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Tuesday
August 27, 1985

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Child Support Enforcement Office
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Selected Subjects

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CFR PARTS AFFECTED IN THIS ISSUE

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Rules and Regulations

Federal Register
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Tuesday, August 27, 1985

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Collection of Debts Due the Civil Service Retirement and Disability Fund

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management is publishing final regulations on the collection of debts due the Civil Service Retirement and Disability Fund (retirement fund). These regulations include changes made by Pub. L. 97–365, the Debt Collection Act of 1982 (DCA), enacted October 25, 1982. They also include the revisions made in the Federal Claims Collection Standards (FCCS) published jointly by the Department of Justice and the General Accounting Office on March 9, 1984 (49 FR 8889). The DCA requires an agency to prescribe regulations for the offset of debts from salary, and the FCCS require an agency to prescribe regulations for the administrative offset of debts from other payments.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Patricia A. Rochester, (202) 632–4634.

SUPPLEMENTARY INFORMATION: On November 19, 1984, we proposed regulations at 49 FR 45588 to revise Subpart M and delete Subpart P of Part 831, Title 5, Code of Federal Regulations, to reflect the concepts and procedures authorized in the DCA and the FCCS for debts owed to the retirement fund. Interested parties were given until December 19, 1984, to submit written comments concerning this proposal.

We received comments from three Federal agencies and three labor organizations. The following discussion is a summary of the changes to the proposed regulations based on our perception of items that needed clarification and based on comments received on the proposed regulations. An evaluation of comments that were not adopted and the rationale for our action is included under the appropriate subject headings.

Statute of Limitations

In preparing the final regulations, we discovered that the information necessary to extend the statute of limitations for administrative offsets from six to ten years as authorized by 31 U.S.C. 3716 had been inadvertently omitted from the proposed regulations. The necessary material has been included in 5 CFR 831.1306.

Notice of Debt

One agency recommended including, in the notice of debt, the standards to be used by our agency to evaluate requests for compromise. We accepted this recommendation and have, therefore, added the term "and compromise" to § 831.1304(a)(7).

Referral to a Collection Agency

Another commenter recommended that the criteria for referring a debt to a collection agency be described in the regulations. Since the specific details of these referrals will be covered by contract, we are adding a general reference to the use of collection agencies in a new § 831.1308 and former § 831.1308 is renumbered as § 831.1309.

Collections from Back Pay Awards

The supplementary information to the proposed regulations stated that an "alternative collection method" should be used to collect the balance of the debt when a back pay award is insufficient to cover payments made from the retirement fund. One commenter felt that the "alternative collection method" should be defined. Because this term is not used in the regulatory text, we decline to adopt the suggestion. The term refers, however, to any other authorized method of collection, such as salary offset, referral to a collection agency, or litigation.

Interest, Penalties, and Administrative Costs

One commenter felt that because we propose to charge interest, and where applicable, penalties or administrative charges on debts owed to the retirement fund, provisions should also be made to pay the debtor interest on penalties when amounts received by our agency are later found to have been collected erroneously. The Debt Collection Act of 1982 requires the assessment of interest, and of penalty fees, and administrative costs on delinquent debts as a means of strengthening enforcement of collections. No similar provision was made to pay interest or penalty fees to the debtor for erroneous collections. We are not authorized to make such payments in the absence of a specific statute or other authority.

One labor organization felt that it is inequitable to assess interest and penalty fees or administrative costs in situations when the individual was not at fault and financial hardship is involved. It suggested that the regulations do not distinguish between overpayments when the recipient is not at fault and those when the recipient has committed an act of fraud or misrepresentation that caused the overpayment.

We do not plan to make any changes in the regulations based on this comment. Individuals who can show they are not at fault and that collection would cause them financial hardship are entitled to have the collection of the debt waived. Under these circumstances, no interest or penalties would ever be assessed.

The assessment of interest and applicable penalties or administrative costs is intended to apply to those cases when the overpayment recipient is financially capable of repayment. Section 831.1305(b) of the final regulations provides for waiver of any additional charges using the same standards prescribed in §§ 831.1404 and 831.1405. Section 831.1406 specifically precludes waiver when the overpayment was obtained by fraud.

Debtor Rights to Waiver or Adjustment in Payment Schedule

One commenter from a labor organization suggested that our proposed regulations should fully inform overpayment recipients of their rights to a waiver or an adjustment in the manner of payment by quoting 5 CFR 831.1401, since the majority of annuitants do not have access to Federal regulations.

We did not adopt this suggestion. The information is currently provided to each debtor along with the notice of

debt, so the debtor does not need to have access to Federal regulations.

Limitation on Amount of Collection From Salary and Back Pay Awards

Another commenter from a labor organization suggested that recoupment of an overpayment from an employee's current pay and back pay awards should be limited to 20 percent and 40 percent respectively.

Section 831.1306(b)(2) states that we may collect a debt due the retirement fund from an employee's salary under 5 U.S.C. 5514. Section 5514 already limits the amount of the salary offset to 15 percent of disposable pay.

Deductions from back pay awarded under 5 U.S.C. 5596 are governed by § 550.805(e) of Title 5, Code of Federal Regulations. This section requires deduction of any erroneous retirement payments made as a result of an unjustified or unwarranted personnel action from the back pay award. There is no provision for a partial deduction, if the erroneous payment can be recovered in its entirety. However, any net indebtedness remaining after applying the back pay is subject to waiver under the appropriate authority. The proposed regulations made no change in the back pay regulations but simply listed this provision as one available form of administrative offset for debts due the retirement fund.

Offset From Other Payments

One commenter expressed concern that the provisions of § 831.1306(b) allowing for offset of retirement debts from other payments due the debtor from other agencies would unduly delay an employee's retirement when he or she had received an earlier refund from the retirement fund. However, a refund, unless it was erroneous, is not a debt due the retirement fund as defined in the regulations. Rather, the employee has the option to choose whether or not to pay back a prior refund to obtain credit for the applicable period of service. Administrative offset would not be appropriate in such a case.

Hearings

The proposed regulations eliminated the oral waiver hearing by us because the Merit Systems Protection Board's (MSPB) regulations provide for an oral hearing upon appeal. One labor organization suggested that our regulations should continue to allow us to provide an oral hearing. The organization felt that our oral waiver hearing would be different from an MSPB oral hearing, which it viewed as more "adversarial" in nature.

We decline to adopt the changes suggested in this comment. MSPB has held that its proceedings at the regional office level are *de novo* proceedings. An oral waiver hearing before MSPB would provide the same medium for submission of testimony, documents, and evidence by each side as an oral waiver hearing before us. Furthermore, the distinction between the nature of our oral waiver hearing and MSPB's oral waiver hearing overlooks the fact that we are the claimant of the debt—not a disinterested party. To call our hearing entirely "non-adversarial" is therefore inaccurate.

The same labor organization also suggested that our waiver hearing should be conducted by an official outside the supervision and control of our Director and that our role in such a proceeding should be limited to consideration of a proposed decision of the independent hearing officer.

In *Arnett* v. *Kennedy*, 416 U.S. 134, 155–156 (1974), the court held that the combination of the collection, hearing, and decision-making functions within one agency is perfectly valid. However, the amended regulations would permit swift oral hearings and final adjudication of the debtor's waiver claim by a body—MSPB—totally independent of our control.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations are on administrative practices that will affect only the Federal Government.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Loretta Cornelius,

Acting Director.

Accordingly, OPM amends 5 CFR Part 831 as follows:

PART 831—RETIREMENT

1. The authority for Part 831 continues to read as follows:

Authority: 5 U.S.C. 8347(a).

2. Paragraph (b)(2) of § 831.109 is revised to read as follows:

§ 831.109 Initial decision and reconsideration.

* * * * *

(b) *Actions covered elsewhere.*

* * * * *

(2) A request for reconsideration of a decision to collect a debt will be made in accordance with § 831.1304(b).

* * * * *

3. Subpart M is revised to read as follows:

Subpart M—Collection of Debts

Sec.

Authority: 5 U.S.C. 8347(a).

Subpart M—Collection of Debts

§ 831.1301 Purpose.

This subpart prescribes procedures to be followed by the Office of Personnel Management (OPM), which are consistent with the Federal Claims Collection Standards (FCCS) (Chapter II of Title 4, Code of Federal Regulations), in the collection of debts owed to the Civil Service Retirement and Disability Fund.

§ 831.1302 Scope.

This subpart covers the collection of debts due the Civil Service Retirement and Disability Fund, with the exception of the collection of court-imposed judgments, amounts referred to the Department of Justice because of fraud, and amounts collected from back pay awards in accordance with § 550.805(e)(2) of this chapter.

§ 831.1303 Definitions.

In this subpart—

"Additional charges" means interest, penalties, and/or administrative costs owed on a debt.

"Annuitant" means a retired employee or Member of Congress, spouse, widower, or child receiving recurring benefits under the provisions of subchapter III, chapter 83, of title 5, United States Code.

"Compromise" is an adjustment of the total amount of the debt to be collected based upon the considerations established by the FCCS (4 CFR Part 103).

"Consumer reporting agency" has the same meaning provided in 31 U.S.C. 3701(a)(3).

"Debt" means a payment of benefits to an individual in the absence of entitlement or in excess of the amount to which an individual is properly entitled.

"Delinquent" has the same meaning provided in 4 CFR 101.2(b).

"FCCS" means the Federal Claims Collection Standards (Chapter II of Title 4, Code of Federal Regulations).

"Offset" means to withhold the amount of a debt, or a portion of that amount, from one or more payments due the debtor. Offset also means the amount withheld in this manner.

"Reconsideration" means the process of reexamining an individual's liability for a debt based on—

(1) Proper application of law and regulation; and

(2) Correctness of the mathematical computation.

"Repayment schedule" means the amount of each payment and number of payments to be made to liquidate the debt as determined by OPM.

"Retirement fund" means the Civil Service Retirement and Disability Fund.

"Voluntary repayment agreement" means an alternative to offset that is agreed to by OPM and includes a repayment schedule.

"Waiver" is a decision not to recover a debt under authority of 5 U.S.C. 8346(b).

§ 831.1304 Processing.

(a) *Notice.* Except as provided in § 831.1305, OPM will, before starting collection, tell the debtor in writing—

(1) The reason for and the amount of the debt;

(2) The date on which the full payment is due;

(3) OPM's policy on interest, penalties, and administrative charges;

(4) If payment in full would create financial hardship to the debtor and offset is available, the types of payment(s) to be offset, the repayment schedule, the right to request an adjustment in the repayment schedule and the right to request a voluntary repayment agreement in lieu of offset;

(5) The individual's right to inspect and/or receive a copy of the Government's records relating to the debt;

(6) The method and time period (30 calendar days) for requesting reconsideration, waiver, and/or compromise and, in the case of offset, an adjustment to the repayment schedule;

(7) The standards, used by OPM for determining entitlement to waiver and compromise;

(8) The right to a hearing by the Merit Systems Protection Board on a waiver request (if OPM's waiver decision finds the individual liable) in accordance with paragraph (c)(2) of this section; and

(9) The fact that a timely filing of a request for reconsideration, waiver and/or compromise, or a later timely appeal of a waiver denial to the Merit Systems Protection Board, will stop collection proceedings, unless (i) failure to take the offset would substantially prejudice the Government's ability to collect the debt; and (ii) the time before the payment is to be made does not reasonably permit the completion of these procedures.

(b) *Requests for reconsideration, waiver, and/or compromise.* (1) If a request for reconsideration, waiver and/or compromise is returned to us by mail, it must be postmarked within 30 calendar days of the date of the notice detailed in paragraph (a) of this section. If a request for reconsideration, waiver, and/or compromise is hand delivered, it must be received within 30 calendar days of the date of the notice detailed in paragraph (a) of this section. OPM may extend the 30 day time limit for filing when individuals can prove that they: (i) Were not notified of the time limit and were not otherwise aware of it; or (ii) were prevented by circumstances beyond their control from making the request within the time limit.

