators to collect all required procedures for pipeline maintenance in a single manual, the requirement of § 192.453 to establish corrosion control procedures would be transferred to § 192.605(b)(2), and § 192.453 would be revised appropriately. By including this requirement in § 192.605, it would be clear that gas pipeline corrosion control procedures must be written and be a part of the O&M manual.

In subpart M of part 192, § 192.706, Transmission lines: Leakage surveys, § 192.723, Distribution systems: Leakage surveys and procedures, and § 192.727, Abandonment or inactivation of facilities, each contain an explicit requirement that the operator cover the respective subject in its O&M procedures. Each section then provides relevant safety requirements. Because the proposed § 192.605(a) would require procedures for operating and maintaining pipelines generally, and § 192.605(b)(1) would require procedures to meet all of the O&M requirements of subparts L and M, the specific references to O&M procedures in §§ 192.706, 192.723, and 192.727 would no longer be needed and could be construed to limit the application of § 192.605(b)(1). Therefore, §§ 192.706, 192.723, and 192.727 would be modified to remove the reference to O&M procedures.

Three other sections in subpart M of part 192, §§ 192.729, 192.731, and 192.733 require procedures for starting, operating, and shutting down compressors and for maintaining compressor stations. In addition § 192.737 requires a plan for inspection and testing of pipe-type and bottle-type holders. OPS proposes to delete these sections and move the requirements they contain to § 192.605(b)(8), (9), and (13). This would serve to consolidate all O&M plans and procedures in a single manual and to clarify that the plans and procedures required for compressors and for pipe-type and bottle-type holders must be written.

Impact Assessment

Gas pipeline operators are currently required to have written comprehensive O&M procedures. This proposal would merely specify more clearly the required contents of such procedures. Thus, most operators' procedures should already cover the proposed topics, although possibly not in the detail being proposed or in manual form. The expense associated with compliance would be for collection and organization of existing procedures, with some elaboration where necessary. Therefore, this proposal is considered to be nonmajor under Executive Order 12291 but is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) because of the need for adequate procedures to provide a basis for training and qualifying operator personnel. Since the proposed rule should require minimal compliance expense, it does not warrant preparation of a Draft Evaluation. Also, based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that it would not, if adopted as final, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rulemaking would modify existing information collection requirements in § 192.605. This proposed modification will be submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. chap. 35). Persons desiring to comment on these information collection requirements should submit their comments to the Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, Attention: Desk Officer, Research and Special Programs Administration (RSPA). Persons submitting comments to OMB are also requested to submit a copy of their comments to RSPA as indicated above under ADDRESS.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612. RSPA has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects

49 CFR Part 192

Emergency, Maintenance, Operations, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 195

Emergency, Maintenance, Operations, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, OPS proposes to amend parts 192, and 195 as set forth below:

1. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; and 49 CFR 1.53.

3. Section 192.453 would be revised to read as follows:

§ 192.453 General.

The corrosion control procedures required by § 192.605(b)(2) of this part, including those for the design, installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified by experience and training in pipeline corrosion control methods.

4. Section 192.603(b) would be revised to read as follows:

§ 192.603 General provisions.

* * * * *

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605 of this part.

5. Section 192.605 would be revised to read as follows:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting normal operations and maintenance activities and handling emergencies. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to ensure that the manual is effective. This manual must be prepared before initial operations of a pipeline system commence, and appropriate parts must be kept at locations where operations and maintenance activities are conducted.

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.

(2) Controlling corrosion in accordance with each of the requirements of subpart I of this part.

(3) Making construction records, maps, and operating history available to appropriate personnel as necessary for safe operation and maintenance.

(4) Gathering of data needed for reporting incidents under part 191 of this chapter in a timely and effective manner.

(5) Determining which pipeline facilities are located in areas that would require an immediate response by the operator to prevent hazards to the public if the facilities failed or malfunctioned.

(6) Minimizing the potential for hazards identified under paragraph (b)(5) of this section.

(7) Starting up and shutting down any part of the pipeline in a manner designed to assure operation within the MAOP limits prescribed by this part, plus the build-up allowed for operation of pressure-limiting and control devices.

(8) Maintaining compressor stations, including provisions for isolating units or sections of pipe and for purging before returning to service.

(9) Starting, operating, and shutting down gas compressor units.

(10) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

(11) Periodic inspections to ensure that operating pressures are appropriate for the class location.

(12) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation emergency rescue equipment, including a breathing apparatus and a rescue harness and line.

(13) Systematic and routine testing and inspection of pipe-type or bottle-type holders including—

(i) Provision for detecting external corrosion before the strength of the container has been impaired;

(ii) Periodic sampling and testing of gas in storage to determine the dew point of vapors contained in the stored gas which, if condensed, might cause internal corrosion or interfere with the safe operation of the storage plant; and

(iii) Periodic inspection and testing of pressure limiting equipment to determine that it is in a safe operating condition and has adequate capacity.

(c) *Abnormal operation.* For transmission lines, the manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:

(1) Responding to, investigating, and correcting the cause of:

(i) Unintended closure of valves or shutdowns;

(ii) Increase or decrease in pressure or flow rate outside normal operating limits;

(iii) Loss of communications;

(iv) Operation of any safety device;

(v) Any other malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property.

(2) Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation.

(3) Notifying responsible operator personnel when notice of an abnormal operation is received.

(4) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.

(d) *Safety-related condition reports.* The manual required by paragraph (a) of this section must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of § 191.23 of this chapter.

(e) *Surveillance, emergency response, and accident investigation.* The procedures required by §§ 192.613(a), 192.615, and 192.617 of this part must be included in the manual required by paragraph (a) of this section.

§ 192.615 [Redesignated as § 192.616(d)]

6. Section 192.615(d) would be redesignated as § 192.616 *Public education,* and the paragraph designation would be removed.

§ 192.706 [Amended]

7. In § 192.706, paragraph (a) would be removed, the introductory text of paragraph (b) would be redesignated as the introductory text of the section, and paragraphs (b)(1) and (b)(2) would be redesignated paragraphs (a) and (b), respectively.

8. In § 192.723, the section heading and paragraph (a) would be revised to read as follows:

§ 192.723 Distribution systems: Leakage surveys.

(a) Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this section.

* * * * *

9. In § 192.727, the section heading and paragraph (a) would be revised to read as follows:

§ 192.727 Abandonment or deactivation of facilities.

(a) Each operator shall conduct abandonment or deactivation of pipelines in accordance with the requirements of this section.

* * * * *

§ 192.729 [Removed]

10. Section 192.729 would be removed.

§ 192.733 [Removed]

11. Section 192.733 would be removed.

§ 192.737 [Removed]

12. Section 192.737 would be removed.

PART 195—[AMENDED]

13. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2002; 49 CFR 1.53.

14. In § 195.402, a new paragraph (b)(14) would be added to read as follows:[1]

[1] Editorial Note: Elsewhere in this Part III, the Research and Special Programs Administration is proposing to redesignate current paragraph (c) in § 195.402 as paragraph (b). This proposed amendment would affect newly designated paragraph (b).

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

* * * * *

(b) * * *

(14) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation emergency rescue equipment, including a breathing apparatus and a rescue harness and line.

* * * * *

Issued in Washington, DC, on October 26, 1989.

Richard L. Beam,

Director, Office of Pipeline Safety.

[FR Doc. 89-25690 Filed 11-3-89; 8:45 am]

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Federal Register

Monday
November 6, 1989

Part IV

Department of Education

34 CFR Part 673

Income Contingent Loan Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 673

RIN 1840-AB04

Income Contingent Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Higher Education Admendments of 1986 authorize the Secretary to implement an Income Contingent Direct Loan Program Demonstration Project (ICL Demonstration Project) beginning with the 1987–88 award year. The Secretary is issuing regulations to implement the due diligence procedures for the ICL Demonstration Project. The ICL Demonstration Project is examining the feasibility of a loan program that uses the income contingent repayment method in order to increase the economic and full use of student loan funds.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments, with the exception of §§ 673.52, 673.53, 673.55, 673.57, 673.58 and 673.59. Sections 673.52, 673.53, 673.55, 673.57, 673.58, and 673.59 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. A document announcing the effective date will be published in the **Federal Register.** If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Mr. Harold McCullough, Division of Policy and Program Development, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Regional Office Building 3, Room 4310), Washington, DC 20202. Telephone number: (202) 732–4490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** on August 5, 1987, 52 FR 29120–29138, the Secretary promulgated final rules governing those aspects of the Income Contingent Loan (ICL) Demonstration Project, other than the billing and collection of ICL loans. On November 30, 1987, the Secretary published a notice of proposed rulemaking (NPRM) pertaining to billing and collection in the **Federal Register,** 52 FR 45576. The Secretary now publishes final rules for this aspect of the ICL program, as subpart E—Due Diligence.

These ICL due diligence regulations require each institution participating in the ICL Program (1) to inform ICL borrowers of their rights and responsibilities, (2) to attempt to collect from borrowers, and, under certain conditions, (3) to sue defaulted borrowers. The Secretary has utilized the Perkins Loan Program due diligence requirements for the ICL Program with modifications necessary to address those issues that are unique to the ICL Program. A few significant changes have been made to the NPRM as explained in the following analysis.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, seven parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject, with appropriate sections of the regulations referenced in parentheses. Other substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General

Comments: Several commenters supported the adoption of the Perkins Loan due diligence requirements as a basis for those for the ICL Program on the ground that this approach minimizes confusion caused by conflicting requirements for similar programs.

Two commenters objected to the manner in which the NPRM was promulgated, *i.e.*, using the final Perkins Loan due diligence regulations as the comment document and requesting comments on the appropriate adjustments needed to these regulations to operate the ICL Program.

Discussion: As with other aspects of the ICL Program, the due diligence procedures for the ICL Demonstration Project have been closely modeled on the Perkins Loan Program requirements. The Secretary believes that this consistency between the programs facilitates the administration of both programs.

The manner in which the NPRM was promulgated reflected the intention of the Secretary to utilize the same due diligence requirements set forth in the Perkins Loan Program regulations for the ICL Program, with minor modifications, as well as the need to establish final regulations for due diligence procedures for the ICL Program before institutions participating in the ICL Demonstration Project during the 1987–88 academic year would be presented with the need to use due diligence procedures to collect these loans. Since all participating ICL institutions are required to have demonstrated a thorough and effective familiarity with the loan collection rules in effect in the Perkins Loan Program in order to qualify for an ICL award, the Secretary believes that the method of promulgation for the NPRM was the most efficient way in which to achieve the goals of the Demonstration Project in a timely manner.