(2) When a request for reconsideration, waiver, and/or compromise covered by this paragarph is properly filed before the death of the debtor, it will be processed to completion unless the relief sought is nullified by the debtor's death.

(3) Individuals requesting reconsideration, waiver, and/or compromise will be given a full opportunity to present any pertinent information and documentation supporting their position.

(4) An individual's request for waiver will be evaluated on the basis of the standards set forth in Subpart N of this part. An individual's request for compromise will be evaluated on the basis of standards set forth in the FCCS (4 CFR Part 103).

(c) *Reconsideration, waiver, and/or compromise decisions.* (1) OPM's decision will be based upon the individual's written submissions, evidence of record, and other pertinent available information.

(2) After consideration of all pertinent information, a written decision will be issued. The decision will state the extent of the individual's liability, and, for waiver and compromise requests, whether the debt will be waived or compromised. If the individual is determined to be liable for all or a portion of the debt, the decision will reaffirm or modify the conditions for the collection previously proposed under paragraph (a) of this section. The decision will state the individual's right to appeal to the Merit Systems Protection Board as provided by § 1201.3 of this title, and, in the case of a denial of waiver, that a timely appeal will stop collection of the debt.

§ 831.1305 Collection of debts.

(a) *Means of collection.* Collection of a debt may be made by means of offset under § 831.1306, or under any statutory provision providing for offset of money due the debtor from the Federal Government, or by referral to the Justice Department for litigation, as provided in § 831.1306. Referral may also be made to a collection agency under the provisions of the FCCS.

(b) *Additional charges.* Interest, penalties, and administrative costs will be assessed on the debt in accordance with standards established in the FCCS at 4 CFR 102.13. Additional charges will be waived when required by the FCCS. In addition, such charges may be waived when OPM determines—

(1) Collection would be against equity and good conscience under the standards prescribed in §§ 831.1403 through 831.1405 of this part; or

(2) Waiver would be in the best interest of the United States.

(c) *Collection in installments.* Whenever feasible, debts will be collected in one lump sum. However, when the debtor is financially unable to pay in one lump sum of fails to respond to a demand for full payment and off-set is available, installment payments may be effected. The amount of the installment payments will be set in accordance with the criteria in 4 CFR 102.11.

(d) *Commencement of collection.* (1) Except as provided in paragraph (d)(2) of this section, collection will begin after the time limits for requesting further rights stated in § 831.1304(a)(6) expire or OPM has issued decisions on all timely requests for those rights and the Merit Systems Protection Board has acted on any timely appeal of a waiver denial, unless: (i) Failure to make an offset would substantially prejudice the Government's ability to collect the debt; and (ii) the time before the payment is to be made does not reasonably permit the completion of the proceedings in § 831.1304 or litigation. When offset begins without completion of the administrative review process, these procedures will be completed promptly, and amounts recovered by offset but later found not owed will be refunded promptly.

(2) The procedures identified in § 831.1304 will not be applied when the

debt is caused by (i) a retroactive adjustment in the periodic rate of annuity or any deduction taken from annuity when the adjustment is a result of the annuitant's election of different entitlements under law, if the adjustment is made within 120 days of the effective date of the election; or (ii) interim, estimated payments made before the formal determination of entitlement to annuity, if the amount is recouped from the total annuity payable on the first day of the month following the last advance payment or the date the formal determination is made, whichever is later.

§ 831.1306 Collection by administrative offset.

(a) *Offset from retirement payments.* A debt may be collected in whole or in part from lump-sum retirement payment or recurring annuity payments.

(b) *Offset from other payments.*—(1) *Administrative offset.* (i) A debt may be offset from other payments due the debtor from other agencies in accordance with 4 CFR 102.3, except that offset from back pay awarded under the provisions of 5 U.S.C. 5596 (and 5 CFR 550.801 *et seq.*) will be made in accordance with § 550.805(e)(2) of this chapter.

(ii) In determining whether to collect claims by means of administrative offset after the expiration of the six year limitation provided in 5 U.S.C. 2415, the Director or his designee will determine the cost effectiveness of leaving a claim unresolved for more than 6 years. This decision will be based on such factors as the amount of the debt; the cost of collection; and the likelihood of recovering the debt.

(2) *Salary offset.* When the debtor is an employee, or a member of the Armed Forces or a reserve component of the Armed Forces, OPM may effect collection action by offset of the debtor's pay in accordance with 5 U.S.C. 5514 and 5 CFR 550.1101 *et seq.* Due process described in § 831.1304 will apply. The questions of fact and liability, and entitlements to waiver or compromise determined through that process are deemed correct and will not be amended under salary offset procedures. When the debtor did not receive a hearing on the amount of the offset under § 831.1304 and requests such hearing, one will be conducted in accordance with Subpart K of Part 550 of this chapter.

§ 831.1307 Use of consumer reporting agencies.

(a) *Notice.* If a debtor's response to the notice described in § 831.1304(a) does not result in payment in full, payment by offset, or payment in accordance with a voluntary repayment agreement or other repayment schedule acceptable to OPM, and the debtor's rights under § 831.1304 have been exhausted, OPM may report the debtor to a consumer reporting agency. In addition, a debtor's failure to make subsequent payments in accordance with a repayment schedule may result in a report to a consumer reporting agency. Before making a report to a consumer reporting agency, OPM will notify the debtor in writing that—

(1) The payment is overdue;

(2) OPM intends, after 60 days, to make a report as described in paragraph (b) of this section to a consumer reporting agency;

(3) The debtor's right to dispute the liability has been exhausted under § 831.1304; and

(4) The debtor may suspend OPM action on referral by paying the debt in one lump sum or making payments current under a repayment schedule.

(b) *Report.* When a debtor's response to the notice described in paragraph (a) of this section fails to comply with paragraph (a)(4) of this section and 60 days have elapsed since the notice was mailed, OPM may report to a consumer reporting agency that an individual is responsible for an unpaid debt and provide the following information:

(1) The individual's name, address, taxpayer identification number, and any other information necessary to establish the identity of the individual;

(2) The amount, status, and history of the debt; and

(3) The fact that the debt arose in connection with the administration of the Civil Service Retirement System.

(c) *Subsequent reports.* OPM will update its report to the consumer reporting agency whenever it has knowledge of events that substantially change the status or the amount of the liability.

§ 831.1308 Referral to a collection agency.

(a) OPM may refer certain debts to commercial collection agencies under the following conditions:

(1) All processing required by § 831.1304 has been completed before the debt is released.

(2) A contract for collection services has been negotiated.

(3) OPM retains the responsibility for resolving disputes, compromising claims, referring the debt for litigation, or suspending or terminating collection action.

§ 831.1309 Referral for litigation.

From time to time and in a manner consistent with the General Accounting Office's and the Justice Department's instructions, OPM will refer certain overpayments to the Justice Department for litigation. Referral for litigation will suspend processing under this subpart.

Subpart P—[Removed and Reserved]

4. Subpart P is removed and reserved.

[FR Doc. 85-20408 Filed 8-26-85; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 930

Motor Vehicle Operators

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to allow agencies to waive the requirement for the issuance of the United States Motor Vehicle Operator's Identification Card, Optional Form 346 (formerly Standard Form 46) if the agency develops alternative procedures to identify those employees who are qualified and authorized to operate Government-owned or -leased motor vehicles for official business. The maximum period permitted between periodic review of the employees driver authorization including the evaluation of the physical fitness of the employee concerned is extended from 3 to 4 years.

These regulations provide additional flexibility for Federal agencies to tailor their motor vehicle operator programs to their needs and driving situations while maintaining a cost effective and safe program that fulfills the requirements of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. section 471 and section 491(j)).

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Van K. Yee, Examination Operations Division, Staffing Group, (202) 632-6030.

SUPPLEMENTARY INFORMATION: On April 16, 1984, OPM published proposed changes in the **Federal Register** (49 FR 14956) that specified the proposed changes to the Federal Motor Vehicle Operator Program and invited comments for a period of 60 days. Twelve comments were received from Federal agencies, one from a Federal employee union, and one from a Federal employee. The following summarizes the comments, suggestions, and actions taken.

Comment: Several comments were received concerning the need for this program and that the program is an unnecessary duplication of State

driver's licensing programs. Some commenters suggested that since States are required to have licensing programs that meet Federal requirements established under the Highway Safety Act of 1966 (Pub. L. 89-564) and that this program should be eliminated in part or entirely.

Response: The Federal requirements established under this law requires States to establish various programs for highway and driver safety. However, these requirements and standards provide sufficient flexibilities in application and interpretation for States in establishing their individual program. This could result in significant variations and differences among driver licensing procedures and standards (including medical or physical standards) among various States. For this reason, these suggestions were not adopted.

Comment: Comments were received from seven agencies and one union that address issues related to the retention, in § 930.108, of the requirement for "testing . . . the physical fitness" of each employee who operates a Government vehicle.

One agency suggested combining §§ 930.108 and 930.109 (on periodic review of physical fitness and renewal of authorization respectively) and amending them to provide for unspecified "periodic" review of both physical fitness and authorization to drive (thus eliminating the reference to the 4-year cycle of reviews).

Two agencies also recommended "periodic" review rather than a specific cycle without addressing the combination of sections. This suggestion is made to permit agencies to coordinate the timing of such reviews to State driver's license renewals.

Response: We believe that the current provision that physical fitness and authorization be reviewed at least once every 4 years gives adequate flexibility for agencies to establish whatever schedule of review is desirable, including one that is coordinated with State license renewals. In amending the previous requirement that such reviews be conducted every 3 years, we explicitly recognized and relied on the fact that the median State license renewal cycle is 4 years; in fact, only two States (Alaska and recently Virginia) have a longer cycle. Thus the agencies' objective can be accomplished within the 4-year framework proposed, and the policy assumes that a cycle at least as frequent as most States enforce for general licensing is required. A more general reference "periodic" would create ambiguity about the intent to parallel the State licensing cycle.

With respect to combining the sections, we believe that, while physical qualification is one issue in a decision to authorize a driver, it is not the only issue. Other issues (e.g., driving skill and driving records) are addressed separately from the authorization itself, and we believe it is appropirate for the issue of physical qualification to be separately addressed as well. For these reasons, the agencies' suggestions were not adopted.

Comment: One of the above agencies also suggested that a statement be added that "State licensing programs that meet the physical standards established by OPM may be used in lieu of Federal licensing programs." Another agency recommended similarly that State standards, "where comparable to OPM standards," should be acceptable in lieu of enforcing Federal requirements.

Response: As will be addressed further below, we believe adequate authority exists within the framework of the proposed regulations for agencies to accept licensing under a State program as adequate evidence that an individual is physically qualified to drive a Government vehicle. The language proposed goes well beyond that discretionary authority, however, and would have the effect of requiring OPM (or some other agency) to assess physical requirements established by the States and certify whether they "meet" or are "comparable to" requirements. This is an inappropriate and unnecessary role for a Federal agency, certainly for OPM. Even though such a determination would have no specific effect on the legal status of State licensing programs, it could create an unwarranted and unintended negative Federal opinion of State practices that would be inappropriate and potentially troublesome for the States. Therefore, the suggestion was not adopted.

Comment: One agency specifically objected to the requirement for periodic physical testing, especially for incidental drivers, because the agency is spending excessive amounts of money, presumably on medical examinations. The cost of such required tests is cited by other agencies as well, in support of the argument that State licenses be accepted as sufficient basis for Federal authorization, again especially for incidental drivers.

Response: In developing the proposed regulations, OPM decided not to eliminate a separate evaluation of physical qualifications for any class of drivers in favor of mandatory acceptance of a State license as adequate authorization for two reasons: (1) States do not have uniform physical requirements for drivers; some States do not effectively have any requirements beyond a basic vision test; and many States that nominally have requirements have no effective means of enforcing them. (2) Elimination of a separate physical standard for motor vehicle operators would eliminate agency authority under 5 CFR Part 339 to require a medical examination when there is a direct question of whether the individual is in fact physically capable of driving safely. Even in the case of incidental drivers, who on the one hand may drive up to 6 hours a day or, on the other hand, may drive infrequently but in a vehicle that is unfamiliar to them, the interests of public safety and potential liability strongly supported the retention of sufficient independent authority to determine that an individual is qualified to drive a Government vehicle without harm to himself/herself or others.