Changes: None.

Comments: Two commenters recommended that the Secretary continue to evaluate the requirements of the ICL Program throughout the Demonstration Project.

Discussion: The Higher Education Amendments of 1986 authorized the Secretary to conduct an Income Contingent Loan Demonstration Project beginning with the 1987–88 award year and charged the Secretary with providing an evaluation of the Demonstration Project to Congress. As indicated in the regulations published August 5, 1987, the Secretary is evaluating the ICL Demonstration Project on an on-going basis and, as a result of this evaluation, may propose modifications to the statute and to the regulations governing the ICL Program throughout the Demonstration Project.

Changes: None.

Comments: One commenter agreed that the Secretary should not routinely accept assignments of defaulted ICLs at this time.

Discussion: The ICL Program provides a great deal of flexibility for institutions and borrowers who can therefore tailor repayment terms to fit their financial circumstances. As a result, the Secretary anticipates that the default rate for the ICL Program will be low, and that, at the present time, it is not necessary to implement procedures for institutions to assign defaulted ICLs to the Department.

Changes: All references to the assignment of defaulted ICLs have been deleted.

Enforcement Policy and Procedures for Failure to Submit Required Income Information

Comments: A number of commenters wanted the Secretary to adopt an alternative method for calculating the annual repayment obligation of a borrower who failed to submit the required income information in a timely manner.

Discussion: Failure to pay an established installment payment on an ICL or Perkins loan presents the same problem to the institution, and there was little need to reconsider the NPRM to address the enforcement of the loan obligation in the case of a "financial default." Only ICL obligations present the added responsibility to submit income information to adjust a previously set installment payment level, and failure to meet that obligation is a default on the loan as well.

The Secretary noted in the NPRM that the need to secure from the borrower annual income information was the principal difference between enforcement of Perkins loans and Income Contingent Loans, and he has reconsidered several provisions of the NPRM, which were based on the Perkins Loan enforcement regulations, with particular attention to this need. The Secretary recognizes in particular that the institution will be faced with the dilemma of deciding on appropriate enforcement action with regard to a borrower who fails to submit required income information but continues to make regular payments at a previously-established rate.

The Secretary believes that additional study is needed before a decision is made to implement any alternative repayment model of the type suggested by one commenter for these "information defaults." The Secretary also recognizes that the "information defaulter" demonstrates some degree of compliance with the loan contract by submitting payments, and that too abrupt a transition into enforced collection, including litigation, could result in a careless but not yet recalcitrant borrower deciding to withhold payment of any kind until compelled to do so by a court judgment. Although this may result in the establishment of a firm policy that the income information must be submitted, it could jeopardize the continued receipt of payments on these loans, a matter of consequence to a loan fund designed to operate as a revolving fund. Not only would more forceful collection steps on an "information default," including acceleration of the loan, risk causing an interruption of the payments currently being made, but routine treatment of an "information default" in the same manner as a "financial default" would mean that the institution would engage a collection firm to handle the debt. It is not reasonable to incur contingent fees on an account on which the borrower has submitted, and continues to submit, regular payments, because those collection efforts have not produced the payments against which they would be charged. Whether or not those costs are fully charged to the borrower, their imposition seems unnecessary and detrimental to the program. Too lenient an enforcement policy, on the other hand, would undermine the integrity of the ICL program by permitting those borrowers whose incomes have substantially increased, and therefore have the most reason to withhold information, to disregard that duty with impunity.

These considerations suggest the need for greater flexibility for the institution in the selection of enforcement tools for "information defaults" than is permitted for "financial defaults". Credit bureau reporting may be especially effective for that group of borrowers who may be inclined to withhold information showing recent and substantial increases in their incomes, because those individuals may be more likely than the average borrower to seek those larger extensions of credit and employment in those positions for which a credit examination will be routinely performed. Default based on failure to supply income information is a default nonetheless, and the borrower does not qualify for additional title IV aid while that default persists; however, the sanction of ineligibility for further aid may be less useful in dealing with this group of borrowers. An institution that adopts a policy of withholding academic transcripts for loan defaulters might appropriately use that sanction for "information defaults" as well.

The Secretary notes that a borrower who defaults remains in default until a satisfactory written repayment agreement has been reached with the institution. 34 CFR 668.7(e)(2)(ii), 673.2(b), 674.2(b). The institution may insist that the "information defaulter," by that repayment agreement, repay the loan on a schedule fixed by the institution without regard to future changes in income.

Changes: The Secretary does not believe it prudent to adopt an alternative repayment method at this time, and no change has been made to adopt this recommendation. However, the Secretary has made other changes to the NPRM to address the problem of the "information default" described by the commenter. First, § 673.52(a) has been amended to require explanation during the exit interview of the duty to supply income information. Section 673.52(c) has been amended to require the institution to contact the borrower by October 1 of each year of the repayment period to remind the borrower to submit the required income information by the following November 1.

To deal with the need for flexibility in the use of collection methods, the Secretary has amended §§ 673.53 and 673.55 to require the institution to report "information defaults" that are not (yet) "financial defaults" to credit bureaus, but to permit the institution to defer more forceful collection action—in particular, the use of collection firms and resort to litigation—until after it accelerates the loan, or until after the borrower misses a payment and becomes a "financial default" as well. In reporting an "information default" to a credit bureau, the institution should use the credit bureau status that indicates that the account is "not being paid in accordance with the agreement between the creditor and the borrower" (e.g., TRW status code 70, CBI status code 079). Although credit bureaus use various codes to do so, the Secretary believes that this adverse rating is widely used and understood by credit bureaus and their customers. The Secretary considers this relatively inexpensive sanction an appropriate enforcement tool to deal with "information defaults" in light of the negative consequences that may follow more forceful collection techniques. The institution may use its discretion in determining when to accelerate the loan; the institution may do so when it determines that the borrower has demonstrated persistent or repeated failure to report income information. The Secretary believes that this determination can be reasonably made when the borrower has failed, despite demand, to submit required information for a full year; the institution may accelerate earlier than that, depending on the facts presented in a particular case, including failure in the past to submit this information timely, or an intervening failure to submit a payment of any kind.

Sections 673.53 Billing Procedures and 673.55 Collection Procedures

Comments: Two commenters suggested that the cost of maintaining funds received at billing services and collection agencies in interest-bearing accounts will not be offset by the interest earnings on the accounts and requested modification to the regulations to allow banking costs not offset by interest earnings to be charged to the fund.

Discussion: The Secretary believes that the overall net income to the fund as a result of maintaining ICL funds in interest-bearing accounts offsets any loss to a particular school. Furthermore,

billing services and collection agencies may each commingle in their accounts the ICL funds collected as long as they can identify the interest earnings by institution. In addition, although banking costs not offset by interest earnings may not be charged to the fund, an institution may use its administrative cost allowance to cover these costs.

Changes: None.

Section 673.54 Address Searches

Comments: One commenter supported the use of procedures under § 673.54, "Address Searches", covering past-due payments for delays in submission of income information when the delay in submission is the result of a bad address.

Discussion: The Secretary agrees with the commenter and notes that the procedures outlined under § 673.54 are to be used by the institution to attempt to locate a borrower whenever the institution has sent mail, other than unclaimed mail; to the borrower which is returned undeliverable.

Changes: None.

Section 673.57 Costs Chargeable to the Fund

Comments: Two commenters asked the Secretary to clarify the imposition of costs to the borrower in the collection process.

Discussion: If the institution has incurred costs in following the prescribed due diligence procedures, these costs must be passed on to the borrower. Certain costs, such as those associated with address searches and credit bureau reporting, may be paid directly from the fund and later passed on to the borrower. The payments received from the borrower are then to be applied to these accrued collection costs and to contingency fees charged by collection agencies.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 673

Education, Loan programs—education, Student aid.

(Catalog of Federal Domestic Assistance Number N/A)

Dated: October 4, 1989.

Lauro F. Cavazos,

Secretary of Education.

The Secretary amends part 673 of title 34 of the Code of Federal Regulations by adding a new Subpart E, to read as follows:

PART 673—INCOME CONTINGENT LOAN PROGRAM

Subpart E—Due Diligence

Sec.

Subpart E—Due Diligence

Authority: 20 U.S.C. 1087a–1087e, unless otherwise noted.

§ 673.51 Due diligence—general requirements.

(a) *General.* Each institution shall exercise due diligence in collecting loans by complying with the provisions in this subpart. In exercising this responsibility, each institution shall, in addition to complying with the specific provisions of this subpart—

(1) Keep the borrower informed, on a timely basis, of all changes in the program that affect his or her rights or responsibilities; and

(2) Respond promptly to all inquiries from the borrower or any endorser.

(b) *Due diligence with regard to endorser.* If a borrower does not respond satisfactorily to the final demand letter required in § 673.53(c)(2) and the loan has been accelerated, an institution shall, in addition to pursuing the borrower, pursue recovery of the debt from any endorser using the steps described in this subpart.

(c) *Coordination of information.* An institution shall ensure that information available in its offices (including the admissions, business, alumni, placement, financial aid, and registrar's offices) is provided to those offices responsible for billing and collecting loans, in a timely manner, as needed to determine—

(1) The enrollment status of the borrower;

(2) The expected graduation or termination date of the borrower;

(3) The date the borrower withdraws, is expelled, or ceases enrollment on at least a half-time basis; and

(4) The current name, address, telephone number, and Social Security number of the borrower.

(Authority: 20 U.S.C. 1087c)

§ 673.52 Contact with the borrower.

(a) *Exit interview.* (1) An institution shall conduct an exit interview with each borrower before he or she leaves the institution. If an individual interview is not feasible, the institution may conduct a group interview. During the interview the institution shall restate for the borrower the terms and outstanding balance of the loan held by the institution, and the borrower's duty to repay the loan in accordance with the repayment schedule as it may vary depending on changes in the income of the borrower and his or her spouse. The institution shall explain to the borrower the consequences of defaulting including, at a minimum, possible referral to a collection firm, reporting to a credit bureau, and litigation. Furthermore, the institution shall explain the borrower's rights and responsibilities under the loan, including the following:

(i) The borrower's responsibility to inform the institution immediately of any change of name, address, telephone number, or Social Security number.

(ii) The borrower's right to deferment, cancellation, or postponement of repayment, and the procedures for filing for those benefits.

(iii) The borrower's responsibility to contact the institution in a timely manner, before the due date of any payment he or she cannot make.

(iv) The borrower's responsibility to submit the income information required under § 673.43(b)(3) to the institution by November 1 of each calendar year.

(2) An institution shall disclose the following information during the exit interview, and shall include it in the promisorry note or in another written statement provided to the borrower:

(i) The name and the address of the institution to which the debt is owed and the name and address of the official or servicing agent to whom communications, incuding the annual required income information, should be sent.

(ii) The name and the address of the party to which payments should be sent.

(iii) The estimated balance owed by the borrower on the loan held by the institution on the date on which the repayment period is scheduled to begin.

(iv) The stated interest rate on the loan, and, if that rate is variable, the manner in which it is determined.

(v) The current payment formula used to calculate the borrower's annual repayment obligation, the date the first installment payment is due, and the frequency of required payments.

(vi) A statement that the borrower has the right to prepay all or part of the loan at any time without penalty.

(vii) A description of the charges imposed for failure of the borrower to pay all or part of an installment when due.

(viii) A description of any charges that may be imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the institution to collect on the loan.

(ix) The estimated total of interest charges which the borrower will pay on the loan pursuant to the projected repayment schedule.

(3) At the time of the exit interview the institution shall—

(i) Have the borrower sign a copy of the disclosure statement of the current payment formula;

(ii) Provide a copy of the signed promissory note and the signed disclosure statement of the current payment formula to the borrower; and

(iii) Retain signed copies of both the note and the disclosure statement of the current payment formula in the institution's files.

(4) The institution shall contact a borrower promptly after it determines that the borrower either has not attended an exit interview that he or she was scheduled to attend or has already left the institution, and shall—

(i) Provide the borrower, either in person or by mail, the information described in paragraphs (a) (1) and (2) of this section; and

(ii) Provide a copy of the note and two copies of the disclosure statement of the current payment formula to the borrower and request that the borrower promptly sign and return one of the statements to the institution.

(b) *Contact with the borrower during the grace period.* (1) The institution shall contact the borrower three times within the grace period.

(2) (i) The institution shall contact the borrower for the first time 90 days after the commencement of the grace period. The institution shall at this time remind the borrower of his or her responsibility to comply with the terms of the loan and shall send the borrower the following information:

(A) The total amount remaining outstanding on the loan account, including principal and interest expected to accrue over the remaining life of the loan.

(B) The date of the first required payment.

(C) (*1*) The amount of the first required payment if the borrower does not submit the income information as specified in § 673.43(b)(3); or

(*2*) The formula used to calculate the amount of the first required payment if the borrower does submit the income information as specified in § 673.43(b)(3).

(D) An explanation of the borrower's right to choose the payment amount derived under paragraph (b)(2)(i)(C)(*1*) or (b)(2)(i)(C)(*2*) of this section without penalty. This explanation includes informing the borrower of his or her option to submit the income information specified in § 673.43(b)(3) for the initial repayment period.

(ii) The institution shall contact the borrower the second time 150 days after the commencement of the grace period. The institution shall at this time notify the borrower of the date of the first required payment and the information specified in paragraphs (b)(2)(i) (C) and (D) of this section.

(iii) The institution shall contact the borrower the third time 240 days after the commencement of the grace period, and shall then inform him or her of the date and amount of the first required payment and the information specified in paragraphs (b)(2)(i) (C) and (D) of this section.

(c) *Contact with the borrower during the repayment period.* (1) The institution shall contact the borrower by October 1 of each year of the repayment period to remind the borrower of his or her obligation to submit the required income information as specified in § 673.43(b)(3).

(2) The institution shall notify the borrower of his or her annual repayment obligation and the amount and frequency of payments for each year at least 30 days before the first payment for that year is due.

(Authority: 20 U.S.C. 1087c)

§ 673.53 Billing procedures.

(a) The term "billing procedures," as used in this subpart, includes that series of actions routinely performed to notify borrowers of payments due on their accounts, to remind borrowers to submit overdue payments or required income information, and to demand payment of overdue amounts. An institution shall use the following billing procedures:

(1) If the institution uses a coupon payment system, it shall send the coupons to the borrower at least 30 days before the first payment of the annual repayment obligation is due.

(2) If the institution does not use a coupon system, it shall send to the borrower—

(i) A written notice giving the name and address of the party to which payments are to be sent and a statement of account at least 30 days before the first payment of the annual repayment obligation is due; and

(ii) A statement of account at least 15 days before the due date of each subsequent payment.

(b) (1) An institution shall send a first overdue notice within 15 days after the due date for a payment or the required income information if the institution has not received—

(i) The required payment;

(ii) A request for deferment;

(iii) A request for cancellation; or

(iv) The required income information.

(2) Subject to § 673.57(a), the institution shall assess a late charge for loans during the period in which the institution takes any steps described in this section to secure—

(i) Any part of an installment payment not made when due;

(ii) A request for deferment or cancellation of repayment on the loan that contains sufficient information to enable the institution to determine whether the borrower is entitled to the relief requested; or

(iii) The income information required to be submitted annually by the borrower.

(3) The institution shall determine the amount of the late charge based on either—

(i) Actual costs incurred for actions required under this section to secure the required payment of information from the borrower; or

(ii) The average cost incurred for similar attempts to secure payments or information from other borrowers.

(4) The institution may not require a borrower to pay late charges in an amount, for each late payment, income information submission, or request, exceeding 20 percent of the installment payment most recently due.

(5) The institution shall notify the borrower of the amount of the charge it has imposed, and whether the institution—

(i) Has added that amount to the principal amount of the loan as of the first day on which the installment was due; or

(ii) Demands payment for that amount in full no later than the due date of the next installment.

(c) If the borrower does not satisfactorily respond to the first overdue notice, the institution shall continue to contact the borrower as follows, until the borrower makes satisfactory repayment arrangements, submits the required income information, or demonstrates entitlement to deferment of cancellation:

(1) The institution shall send a second overdue notice within 30 days after the first overdue notice is sent.

(2) The institution shall send a final demand letter within 15 days after the second overdue notice. This letter must inform the borrower that, as appropriate—

(i) If the institution does not receive the required income information within 30 days of the date of the letter, it will report the default to a credit bureau;

(ii) If the institution does not receive a payment or a request for deferment or cancellation within 30 days of the date of the letter, it will refer the account for collection or litigation, and will report the default to a credit bureau.

(d) Notwithstanding paragraphs (b) and (c) of this section, an institution may send a borrower a final demand letter if the institution has not within 15 days after the due date received a payment, the required income information, or a request for deferment or cancellation, and if—

(1) The borrower's repayment history has been unsatisfactory, e.g., the borrower has previously failed to make payment(s) when due, to submit the required income information, or to request deferment in a timely manner, or has previously received a final demand letter; or

(2) The institution reasonably concludes that the borrower neither intends to repay the loan or to submit the required income information nor intends to seek deferment or cancellation of the loan.

(e) (1) An institution that accelerates a loan as provided in § 673.42 (i.e., makes the entire outstanding balance of the loan, including accrued interest and any applicable late charges, payable immediately) shall—

(i) Provide the borrower, at least 30 days before the effective date of the acceleration, written notice of its intention to accelerate; and

(ii) Provide the borrower on or after the effective date of acceleration, written notice of the date on which it accelerated the loan and the total amount due on the loan.

(2) The institution may provide these notices by including them in other written notices to the borrower, including the final demand letter.

(f) If the borrower does not respond to the final demand letter within 30 days from the date it was sent, the institution shall attempt to contact the borrower by telephone before beginning collection procedures.

(g) (1) An institution shall ensure that any funds collected as a result of billing the borrower are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 1087c)

§ 673.54 Address searches.

(a) If mail, other than unclaimed mail, sent to a borrower is returned undelivered, an institution shall take steps to locate the borrower. These steps must include—

(1) Reviews of records in all appropriate institutional offices;

(2) Reviews of telephone directories or inquires of information operators in the locale of the borrower's last known address; and

(3) Use of the Department of Education's ship-tracing service.

(b) If an institution is unable to locate a borrower by the means described in paragraph (a) of this section, it shall—

(1) use its own personnel to attempt to locate the borrower, employing and documenting efforts comparable to commonly accepted commercial skip-tracing practices; or

(2) Refer the account to a firm that provides commercial skip-tracing services.

(c) If the institution acquires the borrower's address or telephone number through the efforts described in this section, it shall use that new information to continue its efforts to collect on that borrower's account in accordance with the requirements of this subpart.

(d) If the institution is unable to locate the borrower after following the procedures in paragraphs (a) and (b) of this section, the institution shall make reasonable attempts to locate the borrower at least twice a year until—

(1) Litigation to collect the borrower's account is barred under the applicable statute of limitations; or

(2) The account is written off under § 673.57(g).

(Authority: 20 U.S.C. 1087c)

§ 673.55 Collection procedures.

(a) The term "collection procedures," as used in this subpart, includes that series of more intensive efforts, including litigation as described in § 673.56, to recover amounts owed from defaulted borrowers who do not respond satisfactorily to the demands routinely made as part of the institution's billing procedures. If a borrower does not satisfactorily respond to the final demand letter or the following telephone contact made in accordance with § 673.53(f), the institution shall take the following actions—

(1) Report the defaulted account to a credit bureau, unless specifically prohibited by State law;

(2) Use its own personnel to collect the amount due or demand the required income information; or

(3) Engage a collection firm to collect any account that has been accelerated or on which the borrower is not making payments at regularly scheduled intervals.

(b)(1) An institution shall select one or more credit bureaus for its information referrals with due regard for the coverage provided by the bureau or bureaus. An institution may select a bureau which serves—

(i) The areas from which the major portion of its students was drawn; or

(ii) The areas in which all or a major portion of its alumni/ae now reside.

(2) An institution shall report, according to the reporting procedures of the bureau, any changes in account status to the bureau to which it reported the defaulted account, and shall respond promptly and accurately to any inquiry from any bureau regarding the information reported on the loan account.