As indicated in response to earlier comments and suggestions regarding the physical fitness evaluation procedures, agencies may, if they have reason to do so, accept a State driver's license and/or self-certification as sufficient evidence of physical qualifications to drive. While these suggested changes were not adopted as proposed, their objectives of effecting further cost savings and paperwork reduction associated with this program have merit. We have concluded that certain changes could be made to reduce costs and paperwork while maintaining an effective and safe motor vehicle operators program tailored to the agency's needs. Therefore, we have revised the physical fitness evaluation procedures in Appendix A, chapter 930, of the Federal Personnel Manual to authorize agency discretion to waive the use of the self-certification procedure when available information shows that the employee is physically capable of driving the assigned vehicle safely and is in the possession of a valid State driver's license.

By authorizing agency discretion to waive self-certification and accept a State driver's license as sufficient evidence of physical qualifications to drive as part of the physical fitness evaluation process, the framework of the physical standard and the authority to require additional medical information or a medical examination can be retained so that agencies are aware of what physical qualifications to drive are generally accepted, and so that sufficient information can be obtained in a particular case to make a positive

determination about physical qualifications.

The requirement in the proposed (and past) regulations that individuals be "tested" periodically to determine their qualifications to drive a Government vehicle has been widely misinterpreted as a requirement that such individuals undergo a medical examination. The proposed § 930.108 states "at least once very 4 years, each agency shall provide for testing, *in accordance with standards and procedures established by OPM in the Federal Personnel Manual*, the physical fitness of each employee who operates a * * * vehicle." (Emphasis supplied) The "standards and procedures" referred to are found in Appendix A to FPM Chapter 930 and in the general guidance on medical determinations related to employability that is found in 5 CFR Part 339 and related guidance. The specific procedures for motor vehicle operators do not require nor recommend mandatory periodic physical or medical examinations. The requirement is only to evaluate physical qualifications, and the "testing" contemplated in the regulations is normally limited to a self-certification with respect to physical or medical conditions that may be present. Only if the reviewing official has reason to believe that a question of health status exists would a medical examination normally be required.

The physical standard for motor vehicle operators in Appendix A is intended only as guidance in reaching a decision about physical qualifications. The standard is not intended to mandate, nor may agencies presume, that a person with a medical condition described as potentially disqualifying in the standard should be denied authorization to drive on that basis alone. Under Appendix A as well as the general guidance on determining physical qualifications (notably FPM Chapter 339), agencies are required to assess whether the individual can perform the duties (in this case, drive safely) despite the condition. If that assessment shows that the individual can do so, he or she should be authorized to drive.

From the comments and from our related recent experience, we have concluded that some confusion may be inadvertently created by the continued use of certain terms in these regulations that arise from the original authorizing statutes, such as "physical testing" and "physical fitness." The final regulations include some editorial changes in §§ 930.104, 930.105, and 930.108 to more clearly describe the intended scope of the evaluation of physical qualifications to drive. The final regulations also include clarification in § 930.113 of appropriate corrective action if an individual cannot operate a Government vehicle safely because of a physical or medical condition.

Comments: One union recommended that the requirement for periodic evaluation of physical qualifications be eliminated in favor of a limited authority to reevaluate physical qualifications only when there is specific cause to conclude that a question about qualifications exists.

Response: We believe that the Federal government has a positive obligation to determine that employees who drive are capable of doing so safely. Such a responsibility necessarily requires that agencies assess qualifications to drive at least as frequently as States do in their licensing procedures, and that they have sufficient authority to do so before a problem arises or an incident occurs. Therefore, we cannot agree that such evaluations should be limited to only those circumstances wherein a specific cause to question qualifications is present and has been noticed.

Comment: The Federal employee union also commented on § 930.105 suggesting that the last sentence that states that agencies "may" establish additional requirements to those set forth for motor vehicle operators in this section be deleted. The union states that the requirements are sufficiently comprehensive and expressed concern "that a small agency could fabricate a requirement to force someone out of a motor vehicle operator position."

Response: The provision for establishing additional requirements to assure that the objectives of these regulations are met is to allow agencies the necessary flexibility to establish additional requirements to address unusual or special situations. As § 930.103 states, these regulations "establish minimum procedures to ensure the safe and efficient operation" of Government-owned or leased motor vehicles. Any additional requirements imposed by an agency that results in the removal of an employee is subject to the provisions of § 930.113 that requires agencies taking adverse or disciplinary action to follow applicable laws and regulations. These laws and regulations include provisions for protecting the employee from unreasonable and unjustifiable removal. For these reasons, this suggestion was not adopted.

Comment: This union also commented on § 930.113 stating that an adverse action can be taken against an employee even if the employee is no longer able to drive through no fault of the employee. The union proposes adding language to this section that would provide for placement of such an employee in a vacant position for which the employee is qualified at or as near as possible to the employee original grades.

Response: Section § 930.113 contains five reasons that constitute sufficient cause for taking disciplinary or other appropriate action concerning motor vehicle operators. Of the five reasons, four involve misconduct well within the employee's power to influence. A fifth reason * * * "A Federal medical officer finds that the employee fails to meet the required physical standards * * *", can involve circumstances beyond the control of the employee. Regulations under Part 752 (Adverse Actions) and related case law have long held that employees can be removed for physical inability to perform their assigned duties when alternative placement is not feasible or practicable. Under § 930.113 of these proposed regulations, management will continue to have the authority to reassign physically incapable motor vehicle operators when vacancies and other conditions permit. However, to make placement in a vacant position mandatory, as the suggestion implies, would be a major departure from established regulation and an unrealistic intrusion into an area where management and budgetary discretion is necessary.

Comment: Several comments were received concerning editorial and terminology changes.

Response: These comments and suggestions were considered and, when appropriate, revisions were made. A statement was added to § 930.101 to clarify the term "leased" that does not include vehicles rented by employees on travel. To avoid unnecessary confusion between Federal Medical Officers and physicians contracted by Federal agencies to provide similar medical services, the definition of "Medical Officer" was deleted from § 930.102, and § 930.113(c) was revised to read "* * * a Federal Medical Officer or other medical authority as appropriate." The definition of "Operator" in § 930.102 was revised to provide a more precise definition.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the changes do not impose

additional requirements, but rather allow for the use of agency developed alternatives in the interest of economy and efficiency.

List of Subjects in 5 CFR Part 930

Administrative practice and procedure, Government employees, Motor vehicles.

Office of Personnel Management.

Loretta Cornelius,

Acting Director.

Accordingly, the Office of Personnel Management is revising Subpart A of 5 CFR Part 930 to read as follows:

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

Subpart A—Motor Vehicle Operators

Sec.

Authority: 5 U.S.C. 3301, 3320, 7301; 40 U.S.C. 491; E.O. 10577, 3 CFR, 1954—1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964—1965 Comp., p. 306, unless otherwise noted. (Separate authority is listed under § 930.107).

Subpart A—Motor Vehicle Operators

§ 930.101 Purpose.

This subpart governs agencies in authorizing employees to operate Government-owned or -leased (acquired for other than short term use for which the Government does not have full control and accountability) motor vehicles for official purposes within the States of the Union, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

§ 930.102 Definitions.

In this subpart:

"Agency" means a department, independent establishment, or other unit of the executive branch of the Federal Government, including a wholly owned Government corporation, in the States of the Union, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

"Employee" means an employee of an agency in either the competitive or excepted service or an enrollee of the Job Corps established by section 102 of the Economic Opportunity Act of 1964 (42 U.S.C. 2712).

"Identification card" means the United States Government Motor Vehicle Operator's Identification Card, Optional Form 346, or an agency-issued identification card that names the types of Government-owned or -leased vehicles the holder is authorized to operate.

"Identification document" means an official identification form issued by an agency that properly identifies the individual as a Federal employee of the agency.

"Incidental operator" means an employee, other than one occupying a position officially classified as a motor vehicle operator, who is required to operate a Government-owned or -leased motor vehicle to properly carry out his or her assigned duties.

"Motor vehicle" means a vehicle designed and operated principally for highway transporation of property or passengers, but does not include a vehicle (a) designed or used for military field training, combat, or tactical purposes; (b) used principally within the confines of a regularly established military post, camp, or depot; or (c) regularly used by an agency in the performance of investigative, law enforcement, or intelligence duties if the head of the agency determines that exclusive control of the vehicle is essential to the effective performance of those duties.

"Operator" means an employee who is regularly required to operate Government-owned or -leased motor vehicles and is occupying a position officially classified as motor vehicle operator.

"Road test" means OPM's Test No. 544 or similar road tests developed by Federal agencies to evaluate the competency of prospective operators.

"State license" means a valid driver's license that would be required for the operation of similar vehicles for other than official Government business by the States, District of Columbia, Puerto Rico, or territory or possession of the United States in which the employee is domiciled or principally employed.

§ 930.103 Coverage.

This subpart governs agencies in authorizing their employees to operate Government-owned or -leased motor vehicles for official purposes within the States of the Union, the District of Columbia, Puerto Rico, and the territories or possessions of the United States and establishes minimum procedures to ensure the safe and efficient operation of such vehicles.

§ 930.104 Objectives.

This subpart requires that agencies (a) establish an efficient and effective system to identify those Federal employees who are qualified and authorized to operate Government-owned or -leased motor vehicles while on official Government business; and (b) periodically review the competence and physical qualifications of these Federal employees to operate such vehicles safely.

§ 930.105 Minimum requirements for competitive and excepted service positions.

(a) An agency may fill motor vehicle operator positions in the competitive or excepted services by any of the methods normally authorized for filling positions. Applicants for motor vehicle operator positions and incidental operators must meet the following requirements for these positions:

(1) Possess a safe driving record as defined in OPM qualification guides;

(2) Possess a valid State license;

(3) Except as provided in § 930.107, pass a road test; and

(4) Demonstrate that they are physically qualified to operate the appropriate motor vehicle safely in accordance with the standards and procedures published in chapters 339 and 930 of the Federal Personnel Manual.

(b) Agencies may establish additional requirements to assure that the objectives of this subpart are met.

§ 930.106 Details in the competitive service.

An agency may detail an employee to an operator position in the competitive service for 30 days or less when the employee possesses a State license. For details exceeding 30 days, the employee must meet all the requirements of § 930.105 and OPM's requirements applicable to position change and transfer found in the Federal Personnel Manual chapter 300.

§ 930.107 Waiver of road test.

Under the following conditions, OPM or an agency head or his or her designated representative may waive the road test:

(a) OPM waives the road test requirement for operators of vehicles of one ton load capacity or less who possess a current driver's license from

one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed, except for operators of buses and vehicles used for: (1) Transportation of dangerous materials; (2) law enforcement; or (3) emergency services.

(b) OPM waives the road test for operators, and agencies may waive the road test for incidental operators of any class of vehicle, who possess a current driver's license for the specific type of vehicle to be operated from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed.

(c) An agency head may waive the road test for operators and incidental operators not covered by paragraphs (a) and (b) of this section, but only when in his or her opinion it is impractical to apply it, and then only for an employee whose competence as a driver has been established by his or her past driving record.

(5 U.S.C. 1104; Pub. L. 95-454, sec. 3(5))

§ 930.108 Periodic physical evaluation.

At least once every 4 years, each agency will evaluate in accordance with standards and procedures established by OPM in the Federal Personnel Manual, the physical qualifications of each employee who operates a Government-owned or -leased vehicle.

§ 930.109 Periodic review and renewal of authorization.

(a) At least once every 4 years, each agency will review each employee's authorization to operate Government-owned or -leased motor vehicles.