(c) (1) If the institution, or the firm it engages, pursues collection activity for up to 12 months and does not succeed in converting the account described in paragraph (a)(3) of this section to required repayment status, or the borrower does not qualify for deferment or cancellation on the loan, the institution shall either—

(i) Litigate; or

(ii) Make a second effort to collect the account as follows:

(A) If the institution first attempted to collect the account using its own personnel, it shall, unless specifically prohibited by State law, refer the account to a collection firm.

(B) If the institution first attempted to collect the account by using a collection firm, it shall either attempt to collect the account using institutional personnel, or place the account with a different collection firm.

(2) If the collection firm retained by the institution does not succeed in placing an account into a repayment status described in paragraph (c)(1) of this section after 12 months of collection activity, the institution shall require the collection firm to return the account to the institution.

(d) If the institution is unable to place the loan in a repayment status described in paragraph (c)(1) of this section after following the procedures in paragraphs (a), (b), and (c) of this section, the institution shall continue to make annual attempts to collect from the borrower until recovery in litigation to collect the account would be barred under the applicable statute of limitations.

(e) (1) Subject to § 673.57(d), the institution shall assess against the borrower all reasonable costs incurred by the institution with regard to a loan obligation.

(2) The institution shall determine the amount of collection costs that shall be charged to the borrower for actions required under this section, and §§ 673.54, 673.56, 673.58, and 673.59, based on either—

(i) Actual costs incurred for these actions with regard to the individual borrower's loan; or

(ii) Average costs incurred for similar actions taken to collect loans in similar stages of delinquency.

(3) The Fund must be reimbursed for collection costs initially charged to the Fund and subsequently paid by the borrower.

(f) (1) An institution shall ensure that any funds collected from the borrower are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 1087c, 1091a)

§ 673.56 Litigation procedures.

(a) (1) If the collection efforts described in § 673.55(c)(1) do not result in the repayment of a loan, the institution shall determine at least annually, until litigation to collect the account is barred under the applicable statute of limitations, whether—

(i) The total amount owing on the borrower's account, including outstanding principal, accrued interest, collection costs, and late charges on all of the borrower's ICLs held by that institution, is more than $200;

(ii) The borrower can be located and served with process;

(iii) (A) The borrower has sufficient assets attachable under State law to satisfy a major portion of the outstanding debt; or

(B) The borrower has income from wages or salary which may be garnished under applicable State law sufficient to satisfy a major portion of the debt over a reasonable period of time;

(iv) The borrower does not have a defense that will bar judgment for the institution; and

(v) The expected cost of litigation, including attorney's fees, does not exceed the amount which can be recovered from the borrower.

(2) The institution shall sue the borrower if it determines that the conditions in paragraph (a)(1) of this section are met.

(3) The institution may sue a borrower in default, even if the conditions in paragraph (a)(1) of this section are not met.

(b) The institution shall assess against and attempt to recover from the borrower—

(1) All litigation costs, including attorney's fees, court costs, and other related costs, to the extent permitted under applicable law; and

(2) All prior collection costs incurred and not yet paid by the borrower.

(c) (1) An institution shall ensure that any funds collected as a result of litigation procedures are—

(i) Deposited in interest-bearing bank accounts that are—

(A) Insured by an agency of the Federal Government; or

(B) Secured by collateral of reasonably equivalent value; or

(ii) Invested in low-risk income-producing securities, such as obligations issued or guaranteed by the United States.

(2) An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments.

(Authority: 20 U.S.C. 1087c)

§ 673.57 Costs chargeable to the Fund.

(a) *General: billing costs.* (1) Except as provided in paragraph (c) of this section, the institution shall assess against the borrower, in accordance with § 673.53(b)(2), the cost of actions taken with regard to past-due payments on the loan.

(2) If the amount recovered from the borrower does not suffice to pay the amount of the past-due payments and the late charges, the institution may charge the Fund only that portion of the late charges which represents the unpaid portion of the cost of telephone calls to the borrower pursuant to § 673.53 to demand payment of overdue amounts and income information not timely submitted.

(b) *General: collection costs.* (1) Except as provided in paragraph (d) of this section, the institution shall assess against the borrower, in accordance with §§ 673.55(e) and 673.56(b), the costs of actions taken on the loan obligation pursuant to §§ 673.54, 673.55, 673.56, 673.58, and 673.59.

(2) If the amount recovered from the borrower is not sufficient to pay the amount on the past-due payments, late charges, and these collection costs, the institution may charge against the Fund the unpaid collection costs in accordance with paragraph (e) of this section.

(c) *Waiver: late charges.* The institution may waive late charges assessed against a borrower who repays the full amount of the past-due payments on a loan.

(d) *Waiver: collection costs.* Before filing suit on a loan, the institution may waive that percentage of the collection costs applicable to the amount then past due on the loan equal to the percentage of that past-due balance that the borrower pays within 30 days of the date on which the borrower and the institution enter into a written repayment agreement on the loan.

(e) *Limitations on costs charged to the Fund.* The institution may charge to the Fund the following costs not paid by the borrower, including amounts waived under paragraph (d) of this section:

(1) A reasonable amount for the cost of a successful address search required in § 673.54(b).

(2) Costs related to the use of credit bureaus as provided in § 673.55(b)(1).

(3) For first collection efforts pursuant to § 673.55(a)(3), an amount that does not exceed 33⅓ percent of the amount of principal, interest, and late charges collected.

(4) For second collection efforts pursuant to § 673.55(c)(1)(ii), an amount that does not exceed 50 percent of the amount of principal, interest, and late charges collected.

(5) For litigation costs, including attorney's fees, court costs, and other

related costs, an amount which does not exceed—

(i) Actual costs incurred in taking specific actions in bankruptcy proceedings required or authorized under § 673.59;

(ii) That portion of costs of other actions in bankruptcy proceedings which, together with costs authorized and incurred under paragraph (e)(5)(i) of this section, do not exceed one-third of the total amount of the judgment obtained on the loan; and

(iii) In all other cases, 50 percent of the amount collected on a judgment obtained against the borrower.

(6) If a collection firm performs or contracts for the performance of both collection and litigation activities on a defaulted loan, an amount for both of the functions that does not exceed 33⅓ percent of the amount of principal, interest, and late charges collected by a first collection effort as required in § 673.55(a), or 50 percent for a second collection effort as required in § 673.55(c)(1).

(f) *Records.* For audit purposes, an institution shall support the amount of collection costs charged to the Fund with appropriate documentation, including telephone bills and receipts from collection firms. The documentation must be maintained in the institution's files as provided in § 673.32.

(g) *Write-offs.* (1) An institution may write off an account if—

(i) (A) It carries out the procedures in §§ 673.53, 673.54 and 673.55; and

(B) The total amount owing on a borrower's loan account held by that institution, including outstanding principal, accrued interest, late charges, and collection costs on all of the borrower's ICLs is $200.00 or less; or

(ii) (A) The loan is discharged in bankruptcy; and

(B) The institution has exhausted the procedures in this subpart with regard to any endorser.

(2) An institution which writes off an account under this paragraph may no longer include the amount of the account as an asset of the Fund.

(3) If an institution receives a payment from a borrower after the loan has been written off, it shall deposit that payment into the Fund.

(Authority: 20 U.S.C. 1087c, 1091a)

§ 673.58 Use of contractors to perform billing and collection or other program activities.

(a) The institution is responsible for ensuring compliance with the billing and collection procedures set forth in this subpart. The institution may use employees to perform these duties or may contract with other parties to perform them.

(b) An institution that contracts for performance of any duties under this subpart remains responsible for compliance with the requirements of this subpart in performing these duties, including decisions regarding cancellation or deferment of repayment, extension of the repayment period, other billing and collection matters, and the safeguarding of all funds collected by its employees and contractors.

(c) If an institution uses a billing service to carry out billing procedures under § 673.53, the institution shall ensure that the service—

(1) Provides at least quarterly, a statement to the institution which shows—

(i) Its activities with regard to each borrower;

(ii) Any changes in the borrower's name, address, telephone number, and, if known, any changes to the borrower's Social Security number; and

(iii) Amounts collected from the borrower;

(2) Provides at least quarterly, a statement to the institution with a listing of its charges for skip-tracing activities and telephone calls;

(3) Does not deduct its fees from the amount it receives from borrowers;

(4) (i) Instructs the borrower to remit payment directly to the institution;

(ii) Instructs the borrower to remit payment to a lock-box maintained for the institution; or

(iii) Deposits those funds received directly from the borrower immediately upon receipt in an institutional trust account; and

(5) Maintains a fidelity bond or comparable insurance in accordance with the requirements in paragraph (f) of this section.

(d) If the institution uses a collection firm, the institution shall ensure that the firm—

(1) (i) Instructs the borrower to remit payment directly to the institution;

(ii) Instructs the borrower to remit payment to a lock-box maintained for the institution; or

(iii) Deposits those funds received directly from the borrower promptly in an institutional trust account, after deducting its fees, if authorized to do so by the institution; and

(2) Provides at least quarterly, a statement to the institution which shows—

(i) Its activities with regard to each borrower;

(ii) Any changes in the borrower's name, address, telephone number and, if known, any changes to the borrower's Social Security number;

(iii) Amounts collected from the borrower; and

(3) Maintains a fidelity bond or comparable insurance in accordance with the requirements in paragraph (f) of this section.

(e) If an institution uses a billing service to carry out § 673.53 (billing procedures), it may not use a collection firm that—

(1) Owns or controls the billing service;

(2) Is owned or controlled by the billing service; or

(3) Is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the billing service.

(f) (1) An institution that employs a third party to perform billing or collection services required under this subpart shall ensure that the party has and maintains in effect a fidelity bond or comparable insurance in accordance with the requirements of this paragraph.

(2) If the institution does not authorize the third party to deduct its fees from payments from borrowers, the institution shall ensure that the party is bonded or insured in an amount not less than the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party.

(3) If the institution authorizes the third party performing collection services to deduct its fees from payments from borrowers, the institution shall ensure that—

(i) If the amount of funds that the institution reasonably expects to be paid over a two-month period on accounts it refers to the party is less than $100,000, the party is bonded or insured in an amount equal to the lesser of—

(A) Ten times the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party; or

(B) The total amount of funds that the party demonstrates will be repaid over a two-month period on all accounts of any kind on which it performs billing and collection services; and

(ii) If the amount of funds that the institution reasonably expects to be repaid over a two-month period on accounts it refers to the party is more than $100,000, the institution shall ensure that the party has and maintains in effect a fidelity bond or comparable insurance— ution

(A) Naming the institution as beneficiary; and

(B) In an amount not less than the amount of funds reasonably expected to be repaid on accounts referred by the

institution to the party during a two-month period.

(4) The institution shall review annually the amount of repayments expected to be made on accounts it refers to a third party for billing or collection services, and shall ensure that the amount of the fidelity bond or insurance coverage maintained continues to meet the requirements of this paragraph.

(Authority: 20 U.S.C. 1087c)

§ 673.59 Bankruptcy of borrower.

(a) *General.* If an institution receives notice that a borrower has filed a petition for relief in bankruptcy, usually by receiving a notice of meeting of creditors, the institution and its agents shall immediately suspend any collection efforts outside the bankruptcy proceeding—

(1) Against the borrower; and

(2) If the borrower has filed for relief under chapter 12 or 13 of the Bankruptcy Code, against any endorser.

(b) *Proof of claim.* The institution shall file a proof of claim in the bankruptcy proceeding, unless, in the case of a proceeding under Chapter 7 of the Bankruptcy Code, the notice of meeting of creditors states that the borrower has no assets.

(c) *Borrower's request for determination of dischargeability.* (1) The institution shall follow the procedures in this paragraph if it is properly served with a complaint in a proceeding under chapter 7, 11, or 12 of the Bankruptcy Code, or under 11 U.S.C. 1328(b), for a determination of dischargeability under 11 U.S.C. 523(a)(8)(B) on on the ground that repayment of the loan would impose an undue hardship on the borrower and his or her dependents.

(2) If more than five years of the repayment period on the loan, excluding periods of deferment granted to the borrower, has passed before the borrowrer filed the petition for relief in bankruptcy, the institution may not oppose a determination of dischargeability requested under 11 U.S.C. 523(a)(8)(B) on the ground of undue hardship.

(3) If less than five years of the repayment period on the loan, excluding periods of deferment granted to the borrower, has passed before the borrower filed the petition for relief, the institution shall determine, on the basis of reasonably available information, whether repayment of the loan under either the current repayment schedule or any adjusted schedule authorized under § 673.44(b) would impose an undue hardship on the borrower and his or her dependents.

(4) If the institution concludes that repayment would not impose an undue hardship, the institution shall determine whether the costs reasonably expected to be incurred to oppose discharge will exceed one-third of the total amount owed on the loan, including all unpaid principal, interest, late charges, and collection costs.

(5) If the expected costs of opposing discharge of such a loan do not exceed one-third of the total amount owed on the loan, the institution shall—

(i) Oppose the borrower's request for a determination of dischargeability; and

(ii) If the borrower is in default on the loan, seek a judgment for the amount owed on the loan.

(6) In opposing a request for a determination of dischargeability, the institution may compromise a portion of the amount owed on the loan if it reasonably determines that the compromise is necessary in order to obtain a judgment for the institution on the loan.

(d) *Request for determination of non-dischargeability.* The institution may file a complaint for a determination that a loan obligation is not dischargeable and for judgment on the loan if the institution would have been required under paragraph (c) of this section to oppose a request for a determination of dischargeability with regard to that loan.

(e) *Chapter 13 repayment plan.* (1) The institution shall follow the procedures in this paragraph in response to a repayment plan proposed by a borrower who has filed for relief under chapter 13 of the Bankruptcy Code.

(2) The institution is not required to respond to a proposed repayment plan, if—

(i) The borrower proposes under the repayment plan to repay all principal, interest, late charges, and collection costs on the loan; or

(ii) The repayment plan makes no provision with regard either to the loan obligation or to general unsecured claims.

(3)(i) If the borrower proposes under the repayment plan to repay less than the total amount owed on the loan, the institution shall determine from its own records and court documents—

(A) The amount of the loan obligation dischargeable under the plan by deducting the total payments on the loan proposed under the plan from the total amount owed;

(B) Whether the plan or the classification of the loan obligation under the proposed plan meets the requirements of section 1325 of the Code; and

(C) Whether grounds exist under 11 U.S.C. 1307 to move for conversion or dismissal of the chapter 13 case.

(ii) If the institution determines that grounds exist to support these actions and reasonably expects that costs of the appropriate actions will not exceed one-third of the dischargeable loan debt, the institution shall—

(A) Object to confirmation of a proposed plan that does not meet the requirements of 11 U.S.C. 1325; and

(B) If grounds can be established under 11 U.S.C. 1307, either

(*1*) Move to dismiss the case, or

(*2*) If the loan entered repayment less than five years, excluding periods of deferment, before the petition for relief, move to convert the case.

(4)(i) The institution shall monitor the borrower's compliance with the requirements of the plan confirmed by the court. If the institution determines that the debtor has not made the payments required under the plan, or has filed a request for a "hardship discharge" under 11 U.S.C. 1328(b), the institution shall determine from its own records and information derived from documents filed with the court—

(A) Whether grounds exist under 11 U.S.C. 1307 to convert or dismiss the case; and

(B) Whether the borrower has demonstrated entitlement to the "hardship discharge" by meeting the requirements of 11 U.S.C. 1328(b).

(ii) If the institution determines that grounds exist to support these actions and reasonably expects that costs of the appropriate actions, when added to the costs already incurred in taking actions authorized under this section, will not exceed one-third of the dischargeable loan debt, the institution shall—

(A) (*1*) Move to dismiss the case, or

(*2*) If the loan entered repayment less than five years, excluding periods of deferment, before the petition for relief, move to convert the case; and

(B) Oppose the requested discharge where the debtor has not demonstrated that the requirements of 11 U.S.C. 1328(b) are met.

(f) *Resumption of collection from the borrower.* The institution shall resume billing and collection action prescribed in this subpart after—

(1) The borrower's petition for relief in bankruptcy has been dismissed;

(2) The borrower has received a discharge under 11 U.S.C. 727, 11 U.S.C. 1141, 11 U.S.C. 1228, or 11 U.S.C. 1328(b), unless—

(i) The court has found that repayment of the loan would impose an undue hardship on the borrower and the dependents of the borrower; or

(ii)(A) The loan entered the repayment period more than five years, excluding periods of deferment, before the filing of the petition, and

(B) The loan is not excepted from discharge under other applicable provisions of the Code; or

(3) The borrower has received a discharge under 11 U.S.C. 1328(a) after completion of a repayment plan which made no provisions with regard to either—

(i) The loan obligation; or

(ii) Unsecured claims in general.

(g) *Resumption of collection from the endorser.* The institution shall resume billing and collection action against an endorser of a borrower who has filed for relief under chapter 12 or 13 of the Code after the borrower's case has been completed or dismissed, or the stay applicable to such action has been lifted.

(h) *Termination of collection and write-off.* (1) An institution shall terminate all collection action and write off a loan on which there is no endorser if it receives—

(i) A general order of discharge under chapter 7, 11, or 12 of the Bankruptcy Code or a discharge order under 11 U.S.C. 1328(b) for a borrower owing a student loan obligation which entered the repayment period more than 5 years, excluding periods of deferment, before the date on which a petition for relief was filed;

(ii) A discharge order under chapter 13 of the Bankruptcy Code, except an order under 11 U.S.C. 1328(b) for a borrower owing a student loan obligation which entered the repayment period less than 5 years, excluding periods of deferment, before the filing of the petition of relief.

(iii) A judgment that repayment of the debt would constitute an undue hardship, and that the debt is therefore dischargeable.

(2) If an institution receives a repayment from a borrower after a loan has been discharged, it shall deposit that payment in its Fund.

(3) An institution may write off a loan on which there is an endorser only after it has exhausted the procedures in this subpart with regard to the endorser.

(Authority: 20 U.S.C. 1087c)

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Federal Register

Monday
November 6, 1989

Part V

Department of Labor

Employment and Training Administration

Federal-State Unemployment Compensation Program; Quality Control Annual Administrative Determination; Notice

DEPARTMENT OF LABOR

Federal-State Unemployment Compensation Program; Quality Control Annual Administrative Determination

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of opportunity to comment on options for federal administrative action resulting from the annual determination of the adequacy of State Quality Control programs.

SUMMARY: The final regulation to establish the permanent Quality Control (QC) program for the Unemployment Insurance (UI) program provides for an annual determination of the adequacy of administration of the State QC program. The regulation further provides in § 602.41 that the Secretary of Labor may require repayment of an expenditure for the operation of the QC program if it is found, after reasonable notice and opportunity for hearing to the State agency, that such expenditure is not necessary for the proper and efficient administration of the QC program in that State.

This notice sets forth proposed options for Administrative action in cases where State QC operations and expenditures for QC do not meet the criteria for proper and efficient administration of the program. The options set forth describe a basis for repayment or other administrative actions. Comments are requested on each of these options.

DATE: Written comments must be received by the close of business on December 6, 1989.

ADDRESS: Submit comments to Mary Ann Wyrsch, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S–4231, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Charles Atkinson, Director, Office of Quality Control, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S–4015, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 535–0220 (not a toll free number).

SUPPLEMENTARY INFORMATION:

A. Introduction

1. Description of the Benefits QC Program

The Unemployment Insurance Benefits Quality Control program became mandatory in all 52 State Employment Security Agencies (SESAs) on October 5, 1987 with the publication at 20 CFR Part 602 of the final regulation to establish a permanent Quality Control program for the Federal-State Unemployment Insurance system. This program examines paid claims only. It does not address denied claims or revenue functions at this time. Calendar year 1988 represented the first full year of operation of the mandatory program.

The QC program consists of a continuing comprehensive review of a statewide probability sample of UI payments to assess the accuracy of the State's payment process. Each week a sample of original intrastate payments made for a week of unemployment is randomly selected. The relevant population excludes supplemental payments, waiting weeks, interstate payments, and extended benefits.

An audit of the selected claims is conducted by State QC staff. The QC staff examines all aspects of a claimant's eligibility to receive unemployment compensation during the sampled week. The investigation includes, but is not limited to, verifications of wages used to establish monetary entitlements, the claimant's reason for being unemployed, and efforts to find work during the week. The findings are then numerically coded and entered into a microcomputer located in each State.