(b) An agency may renew the employee's authorization only after the agency head or his or her designated representative has determined that the employee continues to meet prescribed physical standards and continues to demonstrate competence to operate the type of motor vehicle to which assigned based on a continued safe driving record.

§ 930.110 Identification of authorized operators and incidental operators.

Agencies must have procedures to identify employees who are authorized to operate Government-owned or -leased motor vehicles. Such procedures must provide for adequate control of access to vehicles and assure that the other requirements of this subpart and the Federal Personnel Manual are met.

§ 930.111 State license in possession.

An operator or incidental operator will have a State license in his or her possession at all times while driving a Government-owned or -leased motor vehicle on a public highway.

§ 930.112 Identification card or document in possession.

The operator or incidental operator will have a valid agency identification card or document (e.g., building pass or credential) in his or her possession at all times while driving a Government-owned or -leased motor vehicle.

§ 930.113 Corrective action.

An agency will take adverse, disciplinary, or other appropriate action against an operator or an incidental operator in accordance with applicable laws and regulations. Agency orders and directives will include the following reasons among those constituting sufficient cause for such action against an operator or an incidental operator:

(a) The employee is convicted of operating under the intoxicating influence of alcohol, narcotics, or pathogenic drugs.

(b) The employee is convicted of leaving the scene of an accident without making his or her identity known.

(c) The employee is not qualified to operate a Government-owned or -leased vehicle safely because of a physical or medical condition. In making such a determination, agencies should consult a Federal medical officer or other medical authority as appropriate.

(d) The employee's State license is revoked.

(e) The employee's State license is suspended. However, the agency may continue the employee in his or her position for operation of Government-owned or -leased motor vehicles on other than public highways for not to exceed 45 days from the date of suspension of the State license.

§ 930.114 Reports required.

An agency will submit to OPM, on request (a) a copy of agency orders and directives issued in compliance with this subpart; and (b) such other reports as OPM may require for adequate administration and evaluation of the motor vehicle operator program.

§ 930.115 Requests for waiver of requirements.

Agencies may request authority from OPM to waive requirements in this subpart or the Federal Personnel Manual. OPM may grant exceptions or waivers when it finds these waivers or exceptions are in the interest of good administration and meet the objectives of this program.

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Agricultural Marketing Service

7 CFR Part 58

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises §§ 58.101(k), 58.132, 58.133, 58.134(a) and (b), 58.135(a) and (b) and 58.322 of the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. The major revisions will:

1. Lower the maximum allowable bacterial estimate for manufacturing grade producer milk from 3 million bacteria to 1 million bacteria per milliliter.

2. Lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

4. Provide for use of the current USDA tuberculosis and brucellosis program requirements.

5. Delete the requirements for farm separated cream.

6. Make editorial changes in the sediment content classification.

These revisions have been developed in cooperation with the National Association of State Departments of Agriculture, State regulatory agencies, and dairy trade associations and producer groups.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Richard W. Webber, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, Washington, D.C., 20250 (202) 447-7473.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule under criteria contained therein. Also, pursuant to this Executive Order it has been determined that there would be no effect on trade sensitive activities.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the

revisions will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act. Public Law 96-354 (5 U.S.C. 601), because it is a voluntary standard and the revision will not increase costs to those utilizing the standard.

In 1983 the National Association of State Departments of Agriculture passed a resolution recommending that the manufacturing grade producer milk quality requirements be tightened. After coordination with State regulatory agencies, and major dairy trade associations and producer groups, it was determined that these changes will accurately describe the minimum quality requirements for this grade of producer milk. The major revisions are described below.

1. Lower the maximum allowable bacterial estimate for producer milk from 3 million to 1 million bacteria per milliliter.

USDA has an ongoing surveillance program to evaluate sanitation and production practices and physical facilities of producers of manufacturing grade milk. Based on this surveillance program, it has been determined that sufficient progress has been made in the production of better quality milk so that a satisfactory producer would not have any difficulty in meeting the revisions.

2. Lower the maximum allowable somatic cell count from 1.5 millon cells to 1 million cells per milliliter.

The Department's policy has been that the requirements for abnormal milk should be applied equally to all grades of milk. The National Conference on Interstate Milk Shipments has lowered the somatic cell count for Grade A milk. Therefore, a similar change is being made for manufacturing grade milk.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

Goat milk is being produced and utilized for the manufacture of cheese, ice cream, evaporated milk and other products. The revision will recognize the production and use of goat milk, which will aid in its marketing.

4. Provide for the use of current USDA tuberculosis and brucellosis program requirements.

In 1982 the Department revised its Uniform Methods and Rules for these two programs. The manufacturing milk requirements cover herd health; therefore, the updated rules need to be referenced.

5. Delete the requirements for farm separated cream.

The production of farm-separated cream has greatly declined over the years. In 1970 the price support of butterfat in farm-separated cream was repealed. The U.S. grade standard for butter was amended in 1977 to delete the U.S. Grade C, which provided the quality criteria that were generally used to grade butter made from this type of cream. Since these changes have been made in the Department's programs, there is no need to retain requirements for farm-separate cream. This revision will not prevent the commercial use of this cream in the production of butter.

6. Make editorial changes in the sediment content classification.

The editorial changes will simplify the language concerning the requirement for sediment testing so that it will be clearer.

In addition to the major revisions outlined above, other revisions are being made for consistency. The basis for the classification of raw milk quality is being amended to clarify that producer milk shall be tested on an individual producer basis for somatic cell count and antibiotics. Updated test methods for somatic cell count are being adopted and the compliance procedures are changed to conform to current practices. Also, the requirement concerning the appearance of acceptable raw milk has been expanded to require that the milk be free of excessive coarse sediment when examined visually or by an acceptable test. Such a test as the Sani-Guide would be an acceptable test for determination of "free of excessive coarse sediment." When determining the somatic cell count of producer milk using the Wisconsin Mastitis Test as a screening test, a value of 19 mm. is being established. Since the acceptable level for bacterial estimate of producer milk is being lowered, only those test methods that can accurately reflect this level are being specified.

The current milk quality requirements have been in effect since October 10, 1975. With these changes, they will continue to aid in the orderly marketing of quality manufacturing grade milk from the approximately 74,000 producers in 30 states.

The Department is revising the parallel document "Milk for Manufacturing Purposes and its Production and Processing: Recommended Requirements for Adoption by State Regulatory Agencies." This document is offered to the States to assist in bringing about uniformity of State regulatory requirements.

USDA standards are voluntary standards that are developed to assist the orderly marketing process. Dairy plants are free to choose whether or not to use the standards. When dairy products are graded, the regulations governing the grading services of manufactured or processed dairy products, which require all graded dairy products to be produced in a USDA approved plant, would be in effect. These regulations also require a charge for grading services provided by USDA.

Public Comments

On February 27, 1985, the Department published a proposed rule to revise the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service (50 FR 7923-7925). The public comment period closed July 1, 1985. Fourteen comments were received. Seven comments supported the revisions, six supported the revisions with suggested changes, and one was against the revisions.

The suggested changes were:

1. One comment requested that the standard plate count for manufacturing grade milk approximate that for fluid grade milk.

Presently, the maximum bacterial limit individual producer Grade A raw milk is 100,000 per milliliter. As provided herein, the maximum bacterial limit for individual producer manufacturing grade milk will be lowered from 3 million to 1 million per milliliter. At this time, there is no indication on the part of processors, marketers and consumers that a maximum limit approaching 100,000 per milliliter is needed for the production of good quality manufactured dairy products for today's marketplace. Therefore, the Department is retaining this revision as proposed.

2. Two comments requested various changes in the testing for abnormal milk.

(a) Delete the Modified Whiteside Test as an acceptable screening test.

In the current edition of *Standard Methods for the Examination of Dairy Products* (SMEDP), this test method is now designated as one that is being phased out and is being superseded by other methods that have been used extensively and have proven to be more reliable. The Department agrees with the suggestion to delete this method.

(b) Delete the California Mastitis Test as an acceptable screening test.

The current edition of SMEDP indicates that this is still an acceptable test for milk of individual producers or commingled supplies. It also categorizes the test as one that has been subjected to a thorough evaluation, has been widely used, and has thereby demonstrated its value by extensive application. Therefore, the Department is retaining this test as an acceptable screening test.

(c) Delete the Membrane Filter DNA Somatic Cell Count as an acceptable confirmatory test.

This method has been removed as a recognized method in the current edition of SMEDP. Also, the sole source of the reagents used in the test has discontinued production of the reagents. The Department agrees with the suggestion to delete this method.

(d) Adopt procedures to differentiate the non-cell particles in goat milk from cells when using electronic and optical cell counting procedures.

A similar request was considered by the 1985 National Conference on Interstate Milk Shipments. The voting delegates representing state regulatory agencies unanimously denied the request. Therefore, the Department believes it should not adopt such changes since the states have taken this action.

3. Two comments requested changes in the way that the Direct Microscopic Clump (DMC) count for commingled milk is taken from plant storage tanks and utilized in determining the status of a plant survey.

The DMC count requirement was not a requirement proposed for revision. However, these comments will be made available to the Dairy Grading Section, Dairy Division, Agricultural Marketing Service, for their consideration as they evaluate the administrative procedures for carrying out the regulations concerning the commingled count requirement.

4. Two comments were applicable only to the revisions in the Companion document, "Milk For Manufacturing Purposes and its Production and Processing; Recommended Requirements for Adoption by State Regulatory Agencies," and are dealt with in that document.

The one comment received against the revisions was based on current costs of producing milk and religious beliefs. The Department's surveillance program for the state in which this producer is located has determined that producers in similar situations can satisfactorily meet the revised requirements.

List of Subjects in 7 CFR Part 58

Food grades and standards, Dairy products.

PART 58—[AMENDED]

In consideration of the foregoing, 7 CFR Part 58, Subpart B, is amended as follows:

1. The authority citation for 7 CFR Part 58 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624.

2. In § 58.101, paragraph (k) is revised to read as follows:

§ 58.101 Meaning of words.

* * * * *

(k) *Milk.* The term "milk" shall include the following:

(1) Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. The cows shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd for tuberculosis as determined by the Department. In addition, the cows shall be located in States meeting Class B status or Certified-Free Herds or shall be involved in a milk ring testing program or blood testing program under the current USDA Brucellosis Eradication Uniform Methods and Rules.

(2) Goat milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats. The goats shall be located in States meeting the current USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. Goat milk shall only be used to manufacture dairy products that are legally provided for in 21 CFR or recognized as non-standardized traditional products normally manufactured from goats milk.

* * * * *

3. Section 58.132 is revised to read as follows:

§ 58.132 Basis for classification.

The quality classification of raw milk for manufacturing purposes from all individual producers shall be based on the following: Organoleptic examination (appearance and odor), quality control tests for sediment content, bacterial estimate, somatic cell count, and antibiotics. All milk received from producers shall not exceed the Food and Drug Administration's established limits for pesticide and herbicide residues. Producers shall be promptly notified of any shipment or portion thereof of their milk that fails to meet any of these quality specifications.

4. Section 58.133 is revised to read as follows:

§ 58.133 Methods for quality and wholesomeness determination.

(a) *Appearance and odor.* The appearance of acceptable raw milk shall be normal and free of excessive coarse sediment when examined visually or by an acceptable test procedure. The milk shall not show any abnormal condition (including, but not limited to, curdled, ropy, bloody or mastitic condition), as indicated by sight or other test procedures. The odor shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that adversely affect the finished product.

(b) *Abnormal milk.* (1) A laboratory examination for the presence of somatic cells shall be made on all patrons' milk at least 4 times in each 6-month period at irregular intervals.

(2) A confirmatory test for somatic cells shall be done when a herd milk sample exceeds any of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1+).

(ii) Wisconsin Mastitis Test—WMT value of 19 mm.

(3) The confirmatory test for somatic cells shall be performed by using one of the following procedures:

(i) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y-methyl green stain shall be used for goat milk.

(ii) Electronic Somatic Cell Count.

(iii) Optical Somatic Cell Count.

(4) The results of the confirmatory test for somatic cells shall be the official result.

(5) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

(i) The producer shall be notified with a warning of the excessive somatic cell count.

(ii) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml., the appropriate state regulatory authority shall be notified and a written notice given to the producer. This notice shall be in effect as long as two of the last four consecutive samples exceed 1,000,000 per ml.

(6) An additional milk sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (b)(5)(ii) of this section. If this sample also indicates a high somatic cell count, the patron's milk shall be rejected until satisfactory compliance is obtained. A temporary status may be approved by the appropriate state regulatory agency whenever an additional sample of herd milk is tested and found satisfactory. The producer may be fully reinstated when three out of four consecutive tests have counts of 1,000,000 or less somatic cells per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(c) *Antibiotics.* At least 4 times in 6 months, at irregular intervals, each producer's milk or commingled sample representing all producers shall be tested for antibiotic residues using an officially recognized test procedure. All individual samples shall be tested when the commingled sample is positive. When an individual producer shows a positive test, the milk shall be immediately rejected from all markets and shall not be accepted until a subsequent test is negative.

5. In § 58.134, paragraphs (a) and (b) are revised to read as follows:

§ 58.134 Sediment content.

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products, Subpart T, § 58.2728 through 58.2732, of this part.

(b) *Sediment content classification.* Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination required in § 58.133(a), as follows:

USDA Sediment Standard

No. 1 (acceptable)—not to exceed 0.50 mg. or equivalent.
No. 2 (acceptable)—not to exceed 1.50 mg. or equivalent.
No. 3 (probational, not over 10 days)—not to exceed 2.50 mg. or equivalent.
No. 4 (reject)—over 2.50 mg. or equivalent.

* * * * *

6. In § 58.135, paragraphs (a) and (b) are revised to read as follows:

§ 58.135 Bacterial estimate.

(a) *Method of testing.* Methods for determining the bacterial estimate of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products.

(b) *Bacterial estimate classification.* Milk shall be classified for bacterial estimate by one of the following methods:

Bacterial estimate classification	Direct Microscopic count, standard plate count or plate loop count
No. 1	Not over 500,000 per ml.
No. 2	Not over 1,000,000 per ml.
Undergrade	Over 1,000,000 per ml.

* * * * *

7. § 58.322, is revised to read as follows:

§ 58.322 Cream.

Cream separated at an approved plant and used for the manufacture of butter shall have been derived from raw material meeting the requirements as listed under §§ 58.132 through 58.138 of this subpart.

Signed at Washington, D.C. on: August 22, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-20442 Filed 8-26-85; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 85-348]

Mediterranean Fruit Fly; Removal of Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document removes from the Domestic Quarantine Notices "Subpart—Mediterranean Fruit Fly" quarantine and regulations which quarantined Florida and imposed restrictions on the interstate movement of regulated articles from a regulated area in Dade County, Florida. The quarantine and regulations were established for the purpose of preventing the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. It has been determined that all infestations of Mediterranean fruit fly in Florida have been eradicated and the quarantine and regulations are no longer necessary. The effect of this action is to delete restrictions on the interstate movement of previously regulated articles from the previously regulated area in Dade County.

DATES: Effective date of this amendment August 27, 1985. Written comments concerning this interim rule must be received on or before October 28, 1985.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Direector, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glenn Lee, Assistant Director, Survey and Emergency Response Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, Md 20782, (301), 436-6365.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Background

A document published in the **Federal Register** on May 8, 1985 (50 FR 19313-19321) set forth an interim rule amending Part 301 (Domestic Quarantine Notices) of Title 7 of the Code of Federal Regulations (7 CFR Part 301) by adding a new subpart captioned "Subpart—Mediterranean Fruit Fly" quarantine and regulations (7 CFR 301.78 *et seq.*; referred to below as the regulations). The document of May 8 quarantined the State of Florida and established regulations restricting the interstate movement of regulated articles out of a regulated area in Dade County, Florida, in order to prevent the artificial spread interstate of Mediterranean fruit fly. This document deletes all of Subpart—Mediterranean Fruit Fly from Part 301.

The regulations designated a large number of fruits, nuts, vegetables, and berries as regulated articles and a portion of Dade County in Florida, as a regulated area. No other area was designated as a regulated area.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of Florida, it has now been determined that the Mediterranean fruit fly no longer occurs in Dade County. Specifically, the last finding of fruit flies was made on April 9, 1985. Since then no other fruit flies or other evidence of an infestation has been found. Based on Departmental expertise, it has been determined that sufficient time has passed without finding additional fruit flies or other evidence of an infestation to conclude that an infestation no longer exists in Dade County.

Further, trapping and sampling surveys indicate that the Mediterranean fruit fly does not exist in any other place in the United States.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from any area in Florida or elsewhere in the United States because of the Mediterranean fruit fly. Therefore, in order to relieve unnecessary restrictions on the interstate movement of certain articles, it is necessary to amend 7 CFR Part 301 by removing Subpart—Mediterranean Fruit Fly from the Domestic Quarantine Notices.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; 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 rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

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. This amendment deletes restrictions that had been imposed on the interstate movement of regulated articles from a portion of Dade County, Florida, approximately 90 square miles in size. It appears that there is very little commercial activity that occurs in this area. Specifically, it is comprised of private residences; small entities, including approximately 75 nurseries and 70 retail stores; 125 street vendors and open fruit stands; and fewer than 10 premises with orchards and vegetable plots (ranging in size from 1/2 acre to 15 acres). Most regulated articles sold by small entities in this area are moved solely in intrastate commerce. Further, the retail shops and nurseries sell other items in addition to the regulated articles so that the effect, if any, of deleting restrictions on the interstate movement of articles sold by these entities appears to be minimal.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Mediterranean Fruit Fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162 and 164–167; 7 CFR 2.17, 2.51 and 371.2.

2. "Subpart—Mediterranean Fruit Fly" (7 CFR 301.78 through 301.78–10) is removed.

Done at Washington, DC, this 22nd day of August 1985.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 85–20396 Filed 8–26–85; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 359]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 359 establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 30–September 5, 1985. The regulation is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 359 (§ 908.659) is effective for the period August 30–September 5, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The regulation is issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Oranges Administration Committee (VOAC) and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The regulation is consistent with the marketing policy for 1984–85. The committee met publicly on August 20, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified week. The committee reports that demand for Valencia oranges continues to be slow.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because there is insufficient time between the date when information upon which the regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To

effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the regulation and its effective date.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. The authority citation for 7 CFR Part 908 continues to read as follows:

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

2. Section 908.659 is added to read as follows:

§ 908.659 Valencia Orange Regulation 359.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 30, 1985, through September 5, 1985, are established as follows:

(a) *District 1:* 240,000 cartons;
(b) *District 2:* 410,000 cartons;
(c) *District 3:* Unlimited cartons.

Dated: August 22, 1985.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–20438 Filed 8–26–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 921

Handling of Fresh Peaches Grown in Designated Counties in Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim final rule.

SUMMARY: The Department of Agriculture (USDA) has decided to leave in effect an interim final rule which relaxed the grade requirements for certain shipments of Washington peaches. These changes are designed to maximize the marketing of fresh peaches of suitable quality in the interest of producers and consumers.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: This finalization of an interim final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The interim final rule became effective on July 1, 1985, and was published in the **Federal Register** (50 FR 27411) on July 3, 1985. The rule revised § 921.318 (Peach Regulation 18) under Marketing Order 921 establishing grade and size requirements for Washington peaches effective July 1, 1985. It provided that for the period ending March 31, 1986, peaches which grade Washington No. 2 Grade or better may be handled if they are packed in the western lug box. Prior to July 1, 1985, such peaches packed in the western lug box or standard peach box were required to grade Washington Fancy Grade or better. The grade requirement relaxation is intended to maximize the marketing of fresh peaches of suitable quality to producers and consumers. The rule provided that interested persons could file written comments through July 31, 1985, none of which were received.

The Washington peach regulation was based upon the recommendation of the Washington Fresh Peach Marketing Committee comprised of Washington peach producers and handlers, and was issued under the marketing agreement, as amended, and Order No. 921, as amended (7 CFR Part 921), regulating the handling of peaches grown in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

List of Subjects in 7 CFR Part 921

Marketing Agreements and Orders, Washington, Peaches.

PART 921—[AMENDED]

1. The authority citation for 7 CFR Part 921 continues to read as follows:

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

2. The interim final rule published in the **Federal Register** (50 FR 27411) revising § 921.318 is adopted as a final rule.

Dated: August 22, 1985.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–20439 Filed 8–26–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 967

Celery Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This handling regulation establishes the quantity of Florida celery to be marketed fresh during the 1985–86 season, with the objective of assuring adequate supplies and orderly marketing.

EFFECTIVE DATE: August 27, 1985.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–5432.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Purusant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

This regulation is based upon the unanimous recommendations made by the committee at its public meeting at Orlando on May 23.

The committee recommended a Marketable Quantity of approximately 6.9 million crates of fresh celery for the 1985–86 season. This recommendation is based on the appraisal of the expected supply and prospective market demand.

Notice of the proposed regulation was published in the July 11 **Federal Register** (50 FR 28210) inviting written comments by August 12, 1985. A comment was received from Anthony R. Conte, City Councillor, Revere, Massachusetts, objecting to the proposal and marketing orders in general. His comment was fully considered but rejected as inconsistent with the policy of the act and purposes of the order.

The Marketable Quantity is about 35 percent more than the approximately 5.1 million crates marketed fresh during the season which ended July 31, 1985. Each

producer registered pursuant to § 967.37(f) will have an allotment equal to 100 percent of his/her historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1984–85 total Base Quantities is authorized for new producers and for increases by existing producers. One application for a new base of 140,000 crates was received and approved.

Findings

On the basis of all considerations it is hereby determined that this regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) adequate notice has been given of the requirements of this regulation through publicity in the production area and by publication in the July 11 Federal Register; (2) the regulation should become effective as early as possible in the marketing year which begins August 1, so producers and handlers will be afforded maximum time in which to plan their operations; and (3) compliance with this section, which is similar to those issued in previous seasons, requires no special preparation by handlers which cannot be completed prior to the time actual handling of harvested celery begins, generally in the latter part of October.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

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

PART 967—[AMENDED]

§ 967.320 [Removed]

Section § 967.320 (49 FR 33204, August 22, 1984) is removed and a new § 967.321 is added as follows:

§ 967.321 Handling Regulation; Marketable Quantity; and Uniform Percentage for the 1985–86 Season ending July 31, 1986.

(a) The Marketable Quantity established under § 967.36(a) is 6,929,738 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b) no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(d) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

Dated: August 22, 1985.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–20443 Filed 8–26–85; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AGL–15]

Alteration of Control Zone; Ohio

Correction

In FR Doc. 85–18553 beginning on page 32393 in the issue of Monday, August 12, 1985, in the third column of page 32393, and the first column of page 32394, correct the spelling of "Richenbacker Airport" to read "Rickenbacker Airport" each time it appears.

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 77P–0300]

Canned Peaches; Standard of Quality

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the U.S. standard of quality for canned peaches to include: (1) A uniformity of size requirement for whole, halves, and quarter styles based on the diameter of the units; (2) a limitation on pits and pieces of pit; and (3) requirements for chunky style. This action will promote honesty and fair dealing in the interest of consumers and facilitate international trade.

DATES: Effective July 1, 1987, all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date shall fully comply. Except as to any provisions that may be stayed by the filing of proper objections, voluntary compliance with this final regulation, including any required labeling changes may begin October 28, 1985. Objections by September 26, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION:

Background

In the Federal Register of August 26, 1980 (45 FR 56823), FDA published a proposal to amend the standard of quality for canned peaches (21 CFR 145.170(b)) in consideration of the quality provisions of the Recommended International Standard for Canned Peaches, First Revision, 1975 (CAC/RS 14–1969) (Codex standard) and petitions by Libby, McNeill & Libby, Inc., California League of Food Processors (formerly the Canners League of California), and the Food Safety and Quality Service, United States Department of Agriculture (USDA). Interested persons were given until October 27, 1980, to comment on the proposal. The agency published a final rule addressing part of the proposal in the Federal Register of June 26, 1981 (46 FR 33027). In that same issue of the Federal Register, the agency reopened and extended to April 27, 1982 the comment period (see 46 FR 33055; June 26, 1981) to permit the submission of data by the affected industry on its ability to meet the uniformity of size and pit and pit fragments limitation.