The data collected in accordance with these procedures enables the QC program to meet its primary objective of strengthening the controls that prevent errors and/or fraud and abuse in the payment of UI benefits. QC provides both Federal and SESA administrators with a management system for accurately measuring the rate of incorrect payments, the reasons for incorrect payments, and a basis for reducing incorrect payments in each State. Identification of specific types, causes, and responsibility for errors provides information about the effectiveness of State programs and the quality of their underlying policies, thereby serving as a basis to improve and strengthen program operations. QC data should lead State and national program managers to make significant program improvements resulting in dollar savings, and continuing benefit payment integrity.

One of the several consensus principles accepted by the Department, and embodied in the QC regulation (§ 602.43) is that the Department will use neither sanctions nor funding incentives to influence the States to take actions to achieve particular error rates. Instead, QC is to serve a public information function. The regulation, at § 602.21(g), requires that States release QC results at the same time each year using a standardized format. States released results of the QC program for CY 1988 to the public in June 1989 and the Department published a compendium of the releases in July.

2. The Secretary's Responsibilities

While the consensus principles as outlined in the regulation governing QC provide that no sanctions or funding incentives would be used to force the achievement of specified error rates under QC, the regulation provides for specific measures to be applied in cases where the States fail to adequately administer the QC program in accordance with required methods and procedures.

The QC Regulation requires the Department to take action when QC program operations are not consistent with Handbook No. 395 and the annual funding allocations.

Section 602.31, Oversight, of the QC Regulation (20 CFR part 602) requires the Department of Labor to annually review the adequacy of the administration of a State's QC program for purposes of determining eligibility for grants. The Department is committed to ensuring the integrity and utility of the data collected by the QC program so that it can properly serve its State management and Federal oversight functions. There is concern, therefore, when a State does not sample at a level that will provide sufficient data to conduct anaylsis and establish sufficiently precise estimates of error rates.

The Department has identified three areas of QC operations that are key to optimal program operation where failure to perform represents inadequacies in administration. These areas are: failure to sample at the allocated level for the year; failure to sample for a week(s) or sampling below the weekly allowable minimum; and failure to complete the required percentage of cases within the established case completion timeframes. These areas represent the measures used to ensure the key features of precision, coverage and timeliness. These three quantifiable areas were selected because the quality of investigation and therefore of the QC program can be essentially measured by these indicators. QC results need to be

accurate to properly guide State corrective actions and to insure that accurate data is being released to the public. It is for these three areas that the Department will determine whether repayment of QC administrative funds will be expected when standards for these areas are not met.

3. Statistical Basis for the QC Program

a. Precision of estimates of errors

Precision is the degree an estimate from a sample can be expected to deviate from the expected value (average) obtained from repeated samples. The larger the sample, the greater the precision. Thus, to estimate the rate of the payment error in a population with a sufficient degree of precision, States must sample and complete enough cases. Within its fiscal constraints, the Department has allocated via the Program Budget Plan sample sizes that are set at levels that will result in acceptably precise estimates of payment errors. States with larger UI case loads—where errors have larger dollar consequences—have been allocated larger sample sizes in order to obtain precise estimates of errors in subgroups of their more diverse populations. They are also allocated additional resources to enable these States to perform more extensive analyses.

b. Coverage

Coverage refers to the ability to make estimates for the entire population (52 weeks of UI payment decisions), and not just selected portions of the population. Thus QC procedures require that a minimum number of cases be sampled each week to ensure coverage of each week's (batch's) activity. Failure to sample for one or more weeks results in the inability of a State to draw inferences about a portion of the population. Loss of coverage will obscure seasonal and cyclical fluctuations in QC data and lessen its usefulness as a management tool.

c. Timeliness

The preceding categories are intended to ensure that samples reflect with adequate precision (i.e. small enough error due to the variability from one sample to another) the entire population of UI payments. Timeliness of case completion is necessary to minimize non-sampling error i.e., errors in the verification of QC cases. If too much time passes between the time a case is selected for review and the actual investigation, the information obtained may be of less quality than if it is gathered in a timely manner. The respondents (claimants, employers, and third parties) may have difficulty remembering where the work research was conducted, whether or not the claimant actually inquired about employment of an employer, et cetera. The current timelapse criterion of 95% case completion within 90 days is intended to give the investigator enough time to complete a thorough investigation but ensure it is done before respondents' recall weakens.

4. Statement of the Problem

Review of selection and timelapse performance data for CY 1988 indicates problems in some States in the key areas of precision, coverage and timeliness. Twenty eight SESAs did not meet the sample allocation for CY 1988 (precision). In addition, thirty-nine SESAs did not meet the 90-day case completion standard for CY 1988 (timeliness). The selection of the proper sample and timely investigation of the selected cases should lead to quality investigations. Failure to sample at the allocated level makes it difficult for a State to conduct analysis and establish error rates that are sufficiently precise to take the proper corrective actions. Failure to investigate cases in a timely manner casts doubt on the accuracy of the information gathered during the investigation.

B. Options for Administrative Actions

1. Options for Addressing Failure To Sample at the Required Level for the Calendar Year (Precision)

Discussion

Each year funding is provided to State Employment Security Agencies (SESAs) to investigate the number of cases assigned to them. The primary reason for sampling under the UI/QC program is for the purposes of: (1) Drawing inferences about the total caseload, and (2) utilizing the results from the weekly samples to develop corrective action plans that will eliminate errors in the total caseload.

Several factors that reflect a State's diversity and complexity were considered in determining State sample sizes, including measures of the population size (number of weeks compensated), measures of the potential population (covered employment), and geographic area. For example, the State of California is assigned 2000 cases while the State of Delaware is assigned 500 cases. The funding is predicated on the assumption that one investigator can complete approximately 100 cases in a one-year period (about two cases per week).

States are allocated sample sizes necessary to produce accurate error rates and to allow them to identify and remove special causes of variation in the system. States are also able to measure the effects of corrective actions through analysis of subsequent QC findings.

In calendar year 1988, 28 SESAs did not complete the number of cases assigned to them. One of the primary reasons for not meeting the required sampling levels was the difficulty encountered in hiring up to increased staff. This problem has been resolved and it should not recur in calendar year 1989 since the sample levels will not be increased.

Option No. I: Floor of 50 Cases—Flat Rate

Under this option, SESAs would be required to repay the Department at the rate of one full time position equivalent (FTE) for each 100 cases not sampled in the calendar year. However, the repayment requirement would not be instituted until the number of cases undersampled exceeded 50. The rationale for establishing this floor beyond which SESAs would not have to reimburse the Department is that a cutoff should be established in recognition of unforeseen administrative problems that could befall SESAs within a year.

Option No. II: Floor of Five Percent

Under this option, the SESAs would not be required to repay the Department until they reached a fixed percentage of cases not sampled. This would translate to a varying cutoff point for each SESA depending upon its assigned sample size. The rationale for establishing a floor of five percent is that the sample size varies so greatly that all SESAs should not be treated in the same manner. In practice, a State with a sampling level of 1500 cases would be subject to repayment when it reached 75 cases ($1500 \times .05 = 75$). In contrast, a State with a sampling level of 600 cases would be subject to repayment when it exceeded 30 cases ($600 \times .05 = 30$).

Option No. III: No Floor

Under this option, all SESAs would be required to repay the Department for any portion of their assigned allocation which they did not achieve. If a SESA undersampled by 50 cases, the SESA would have to reimburse the Department for one half of a FTE. The rationale for this option is that the SESA is receiving funding to accomplish the task. If the task is not completed, repayment would be required.

2. Options for Failure to Sample for a Week(s) (Coverage)

Discussion

The usefulness of the QC data is based upon two elements—precision and coverage. Precision is achieved by sampling the annual allocated number of cases and the weekly minimum number of cases. Coverage, however, is affected by the degree to which sampling is not conducted for a portion of the population. This is especially important in the UI program where seasonal aspects impact heavily on the data in a State. For example, using Random Audit (the forerunner of QC) data showed that dropping the data for one quarter from the annual error rate calculation in one State would lower the annual error rate by approximately 11.70 percent for dollars and 7.8 percent for weeks overpaid. This large change was due to the historically high error rates which were observed in that quarter.

The Department recognizes that some situations may occur which prevent the SESAs from being able to conduct a sample for a given week; however, that should be relatively rare. If, for example, a SESA's mainframe would be down for an entire week, it would be difficult or impossible to select a sample.

Option No. I: Proportional Assessment

Under this option, the SESA would be required to reimburse the Department based on its failure to investigate a sample for a week. The percentage assessment rate would be established at two percent of the annual grant for QC administration and would be applied to each of the weeks in which samples are not drawn for investigation. The rationale for this assessment is that two percent per week is a reasonably proportional amount of the entire grant.

Option No. II: Flat Rate Assessment

Under this option, the SESAs would be required to reimburse the Department a flat amount for each incidence of non sampling. An assessment would be made for each incidence. This option would address the issue that resources provided are not being utilized for the purpose provided. The proposed action seeks to encourage full funding utilization.

3. Options for Failure To Meet the 90-Day Timelapse Criterion for Case Completion

Discussion

Prompt completion of investigations is important to ensure the integrity and accuracy of the information being collected by questioning claimants and employers before the passage of time affects recollections. Associated data entry is necessary for the Department to maintain a current data base and to monitor SESA performance. Therefore the Department has established time limits for the completion of all cases for the year. At present a minimum of 95 percent of cases assigned for the year must be completed within 90 days of the ending date of the calendar year. Due to questions raised about the ability of the SESAs to achieve this level, the Department has undertaken a study to determine if cases can be administratively controlled by a SESA to meet the 95% criterion. The results of the review may affect the current criterion.

The Department has acknowledged that there may be situations which are beyond the control of the SESA and where good cause exists for not achieving the required criterion. These situations will be reviewed on a case-by-case basis by the Department. If an agency has managed cases so investigations are promptly carried out they will be judged to fall within the criterion.

Option No. I: Percentage Assessment Based on Allocation

Under this option, the percentage of cases assigned that were completed within 90 days will be subtracted from the 90-day case completion standard and the result converted into the number of cases the resulting percentage represents of the annual allocation. States would be required to repay one FTE for each 100 cases not completed within 90 days. Based on the current case completion criteria, a State with an allocation of 1000 cases that completed 75 percent of assigned cases within 90 days would have to repay two FTEs. Completion of 90 percent of the cases would require repayment of .5 FTEs. There would be no repayment if the amount would be less than .5 FTEs.