Comments

Two comments were received on the proposal. Based on data developed during the extended comment period, the comments supported the uniformity of size requirement but argued that the limitation on trimmed units should not be applicable to the chunky style because, by definition, chunky style canned peaches are not distinctively or uniformly shaped. The whole, halves, quarters, and slices styles of canned peaches are uniformly shaped to conform to the descriptive name for, and the normal shape of, the peach unit.

FDA agrees with the comments and has revised § 145.170(b)(1)(vi) accordingly.

The comments also recommended that FDA adopt the pit and pit fragment tolerance in the 1962 USDA voluntary grade standards, in lieu of the Codex requirement, for canned clingstone and canned freestone peaches because the proposed pit and pit fragments limitations do not reflect current good manufacturing practice. In support of their position, the comments included data that show that up to 34 percent of the clingstone peaches examined in July 1981 would not comply with the proposal.

FDA has carefully reviewed the comments and the submitted supporting data. The record shows that the 1962 USDA voluntary grade standards are reasonable and describe current good manufacturing practice more accurately than do the proposed Codex standards or other available standards. FDA believes that the inclusion in FDA's rule of the 1962 USDA voluntary standards will protect consumers and will promote honesty and fair dealing in the interest of consumers. FDA has revised § 145.170(b) (1)(viii) and (3) accordingly.

In accordance with the Regulatory Flexibility Act (Pub. L 96–354 (5 U.S.C. 601)), FDA has considered the effect that this final rule would have on small entities including small businesses and has determined that this final rule would have no adverse effects because, based on the comments received, industry considers these requirements, as revised, to be current good manufacturing practice. Therefore, FDA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Any person who will be adversely affected by this regulation may at any time on or before September 26, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

List of Subjects in 21 CFR Part 145

Canned fruits, Food standards, Fruits.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 145 is amended as follows:

PART 145—CANNED FRUITS

1. The authority citation for 21 CFR Part 145 continues to read as follows:

Authority: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371); 21 CFR 5.10.

2. In § 145.170 by revising paragraph (b), to read as follows:

§ 145.170 Canned peaches.

* * * * *

(b) *Quality.* (1) The standard of quality for canned peaches is as follows:

(i) *Maturity.* All units tested in accordance with the method prescribed in paragraph (b)(2) of this section are pierced by weight of not more than 300 grams (10.6 ounces).

(ii) *Minimum size.* In the case of halves and quarters styles, the weight of each unit is not less than 17 grams (0.6 ounce) and 8.5 grams (0.3 ounce), respectively.

(iii) *Uniformity of size*—(*a*) *Whole, halves, and quarters.* In the case of whole, halves, and quarters styles, the diameter (width) of the largest unit is not more than 1.5 centimeters (0.6 inch) greater than the diameter (width) of the smallest unit. In containers with more than 20 units, 2 units may be disregarded in making the determination. Where a unit has broken in the container, the combined broken pieces are to be reassembled to approximate a single unit of the appropriate style.

(*b*) *Chunky.* In the case of chunky style, not more than 25 percent of the drained weight of the contents of the container consists of units that will pass through an opening 13 millimeters (0.5 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge.

(iv) *Peel.* Not more than 15 square centimeters aggregate area of peel per 1,000 grams (1.05 square inches per 16 ounces) of net weight. Include any peel adhering to the peach or loose in the container.

(v) *Blemished units.* Not more than 20 percent by count of the units in the container are blemished, e.g., with scab, hail injury, discoloration, or other abnormalities. Blemished units are units which contain surface discolorations that definitely contrast with the overall color and may penetrate into the flesh.

(vi) *Trimmed units.* In the case of whole, halves, quarters, and slices styles, all units are untrimmed or are so trimmed as to preserve normal shape of the units.

(vii) *Crushed or broken units.* In the case of whole, halves, halves and pieces, quarters, slices, dice and chunky styles, not more than 5 percent by count of the units in containers of 20 or more units and not more than 1 unit in containers of fewer than 20 units are crushed or broken. A unit that has lost its normal shape because of ripeness and bears no mark of crushing shall not be considered crushed or broken.

(viii) *Pits and pieces of pit.* In the case of all styles, except whole peaches and when whole peach pits or peach kernels are used as seasoning ingredients, there is not more than one loose pit or one loose large hard piece of pit (10 millimeters (⅜ inch) or larger) or one unit of peach (e.g., peach half or peach slice) to which one or more large hard pieces of pit are attached per 5.67 kilograms (200 ounces) net weight. In addition, there is not more than three of any one or any combination of two or more, per 2.83 kilograms (100 ounces) net weight of the following: (*a*) A unit to which one or more small hard pieces of pit less than 10 millimeters (⅜ inch) but not less than 1.6 millimeters (1/16 inch) are attached, (*b*) a unit to which three or more small pieces of pit less than 1.6 millimeters (1/16 inch) are attached, or (*c*) a loose small hard piece of pit less than 10 millimeters (⅜ inch).

(2) Canned peaches shall be tested by the following method to determine whether or not they meet the requirements of paragraph (b)(1)(i) of this section: So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of 29 millimeters (1.125 inches) inside diameter, with vertical sides; or rectangular in shape, 19 millimeters (0.75 inch) by 25 millimeters (1 inch) inside measurements, with ends vertical and sides sloping downward and joining at

the center at a vertical depth of 19 millimeters (0.75 inch). Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with a rectangular peel surface at least 13 millimeters (0.51 inch) by 25 millimeters (1 inch) cannot be trimmed. Test the piece by means of a round metal rod 4 millimeters (0.16 inch) in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams (3.53 ounces). Set the receptacle so that the surface of test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams (0.45 ounce) per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(3) Determine compliance as specified in § 145.3(o) except that a lot shall be deemed to be in compliance for peel, pits, and pieces of pit based on the average of all samples analyzed according to the sampling plans set out in § 145.3(p).

(4) If the quality of canned peaches falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality defined in § 130.14(a) of this chapter, in the manner and form therein specified; however, if the quality of the canned peaches falls below standard with respect to only one of the factors of quality specified in paragraph (b)(1) (i) through (viii) of this section, there may be substituted for the second line of such general statement of substandard quality ("Good Food—Not High Grade") a new line, as specified after the corresponding designation of paragraph (b)(1) of this section which the canned peaches fail to meet, as follows: (i) "Not tender"; (ii) "Small halves" or "Small quarters" as the case may be; (iii) (*a*) "Mixed sizes"; (*b*) "Undersized and/or oversized pieces", (iv) "Excess peel"; (v) "Blemished"; (vi) "Unevenly trimmed"; (vii) "Partly crushed or broken"; (viii) "Contains pits or pit fragments". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "peaches" and any words and statements required or authorized to appear with such name by paragraph (a)(2) of this section.

* * * * *

Dated: August 9, 1985.

Marvin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-20376 Filed 8-26-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Nutrius, Inc., providing for the manufacture of a 20-gram-per-pound tylosin premix to be used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: August 27, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Nutrius, Inc., Two Brecksville Commons, 8221 Brecksville Rd., Brecksville, OH 44141, is the sponsor of a supplement to NADA 93-518 submitted on its behalf by Elanco Products, Co. The supplement provides for the manufacture of a new 20-gram-per-pound tylosin premix used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). Nutrius, Inc., had previously received approval for 1-, 2-, 4-, 5-, 8-, 10-, and 40-gram-per-pound tylosin premixes. The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. In § 558.625 by revising paragraph (b)(2) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(2) To 051359: 1, 2, 4, 5, 8, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Dated: August 20, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-20380 Filed 8-26-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins, Monensin, and Roxarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Hoechst Corp., providing for safe and effective use of 1 to 2 grams (g) of bambermycins per ton of complete broiler feed in combination with monensin and roxarsone.

EFFECTIVE DATE: August 27, 1985.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Route 202-206 North, Somerville, NJ 08876, is the sponsor of NADA 98-341 which provides for combining separately approved bambermycins, monensin, and roxarsone premixes in making a complete broiler feed. The currently approved complete feeds contain bambermycins, 1 g per ton; monensin, 90 to 110 g per ton; and roxarsone, 22.7 to 45.4 g per ton; used for increased rate of weight gain, improved feed efficiency, and as an aid in the prevention of coccidiosis caused by certain *Eimeria* species. This supplement provides for increasing the complete feed use level of bambermycins to 1 to 2 g per ton, the level currently approved for the drug alone as a growth promotant in broiler chicken feed. The supplemental NADA is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 [21 CFR Part 20] and § 514.11[e][2][ii] [21 CFR 514.11[e][2][ii]], a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24[d][1][ii] (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. In § 558.95 by adding new paragraph (e)(1)(xiii) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(e) * * *

(1) * * *

(xiii) *Amount per ton.* Bambermycins, 1 to 2 grams plus monensin, 90 to 110 grams plus roxarsone, 22.7 to 45.4 grams (0.0025 to 0.005 percent).

(*a*) *Indications for use.* For increased rate of weight gain; as an aid in prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* See paragraph (e)(1)(vii)(*b*) of this section.

* * * * *

3. In § 558.355 by removing the word "[Reserved]" from paragraph (f)(1)(xvii) and adding a new paragraph to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(1) * * *

(xvii) *Amount per ton.* Monensin, 90 to 110 grams plus bambermycins, 1 to 2 grams plus roxarsone, 22.7 to 45.4 grams (0.0025 to 0.005 percent). See § 558.95[e][1][xiii] of this chapter.

Dated: August 20, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-20379 Filed 8-26-85; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2640 and 2641

Definitions; Arbitration of Disputes in Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation prescribes rules and procedures for the arbitration of disputes between employers and multiemployer pension plan sponsors concerning employer withdrawal liability under the Employee Retirement Income Security Act of 1974, as amended. The Act provides for the resolution of those disputes through arbitration and directs the Pension Benefit Guaranty Corporation to promulgate fair and equitable procedures for the conduct of the arbitration. This regulation is designed to provide procedures to facilitate prompt resolution of disputes by an impartial arbitrator.

EFFECTIVE DATE: September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, 2020 K Street, NW., Washington, DC 20006, 202-254-4858 (202-254-8010 for TTY and TDD). These are not toll free numbers.

SUPPLEMENTARY INFORMATION: On July 7, 1983, the Pension Benefit Guaranty Corporation ("PBGC") published a proposed rule that would amend 29 CFR Part 2640, Definitions, and add a new Part 2641, Arbitration of Disputes in Multiemployer Plans (48 FR 31251). The proposed rule was published pursuant to section 4221 of the Employee Retirement Income Security Act of 1974, *as amended by* the Multiemployer Pension Plan Amendments Act of 1980 (the "Act"). Section 4221 (29 U.S.C. 1401) provides that arbitration of disputes between an employer and the plan sponsor of a multiemployer plan concerning withdrawal liability under sections 4201 through 4219 of the Act (29 U.S.C. 1381-1399) shall be conducted in accordance with fair and equitable procedures to be promulgated by the PBGC.

The proposed rule provided a 60-day period for public comments on the regulatory provisions. In addition, the PBGC specifically invited public comment on the usefulness of a PBGC-maintained roster of qualified arbitrators. Twenty comments were received and reviewed by PBGC, and many of the suggestions offered have been incorporated in this final rule. Comments on a number of issues were sharply divided, requiring the PBGC to determine which of conflicting views would best fulfill the statutory mandate that the PBGC establish fair and equitable procedures. A full discussion of the comments received and the reasons for adopting or not adopting proposed changes follows. In addition, clarifying changes were made in the regulation where necessary.

PBGC Roster of Arbitrators

The majority of comments that addressed the issue opposed the maintenance of a roster of qualified arbitrators by the PBGC, arguing that such a roster would merely duplicate those already maintained by private organizations. The PBGC agrees that there is no convincing evidence of the need for a PBGC-maintained roster and therefore will not implement this proposal.

Section 2640.3 Definitions.

One comment urged that the definition of "employer" be revised to avoid creating any inferences concerning the proper parties to a withdrawal liability arbitration. The PBGC did not intend any such inference and has revised the definition accordingly.

Section 2641.1 Purpose and scope.

Several comments asked what impact the final regulation would have on arbitrations pending on its effective date and on plan rules governing arbitration procedures. The PBGC therefore has revised § 2641.1 to address these questions. The procedures in the final regulation will apply to arbitration proceedings that are initiated on or after the regulation's effective date. Plans will be allowed to adopt supplementary procedural rules that are consistent with the provisions of the final regulation, but these rules will be binding on the parties only to the extent determined by the arbitrator. One comment asked that plans be permitted to enforce any procedural rules that were not in "direct conflict" with the regulation. The PBGC has not adopted this suggestion, because there is too great a danger of unfairness if plans are allowed broad discretion to adopt procedural rules.

Section 2641.2 Initiation of arbitration.

Extension of time limits by mutual agreement. A number of comments urged that the parties be permitted by mutual agreement to defer initiation of arbitration, citing circumstances under which deferral would avoid unnecessary burdens. The PBGC agrees that there is no need to insist upon particular time limits when all parties to a proceeding are willing to waive them and has revised § 2641.2 accordingly.

PBGC's authority to prescribe time limits. One comment denied that the PBGC has the authority to prescribe time limits in the procedures that it promulgates and asked that such provisions be stricken here and elsewhere in the regulation. The PBGC disagrees. The Act authorizes the PBGC to promulgate fair and equitable arbitration procedures, and reasonable time limits are an essential part of such procedures.

Penalties for non-timely actions. Some comments relating to the various time limits specified in the proposed regulation noted that, in most cases, no penalties are specified for failure to act within these limits. The PBGC does not believe that appropriate penalties can be specified in a general procedural regulation. Rather, sanctions for failure of a party to take timely action should be determined by the arbitrator. If the arbitrator fails to observe time limits, judicial remedies are available to the parties.

Technical correction. The PBGC has also revised the time limits in § 2641.2(a) to correct an inadvertent discrepancy between the proposed regulation and the statutory time periods for the initiation of arbitration.

Section 2641.3 Appointment of the arbitrator.

Preselection of arbitrator. The proposed regulation did not permit the selection of an arbitrator before the initiation of arbitration. Three comments endorsed this restriction, and one opposed it. After consideration of the comments, the PBGC has concluded that preselection of the arbitrator would jeopardize the fairness of the arbitration procedure and undermine the purposes of mandatory arbitration of withdrawal liability disputes.

An arbitrator has wide latitude in conducting arbitration proceedings, and his award is subject to only limited judicial review. Fundamental fairness demands that the impartiality of one in whom such powers are vested be free from reasonable doubt, and the best way to ensure that all parties will have confidence in his impartiality is to have him selected by mutual consent. If preselection were allowed in withdrawal liability arbitrations, the arbitrator would, in practice, almost always be imposed unilaterally by the plan sponsor, a result entirely contrary to the PBGC's mandate to devise "fair and equitable" procedures.

The comment that favored preselection offered a variety of arguments, each of which the PBGC has considered and rejected. It argued, first, that the selection of an arbitrator before a dispute arises is common in commercial and other labor arbitrations. In the examples that were cited, however, either the decision to arbitrate future disputes was made voluntarily by the parties or the arbitrator was chosen by the mutual agreement of parties with opposing interests. Neither of these conditions normally exists in withdrawal liability disputes.

A withdrawing employer must resort to arbitration if it wishes to challenge the plan sponsor's assessment of liability, while parties to a commercial contract, for instance, are under no obligation to agree in advance to arbitrate rather than litigate their disputes. Nor can the withdrawing employer have any confidence that his interests will have been taken into account, at least at second hand, in the choice of an arbitrator. In an ordinary labor dispute, an employer knows that any arbitrator preselected under a collective bargaining agreement was chosen jointly by labor and management representatives and therefore can be expected to take into account both employer and employee points of view. On the other hand, there is no feasible means by which an arbitrator could be preselected by representatives of both the plan sponsor and the employers that will withdraw in the future (whose interests are materially different from those of the employers who will not withdraw). For these reasons, analogies to selection practices in other types of arbitration are unpersuasive.

Second, the minority comment adduced several alleged "policy and practical" advantages to preselection: that the commencement of arbitration would be expedited, that a preselected arbitrator would be more likely to be familiar with the industry covered by the plan, and that the repeated employment of the same arbitrator would guarantee greater consistency in awards, leading to fewer unnecessary disputes. There may be some merit to these points, but they do not outweigh the problem of apparent or actual bias on the part of the arbitrator. The time saved by preselection is not substantial, and the delay will not jeopardize the plan, since employers are required to pay withdrawal liability installments pending the outcome of arbitration. Detailed familiarity with the industry is not important in most withdrawal liability arbitrations, where the questions to be decided will rarely turn on the abstruse minutiae of industry practice. And consistency of awards can be achieved by means other than using the same arbitrator over and over again. In particular, the publication of awards, as contemplated by § 2641.7(g) of the regulation, should alleviate much of the concern about divergent decisions.

For these reasons, § 2541.3(a) of the final regulation requires that the arbitrator be selected after the initiation of arbitration. This requirement also applies if the parties are using a PBGC-approved arbitration procedure. The PBGC does not intend to imply, however, that the maintenance of a roster of arbitrators by the sponsor of an arbitration procedure would be deemed to be prohibited preselection.

Preselection of arbitration procedure. The proposed regulation allowed a plan to specify in advance a PBGC-approved procedure to be used for all arbitrations of withdrawal liability disputes. Some comments argued that the plan sponsor's preselection of procedures is

open to the same objections as preselection of the arbitrator. The PBGC disagrees. A PBGC-approved procedure must be sponsored by a neutral party and reviewed by the PBGC, making the risk of manipulation or abuse quite remote. On the other hand, there are obvious advantages to all parties if a plan's arbitration procedure is known in advance.

Qualifications of the arbitrator. The proposed regulation required that the arbitrator be chosen from a roster of individuals who were neutral and possessed specialized knowledge of Title IV. Several comments suggested that these criteria were too narrow, might not be applicable to the questions at issue in a particular arbitration, and could lead to later court challenges to the arbitrator's award. After considering these comments, the PBGC agrees that the requirement that the arbitrator be selected by mutual agreement of the parties after the dispute has arisen provides sufficient assurance that the person chosen will have the requisite qualifications for hearing the dispute. Therefore, the specific qualifications in the proposed regulation have been deleted. For the same reason, the PBGC has not adopted one comment's suggestion that the plan's permanent arbitrator be barred under all circumstances from arbitrating withdrawal liability disputes involving the plan by which he is employed.

Disqualification of the arbitrator. The proposed regulation required a newly selected arbitrator to reveal to the parties any facts that might indicate that he would be unable to hear the dispute impartially. He was then required to withdraw if any party objected. Thereafter, parties could request that the arbitrator withdraw but could not compel him to do so.

Two comments were received on this aspect of the proposed regulation, one arguing that it made disqualification too easy, the other that a mechanism should be provided for compelling an arbitrator's withdrawal at any time. After considering these comments, the PBGC has concluded that the scheme in the proposed regulation struck a reasonable balance and has made only clarifying changes in the final regulation.

Time for selecting replacement arbitrator. The proposed regulation allowed 45 days for the selection of a new arbitrator if the original arbitrator withdrew or was otherwise unable to act. The final regulation reduces this period to 20 days. The choice of a replacement arbitrator should be able to be made more expeditiously than the original selection, because suitable candidates will already have been identified in the course of the original selection process and the parties will not need the same preparation time as is necessary when an arbitration is newly begun.

Section 2641.4 Powers and duties of the arbitrator.

Interpretation of the law. The proposed regulation required the arbitrator to be "guided by interpretations given the Act by the courts and agencies charged with enforcement of the Act". This statement elicited various comments, ranging from a request that the arbitrator be precluded from considering legal issues to the suggestion that he interpret the Act "as if he were a United States district judge". Other comments urged the inclusion of additional possible sources of law, such as legislative history.

The arbitrator of a withdrawal liability dispute can scarcely avoid some application of the law in rendering his award. As the final regulation attempts to make clear, he is to follow existing law, as discerned from pertinent authorities. He is not free to disregard settled legal principles in pursuit of an individual perception of justice or equity. The final regulation does not, however, try to tell the arbitrator precisely where settled law is to be found.

Statutory presumptions. The proposed regulation paraphrased the presumptions set forth in section 4221(a)(3) of the Act. Several comments disagreed with aspects of this paraphrase or argued that it was superfluous. Upon reconsideration, the PBGC has decided that it is unnecessary, in a regulation dealing with arbitration procedures, to discuss the force and effect of the statutory presumptions. This silence is not intended to imply that the PBGC no longer holds the views expressed in the proposed regulation.

Prehearing discovery. Although the proposed regulation did not deal explicitly with prehearing discovery by the parties, several comments addressed the need for, and appropriate limitations on, discovery. The final regulation therefore includes discovery provisions, which are based largely upon the views expressed in the comments.

Due to the nature of withdrawal liability disputes, fairness will often require that discovery be available to the parties. The final regulation gives the arbitrator control over the scope of discovery so as to limit the burdens imposed on the parties. In general, the arbitrator should grant a discovery request if it appears likely to lead to the production of relevant evidence and the burden on the other parties is not disproportionate to the probable importance of that evidence. The arbitrator may impose appropriate sanctions for such actions as withholding evidence or harassing other parties through unnecessary discovery motions.

The PBGC notes that, as a number of comments pointed out, section 4221(e) of the Act does not apply to discovery proceedings. The contrary implication of § 2641.9 (a) and (b) of the proposed regulation was unintentional, and these paragraphs have been deleted from the final regulation.

Admissibility of evidence. The proposed regulation stated that conformity to the legal rules of evidence would not be required, unless the rights of the parties would be prejudiced. Several comments argued that the admissibility of evidence should be left to the discretion of the arbitrator in all cases. These comments contended that the proposal's reference to the legal rules of evidence was not needed to protect the rights of the parties, would open the door to appeals based on technicalities, and would place non-lawyer arbitrators at a disadvantage. The PBGC agrees with these comments and has revised the final regulation accordingly. The final regulation also makes it clear that the arbitrator can receive affidavits in evidence. Such evidence has, of course, only such weight as the arbitrator deems appropriate.

Prehearing conference. The proposed regulation authorized the PBGC to call a prehearing conference of the parties. Four comments objected to this provision, and none supported it. The adverse comments argued that such conferences would involve the PBGC too deeply in what is intended to be essentially a non-governmental arbitration process. In view of these comments, the provision has been deleted from the final regulation.

Section 2641.5 Hearing.

Time and place of hearing. A number of comments stated that the provision in proposed § 2641.5(a) for establishing the time and place of the hearing did not make clear whether the time limits applied to the establishment of the hearing date or to the hearing date itself, and that the time was too short if the latter was intended. This provision has been clarified, and the time limit within which the hearing must begin has been extended.

Counsel's standard of conduct. Several comments objected to the

requirement of § 2641.5(c) that counsel and other representatives adhere to a prescribed standard of conduct at the hearing. Since an arbitrator has the inherent power to enforce decorum, the PBGC believes that this provision is unnecessary and has stricken it from the final regulation.

Transcript and record of the hearing. One comment suggested that proposed § 2641.5(d) should distinguish between the record of the hearing and the transcript of the record. The regulation has been revised accordingly.