Option No. II: Percentage Assessment Based on Cases Investigated

Under this option, the percentage of cases not completed within the case completion criteria would be computed using the actual number of cases assigned (sampled) rather than the annual allocation. Thus for a State which only investigated 800 out of an allocated 1000 cases and completed 75% within 90 days, the repayment would be 1.6 FTEs (95% minus 75% times 800). Otherwise the assessment would be applied in the same manner.

C. Applicability to Data for Calendar Years 1988 and 1989

The Department has no plans to apply administrative measures to the data for Calendar Years 1988 or 1989. This notice is intended to solicit comments on possible administrative measures and related issues.

D. Additional Questions for Comment

1. Exceptions

Are there any exceptions to the above options that should be allowed? If so what are they and why should they be allowed? What items are beyond the control of the SESA and which fall within the control of the SESA?

2. Administrative Relevance

At what level(s) do the administrative measures suggested serve as a deterrence to unacceptable levels of performance? Are the levels suggested in the options appropriate? If not, what are appropriate levels?

3. Administrative Process

How should the Department proceed with the assessments? How can disagreements on factual information be best resolved? Should there be informal discussions of the data to ensure accuracy before the assessment is recommended?

4. Timeliness of Investigations

At what point does a late case equal a case not investigated? What is the erosion of case quality in relation to timelapse? What is the optimal definition of a closed case? (Supervisor sign-off, investigation completed, other)

5. Overlap of Administrative Measures

Should the three areas identified for review be looked at independently or should they be combined? If they should be combined, how could this be accomplished?

6. Other Administrative Measures

Are there other measures which would be more appropriate for ensuring that the work is carried out in a manner to achieve the three objectives of precision, coverage, and timeliness? Should other objectives be substituted for the proposed items? If so, what are they and why are they more important in ensuring that the data produced by the QC program can be used by management to make valid conclusions?

Signed at Washington, DC, on October 30, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 89-26115 Filed 11-3-89; 8:45 am]

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federal register

Monday
November 6, 1989

Part VI

Department of Labor

Employment and Training Administration

20 CFR Part 602

Federal State Unemployment Insurance Program; Revenue Quality Control Design Issues; Notice and Opportunity To Comment

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 602

Federal State Unemployment Insurance Program: Revenue Quality Control Design Issues

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice and opportunity to comment on status and procedural directions of Quality Control program for State unemployment insurance revenue operations (Revenue Quality Control).

SUMMARY: The Employment and Training Administration wishes to inform interested parties of current developments in the design of and procedures for a Quality Control program for State unemployment insurance (UI) revenue operations. The program, called Revenue Quality Control (RQC), is intended to assist State managers in efforts to improve their UI programs by providing them with objective information on the quality of existing UI revenue collection operations. RQC will be used to help carry out the Secretary of Labor's responsibilities to oversee the Federal-State unemployment compensation program. A previous notice, issued December 23, 1988 (53 FR 52108), solicited comment on basic design issues. This notice discusses some preliminary directions based on those comments.

DATE: Comments must be received in the Department of Labor by the close of business on January 5, 1990.

ADDRESS: Submit comments to Mary Ann Wyrsch, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Janet Sten, Director, Revenue Quality Control Work Group, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4015, Washington, DC 20210. Telephone (202) 535–0634 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION

A. Background

On December 23, 1988, the Department of Labor (the Department) published a Notice (53 FR 52108) announcing the development of a quality control program for UI tax operations, called RQC. The Notice requested comments on basic design issues regarding the nature and scope of the proposed RQC program. Twenty-eight responses to the notice were received; 23 were from State employment security agencies (SESAs).

The December 23, 1988, Federal Register notice stated that the Department would use the initial comments in preparing design specifications for the RQC program, and solicit additional comments on more specific design issues through subsequent notices. This Notice is to inform interested parties of the outcomes of the first comment process and indicate the directions of the RQC program. It is intended to provide project status information and to solicit comments on the contents of section C of this Notice, the RQC Design Approach. Section C defines tax program quality and identifies the objectives to which measures of performance (indicators) must relate.

B. Major Design Directions

The Department proposes to take the following major design directions, all of which had strong support in the responses to the first Notice:

(1) *Meaning of Quality.* Quality in UI tax operations encompasses accuracy, timeliness, and completeness. Completeness pertains only to certain operations, such as collections and status determinations. Although timeliness and accuracy are often traded off against one another, they can be directly related: failure to complete an operation (e.g., registering an employer) in a timely manner can adversely affect "downstream" processes (e.g., issuing forms and instructions to obtain quarterly reports and contributions).

(2) *Classification.* Tax operations will be broken down into the following functions for purposes of RQC: Status Determination; Cashiering; Report Delinquency; Collections; Field Audit; and Account Maintenance. Blocked Claims, suggested as a possible functional category in the December 23, 1988, Notice, will not be a focus of RQC. Although Blocked Claims are a major workload item for Field Operations staff, from a performance standpoint they actually reflect any one of several problems, each of which is best assessed by adequate indicators tracking the timeliness and accuracy of wage and contributions data.

(3) *RQC Indicators (Measures).* (a) RQC will focus on measuring the quality of various tax collection functions. This will usually be done by examining directly the end-products (outcomes) of those functions. However, for some functions, it may be as effective and more efficient to review also some processes as part of the assessment. (E.g., assessment may consist of reviewing internal controls followed by investigation of a small sample of output transactions).

(b) All indicators will be function-specific. RQC does not envision as an end product a single overall "error rate" that aggregates all internal and external influences on State tax performance. Instead, it will provide indicators enabling State managers to track performance of separate functions, which are more likely to lead to program improvements. Accuracy measures will be designed to indicate exception rates by function.

(c) RQC will produce an overall indicator of the impact on UI contributions of employers' departures from full compliance with State UI tax laws governing reporting and payment. RQC may also develop information on how much inaccuracy of employer reporting of covered employment and wages, and delinquencies in payments contribute to the overall impact.

(4) *State vs. Federal Roles.* The Federal government will design the program with the input of State agencies, employers, labor representatives, and other organizations with an interest in the UI program. The State agencies will operate RQC; the Federal government will be responsible for monitoring/validating the data gathered by the SESAs. Many State responses to the December 23, 1988, Notice stressed that RQC should be designed to involve less Federal monitoring than benefits QC; care will be taken in the type and level of Federal monitoring proposed for RQC.

(5) *Standard Methodology.* Initially, RQC intends to require standard methodology for gathering and evaluating all measures.

RQC's development is also being guided by the following premises stated in the December 23, 1988, Notice, and general comments on that Notice:

(6) *Scope.* Through the RQC program, assessment and technical assistance will cover all tax functions except cash management (this is being handled through a separate UIS cash management Initiative). Development of the cash management assessment program will be fully coordinated with RQC, however. The cash management indicators will be incorporated into the RQC program design and into the Performance Measurement Review.

(a) It is intended that RQC's assessment of UI tax operations will be

limited to the quality of State operations. RQC will not attempt to measure the influences of changes in economic environment, tax rates, etc., on overall tax program performance.

(b) SESAs are responsible for promoting and facilitating voluntary compliance among subject employers. RQC intends to assess the level of registered employers' compliance in reporting covered wages and making payments. Information about the extent of employer compliance in reporting covered wages will not be used to judge SESAs' effectiveness, but rather to help them focus compliance-related efforts (e.g., targeting their tax audits and employer education efforts).

(c) The primary focus of RQC is to develop indicators (i.e., measures of the timeliness, accuracy, etc., with which particular functions were accomplished) which will assist UI tax managers in program evaluation and improvements. The assessment indicators developed by RQC will be phased in through the Performance Measurement Review project to replace the tax-related indicators now reported through the Quality Appraisal system to serve Federal oversight needs.

(7) *Resources.* RQC will operate in an environment in which resources devoted to all UI QC programs are expected to remain unchanged. However, the Department is committed to ensuring that the RQC program, as designed and mandated, will be adequately funded. This necessitates an economical design for the RQC program. As presently envisioned, one way this will be fostered is to make the fullest possible use of outputs from continuing State operations and machine-gathered counts as inputs for RQC assessment. Where such cannot be used, and special data gathering is deemed essential, every effort will be made to avoid high-frequency sampling and investigation. For example, efforts are being made to develop an approach which focuses on the existence of internal controls, thereby reducing sample sizes significantly. To the extent that additional resources are needed for RQC, they will be obtained by shifting resources from other data-gathering efforts in UI. A primary source of resources for RQC is expected shrinkage in Benefits QC staff needs due to anticipated savings from alternative approaches (e.g., telephone instead of in-person investigations).

(8) *Assessment of Audit Function.* Many comments on the December 23, 1988, Notice expressed the concern that RQC's means of assessing the quality of field audits might be to reaudit a sample of employers who had already been audited by a SESA. This, they felt, would be extremely burdensome on employers. In view of this burden, and the belief that workable alternatives to such an approach can be developed, a decision has been made that RQC will not assess the field audit (Field Operations) function by reauditing employers.

(9) *Program Improvements.* RQC will emphasize sharing information and providing technical assistance about "systems of quality" which contribute to quality UI tax programs.

C. The RQC Design Approach

Every attempt is being made to design the RQC program systematically. The basic approach is as follows: Focus on the UI tax program's mission; develop objectives that support the mission; devise alternative indicators which measure attainment of each objective; evaluate alternative indicators against various suitability criteria; and devise ways of collecting the indicators which are as economical as possible. This approach is grounded in the notion that quality means fulfilling the mission of an organization by accomplishing its objectives. If a SESA tax operation accomplishes its critical functions timely, accurately and completely, it can be termed a "quality" operation.

The following statements of tax program mission and objectives are proposed as the basis for RQC. Comments are sought on these statements and other design guidance contained in this section of the notice.

(1) *SESA Tax Mission.* The mission (or purpose) is the special task or function for which an organization exists; it must be the basis around which notions of quality, assessment and improvement are formed. For UI tax operations, it is to obtain and process contributions and employee wage information timely, accurately and completely.

(2) *SESA Program Objectives.* As noted earlier, tax operations are categorized into various supporting functions. For each function, RQC will develop objectives which support achievement of the mission. Briefly, these are as follows:

(a) *Status Determination:* Achieve timely and accurate identification and registration of employers by (i) taking all reasonable actions to identify subject employers; (ii) determining employer status timely and accurately and (iii) recording employer status information accurately.

(b) *Cashiering:* Achieve prompt and accurate processing of employer remittances for deposit by (i) depositing all remittances promptly and (ii) processing all remittances accurately.

(c) *Report Delinquency:* Promote employer compliance with SESA reporting requirements by taking reasonable steps to obtain delinquent reports: (i) reduce the number of employers delinquent in submitting quarterly wage and contributions reports to an acceptable level and (ii) secure delinquent reports within an acceptable time period.

(d) *Collections:* Promote compliance with contribution requirements by achieving timely collection of all receivables: (i) issue employer billings timely and accurately; (ii) collect employer account receivables timely; and (iii) suspend uncollectible account receivables timely and accurately.

(e) *Field Audit:* Promote and verify employer compliance with State UI laws, regulations, and policies by (i) determining the level of employer compliance and type and cause of noncompliance; (ii) targeting audit selection at non-compliance; (iii) ensuring that Field Audits are of adequate quality; and (iv) maintaining an acceptable level of audit production.

(f) *Account Maintenance:* Establish and maintain accounts accurately and timely by (i) maintaining accuracy in quarterly contribution accounting; (ii) maintaining accuracy and timeliness in wage records; (iii) maintaining accuracy in benefit charging; and (iv) maintaining accuracy in employer experience rating.

(3) *Indicators to Measure Achievement of Objectives.* The very fact that an activity is measured tends to cause SESAs to emphasize that action. Items selected for measurement must have a clear and demonstrable relationship to the achievement of program objectives and thus to the overall mission of the UI program. Failure to identify program objectives correctly, or the selection of the wrong items for measurement, can force SESA's to use scarce resources to do things or correct "problems" that have no real impact on the true quality of the UI program. Proposed indicators having the desired characteristics are being developed now.

(4) *Evaluation of Potential Indicators.* As discussed in section B(1) above, RQC will develop measures for up to three dimensions of quality for each function: accuracy; timeliness; and completeness. Whether a measure is warranted, and the choice of specific measures, will be determined by applying three criteria: (a) Materiality, (b) Cost Effectiveness, and (c) Legal Compliance. (a) *Materiality* refers to whether the dimension is significant with respect to

the function: does it make a significant difference in achieving the SESA tax program mission? (b) *Cost Effectiveness:* how is the cost of gathering the information related to the gain it brings to improved program administration? (c) *Compliance:* Does Federal/State law require that a given dimension of quality of performance be measured, and does the indicator in question really measure whether or not a State is complying with the law?

(5) *Economical Data Collection Approaches.* RQC is attempting to develop data collection approaches which provide adequate information for State management and Federal oversight purposes, and are appropriate to each indicator and function being assessed. Where possible, use of machine counts of outputs from program operations collected via regular reports with data validation is preferred. Alternatives are investigation of a sample or a review of internal controls combined with investigation of a small sample or (e.g., for reviewing field audit quality) use of a quality checklist.

D. Ensuring Broad and Effective Participation in the Revenue QC Design

Four different approaches are being used to ensure that RQC receives all relevant technical and organizational perspectives during the design period. They are:

(1) *Continuing In-person Dialogues.* Visits to various SESAs and briefings of national public interest groups have helped shape the RQC design and been a major means of keeping groups aware of its status. Dialogues have continued at national and regional conferences.

(2) *State Specialists on the RQC Workgroup.* The following State experts, working under Intergovernmental Personnel Act details, help staff the RQC workgroup: James Alexander (Utah); Betty Castillo (New Mexico); Gail Eulenstein (Alabama); Nick Guarriello (Oregon); and Gerald Smart (Texas).

(3) *Reality Testing With Expert Panels.* Two panels of experts regularly review RQC goals and progress. A panel of DOL regional tax specialists is consulted approximately every 3 months. They represent each of the 10 DOL regions, as follows: Region I, Paul Raiche; Region II, Pat Rowe; Region III, Leo Bull; Region IV, Connie Carter; Region V, Bill Browne; Region VI, Pat Silva; Region VII, Steve Weigel; Region VIII, Bill Mannion; Region IX, John Humphrey; and Region X, Larry Heasty.

In addition, a panel of senior-level State UI tax experts is consulted on technical questions by Abt Associates, Inc., the RQC task force's technical consultant. The State experts are: John Mezzio, UI Director, Connecticut; Tom Malone, Director of UI Tax Liability and Field Audit, New York; Jim Oxenburg, Tax Chief, District of Columbia; Rett Hensley, Deputy Chief (Tax Enforcement), Florida; Fred Siegenthaler, Tax Director, Wisconsin; Dave Murrie, Deputy Administrator, Oklahoma; Richard Hobold, Chief of Employer Contributions, Missouri; Michael Buske, Labor Program Administrator (Tax), South Dakota; Karl Grossenbacher, Deputy Agency Director (Tax), California; and Kurt Malizio, Chief of Tax, Washington.

(4) **Federal Register** Notices. This is the second in a continuing series of Notices. The next, containing proposed measures of performance and data collection techniques, will be issued this coming winter. That Notice will reflect the input of the DOL Regional Advisory Panel and the panel of State UI tax experts.

E. Comments

The preceding material is presented for the general information of those interested in the nature and progress of the RQC program design. Comments on any and all of this material are welcomed, and, as with the preceding Notice, will help shape the directions followed by the RQC task force.

Signed at Washington, DC, on October 31, 1989.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 89-26114 Filed 11-3-89; 8:45 am]

BILLING CODE 4510-30-M

federal register

Monday
November 6, 1989

Part VII

Department of Defense

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for Proposed Water Supply Improvement Project, California; Notices

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Water Supply Improvement Project, Regulatory Permit Application No. 17194E76, Alameda, Contra Costa, Sacramento, Solano, San Joaquin, Amador, Calaveras, Alpine, and Yolo Counties, CA.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY:

1. Proposed Action

East Bay Municipal Utility District (EBMUD), Oakland, California has applied for a Department of the Army permit under section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) and under section 404 of the Clean Water Act (33 U.S.C. 1344) to construct water supply improvements including Buckhorn Dam, Folsom South Canal Connection, and levee and foundation improvements.

Buckhorn dam would be an embankment approximately 370 feet high with a crest length of approximately 1,600 feet, constructed on the Buckhorn/Kaiser Creeks arm of the Upper San Leandro Reservoir. When full, the water surface area would be approximately 1,124 acres. A pipeline, tunnels, and a pumping plant would connect the Reservoir outlet to the EBMUD water supply system in Moraga.

The Folsom South Canal Connection would provide a supplemental water supply of up to 150,000 acre-feet per year from the American River, by construction of a pipeline connection between EBMUD's turnout on the Folsom South Canal and the existing Mokelumne Aqueducts.

EBMUD also plans to make a number of levee reinforcements. Levee reinforcements would minimize the risk of levee failure at the river crossings and the potential for damage to the aqueducts from scour. The levees would be reinforced on either side of the aqueducts and on each levee at the aqueduct river crossings. Locations of levee reinforcement include crossings at San Joaquin River, Trapper Slough, Middle River, Old River, and Indian Slough. This would also include field testing and preliminary design of possible pile support systems and an emergency pipeline across the Delta.

The San Francisco District, Corps of Engineers and EBMUD will prepare a joint federal/state environmental impact document (Environmental Impact Report/Environmental Impact Statement (EIR/EIS)) for the proposed project pursuant to the National Environmental Policy Act and the California Environmental Quality Act.

2. Alternatives

The alternatives being considered by the EBMUD at this time fall into the following categories:

a. No Action (permit denial)
b. Water Conservation
c. Water Reclamation
d. New Aqueduct across the Delta
e. New Reservoirs—Terminal Storage Projects
f. Interties with Other Agencies
g. Watershed Management
h. Water Exchange

Additional alternatives identified during the scoping process would also be considered in the EIR/EIS.

3. Scoping Process

a. Scoping meetings will be held in Sacramento and in Oakland. The scoping meeting in Oakland will be held on Wednesday, December 6, 1989 at Kaiser Center–2nd Floor Auditorium, 300 Lakeside Drive, Oakland, California, from 7 p.m. to midnight. Two scoping meetings will be held in Sacramento at the Clarion Hotel, Terrace Room, Main Floor, 700 16th Street, Sacramento. The meetings will be held at 1:00–5:00 p.m. (for agencies) and 7:00 p.m. to midnight (for the general public).

Public and private interest groups, and the public are invited to participate in the scoping process by attending the evening scoping meetings. The purpose of the scoping meetings is to identify significant issues and alternatives to be considered in the EIR/EIS.

Any person may also participate in the scoping process by submitting written comments to the Corps of Engineers. Comments should be addressed to the District Engineer, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California, 94105–1905 and received within 30 days of the date of this notice.

b. The significant issues which have been identified to date and which would be analyzed in the EIR/EIS include impacts on:

(1) Water quality and Hydrology
(2) Air quality
(3) Noise conditions
(4) Wildlife and habitat
(5) Aesthetics
(6) Recreation and Land Use
(7) Geology & Soils
(8) Cultural Resources
(9) Transportation and Utilities
(10) Public Health & Safety
(11) Growth Inducement

Additional significant issues identified during the scoping process would also be analyzed in the EIR/EIS.

c. Environmental review and consultation as required by Sections 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 AND 1344); Section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); Executive Order 11988, "Floodplain Management", 24 May 1977; Executive Order 11990, "Protection of Wetlands", 24 May 1977; and other applicable statutes or regulations will be conducted concurrently with the EIR/EIS process.

Dated: 27 October 1989.

Jack E. Farless,

Deputy District Engineer, Project Manager.

[FR Doc. 89–25799 Filed 11–3–89; 8:45 am]

BILLING CODE 3710–FS–M

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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.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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4	15.00	Jan. 1, 1989
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CFR Index and Findings Aids	29.00	Jan. 1, 1989
Complete 1989 CFR set	620.00	1989
Microfiche CFR Edition:		
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[4] 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.

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