Order of presentation. Several comments objected to the provisions of § 2641.5(e)(2) concerning the order of presentation of the claim and proof. Since the PBGC believes that it is advisable to rely on the arbitrator's discretion as to how the hearing should proceed, proposed § 2641.5(e)(2) has been revised to leave the order of presentation at the hearing within the control of the arbitrator.

Section 2641.6 Reopening of proceedings.

The proposed regulation allowed the arbitrator to reopen the proceedings for good cause but also provided that the consent of all parties was required if reopening would delay the award beyond the deadline specified in proposed § 2641.7(b). Several comments objected to giving the parties the power to frustrate reopening. The PBGC agrees with this comment and has revised the final regulation accordingly.

Section 2641.4 Award.

Specification of findings of fact and conclusions of law. The proposed regulation required the arbitrator to include "specific findings of fact and conclusions of law" in his award. Some comments interpreted this as requiring that factual and legal conclusions be segregated and properly categorized. This requirement, it was asserted, would burden non-attorney arbitrators and lead to challenges based on the form of the award rather than its substance. The final regulation has been revised to make clear that the arbitrator need only state the factual and legal basis for the award, without explicitly characterizing his statements as "findings of fact" or "conclusions of law".

Recomputation of withdrawal liability payments. One comment interpreted the proposed regulation to require that the arbitrator personally compute and include in the award the employer's new withdrawal liability payment schedule, if it is changed by his decision. The comment pointed out that ordinarily the arbitrator would direct the plan to recompute the schedule in accordance with the principles laid down in the award. The final regulation has been revised to make it clear that such a procedure is proper.

Time of award. Two comments objected that the time allowed for rendering an award could be unreasonably short in complex cases. One of these comments suggested that the arbitrator be allowed to extend this time limit without the consent of the parties. The final regulation does not adopt this suggestion. It is the duty of an arbitrator, before agreeing to serve in a particular instance, to make sure that his schedule will permit him to issue an award promptly after the close of the proceedings. In the light of experience to date and the comments received, the PBGC believes that the time limits in the proposed regulation are adequate.

One comment suggested that the regulation include a penalty for lateness in rendering an award. The PBGC does not believe that it would be practicable to devise or enforce general rules governing such penalties. If an arbitrator is unduly tardy, the parties can seek relief through the courts. The PBGC anticipates, however, that "market pressures" will encourage arbitrators to issue their decisions promptly.

Publication of awards. One comment urged that the PBGC publish arbitration awards and maintain an index of awards by plan. The PBGC lacks the resources to enter the legal publication business but agrees that awards should be made public. Therefore, the final regulation requires plan sponsors to make copies of awards available to the PBGC and contributing employers. If there is sufficient public interest, commercial firms presumably will undertake the task of more widespread publication. After an award has been published in a readily available source, the plan sponsor's duty to provide copies will be satisfied if it refers inquiries to the published award.

Section 2641.8 Reconsideration of award.

Grounds for modification or reconsideration. One comment stated that the grounds for modification or reconsideration of an award set forth in § 2641.8(b) of the proposed regulation were unclear and might be interpreted as requiring "pleading-type rules" for the presentation of material. The provisions in the regulation reflect those of Title 9, section 11 of the United States Code and should be interpreted consistently with Title 9. As other provisions of the final regulation make clear, only minimum formalities are required in parties' presentations or in arbitrators' awards, and the PBGC does not believe that the rules governing modification or reconsideration of awards carry any divergent implication. Therefore, it has not been necessary to change these provisions in the final regulation.

Time limits for reconsideration. One comment requested that the arbitrator be given 30 days to decide a motion to modify or reconsider an award, because the Act allows a 30-day period for requesting judicial review. The PBGC believes that the time limits in the final regulation are reasonable and that there is no good reason to base one limitation period on the other.

Section 2641.9 Costs.

Many comments interpreted the provisions of the proposed regulation dealing with the allocation of the costs of arbitration as if they were discovery provisions. Responses to these comments are set forth *supra* in the discussion of § 2641.4.

The final rule provides that the costs of arbitration will ordinarily be shared equally by the opposing sides. The arbitrator may vary this allocation in the interests of justice. The regulation also includes two exceptions to the principle of equal sharing of costs. First, if only one party requests a transcript of the record of the arbitration, it must bear the costs of transcription and copying (§ 2641.5(d)). Second, the arbitrator may require one party to pay the reasonable attorney's fees of the other. Normally, each party should bear its own legal expenses, and the PBGC does not intend to imply that these costs should routinely be awarded to the victor. Rather, awards of attorneys' fees should be utilized only as a sanction against parties that initiate or defend an arbitration in bad faith or conduct themselves in a vexatious manner during the proceedings.

Section 2641.12 Filing or service of documents.

The proposed regulation uses the date of the United States Postal Service postmark as a starting point for various time periods. One comment suggested that the PBGC has ignored the possibility that postmarks often reflect a date two or three days after an item is mailed. The PBGC is aware that this may be a potential problem but has not adopted the comment's suggestion that all time periods in the regulation be extended by three days as a corrective measure. Instead, the final regulation enables the sender to establish the date of mailing by obtaining a certified or registered mail receipt from the Postal Service.

Section 2641.13 PBGC-approved arbitration procedures.

The proposed regulation referred to PBGC-approved alternatives to the procedures set forth in this part but, as several comments observed, did not explain how alternative procedures would be approved and did not make clear which portions of the procedures set forth in the regulation could be varied. A new § 2641.13 has been added to cover these points.

Regulatory Impact

The PBGC has determined that this proposed rule is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not result in an annual effect on the economy of $100 million or more, will not result in a major increase in costs or prices for consumers, individual industries or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The PBGC certifies, under section 605(b) of the Regulatory Flexibility Act, that this rule will not have a significant economic impact on a substantial number of small entities, *i.e.*, multiemployer pension plans and employers that contribute to such plans. The proposed regulation affects multiemployer pension plans and employers that withdraw from those plans and dispute the amount of withdrawal liability determined. Pension plans with fewer than 100 participants have traditionally been treated as small plans. Defining "small plans" as those with fewer than 100 participants, such plans represent only 10% of all multiemployer plans covered by PBGC (200 out of 2000). Further, small multiemployer plans represent only .3% of all small plans covered by the PBGC (200 out of 61,200) and less than .05% of all small plans (200 out of 427,900). Approximately 500,000 employers contribute to multiemployer plans, most of them small employers (under 100 employees). PBGC estimates that fewer than 25,000 (5%) of these employers will be subject to withdrawal liability in any year. Moreover, the proposed regulation does not impose an economic burden on the employers. Arbitration of a dispute concerning withdrawal liability is a statutory requirement. The statute sets out a detailed framework for the arbitration process that is explained in the regulation. No provision of the regulation independently imposes a significant economic impact on small employers or small plans. Therefore compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

List of Subjects in 29 CFR Parts 2640 and 2641

Business and industry, Employee benefit plans, Pensions, and Small businesses.

In consideration of the foregoing, the Pension Benefit Guaranty Corporation amends Chapter XXVI of Title 29, Code of Federal Regulations as follows:

PART 2640—[AMENDED]

Part 2640 is amended as follows:

1. The authority for Part 2640 continues to read as follows:

Authority: Sec. 4002(b)(3), Pub. L. 93-406, as amended by sec. 403(1), Pub. L. 96-364, 94 Stat. 1208, 1302 (1980) (29 U.S.C. 1302).

2. A new § 2640.3 is added following § 2640.2 and preceding § 2640.4 and reading as follows:

§ 2640.3 Arbitration of disputes.

For purposes of Part 2641—

"Arbitrator" means an individual or panel of individuals selected according to Part 2641 of this chapter to decide a dispute concerning withdrawal liability.

"Employer" means an individual, partnership, corporation or other entity against which a plan sponsor has made a demand for payment of withdrawal liability pursuant to section 4219(b)(1) of the Act.

"Party" or "parties" means the employer and the plan sponsor involved in a withdrawal liability dispute.

"Plan sponsor" means the plan's joint board of trustees or, if none, the plan administrator, as defined in section 3(16) of the Act.

"Withdrawal liability dispute" means a dispute described in § 2641.1(a) of this chapter.

3. A new Part 2641 is added to read as follows:

PART 2641—ARBITRATION OF DISPUTES IN MULTIEMPLOYER PLANS

Sec.

Authority: Secs. 4002(b)(3) and 4221, Pub. L. 93-406, as amended by secs. 403(1) and 104, Pub. L. 96-364, 94 Stat. 1208, 1302, and 1239 (1980) (29 U.S.C. 1302(b)(3) and 1401).

§ 2641.1 Purpose and scope.

(a) *Purpose.* Section 4221 of the Act provides that disputes between an employer and the plan sponsor of a multiemployer plan concerning the plan sponsor's determination of the employer's withdrawal liability under sections 4201 through 4219 and section 4225 shall be resolved through arbitration proceedings conducted in accordance with fair and equitable procedures to be promulgated by the PBGC. The purpose of this part is to establish procedures for the arbitration of withdrawal liability disputes.

(b) *Scope.* This part applies to arbitration proceedings initiated pursuant to section 4221 of the Act and this part on or after September 26, 1985. On and after the effective date, any plan rules governing arbitration procedures (other than a plan rule adopting a PBGC-approved arbitration procedure in accordance with § 2641.13) are effective only to the extent that they are consistent with this part and adopted by the arbitrator in a particular proceeding.

§ 2641.2 Initiation of arbitration.

(a) *Time limits for initiation of arbitration.* Arbitration of a withdrawal liability dispute may be initiated—

(1) By either of the parties within the 60-day period beginning on the 121st day after the date on which the employer requested reconsideration pursuant to section 4219(b)(2)(A) of the Act or, if earlier, within 60 days after the date on which the employer is notified pursuant to section 4219(b)(2)(B) of the Act of the plan sponsor's response to the request for reconsideration; or

(2) Jointly by the parties within the 180-day period beginning on the date of the plan sponsor's demand for payment of withdrawal liability pursuant to section 4219(b)(1) of the Act.

(b) *Waiver or extension of time limits.* Arbitration shall be initiated by one or both parties in accordance with this section, notwithstanding any inconsistent provision of any agreement entered into by the parties before the date on which the employer received notice of the plan's assessment or withdrawal liability. The parties may, however, by mutual agreement at any time, waive or extend the time limits specified in this section.

(c) *Establishment of timeliness of initiation.* A party that unilaterally initiates arbitration is responsible for establishing that the notice of initiation of arbitration was received by the other

party within the applicable period set forth in paragraph (a)(1) of this section (taking into account any waiver or extension under paragraph (b)). If arbitration is initiated by agreement of the parties, the date on which the agreement to arbitrate was executed establishes whether the arbitration was initiated within the time limit set forth in paragraph (a)(2) of this section (taking into account any waiver or extension under paragraph (b)).

(d) *Contents of agreement or notice.* If the employer initiates arbitration, it shall include in the notice of initiation a statement that it disputes the plan sponsor's determination of its withdrawal liability and is initiating arbitration. A copy of the demand for withdrawal liability and any request for reconsideration, and the response thereto, shall be attached to the notice. If a party other than an employer initiates arbitration, it shall include in the notice a statement that it is initiating arbitration and a brief description of the questions on which arbitration is sought. If arbitration is initiated by agreement, the agreement shall include a brief description of the questions submitted to arbitration. In no case is compliance with formal rules of pleading required.

(e) *Effect of incomplete agreement or notice.* If a party fails to object promptly in writing to deficiencies in an initiation agreement or a notice of initiation of arbitration, it waives its right to object.

§ 2641.3 Appointment of the arbitrator.

(a) *Appointment of and acceptance by arbitrator.* The parties shall select the arbitrator within 45 days after the arbitration is initiated, or within such other period as is mutually agreed after the initiation of arbitration, and shall mail to the designated arbitrator a notice of his appointment. The notice of appointment shall include a copy of the notice of initiation of arbitration or the initiation agreement, a statement that the arbitration is to be conducted in accordance with this part, and a request for a written acceptance by the arbitrator. The arbitrator's appointment becomes effective upon his written acceptance, stating his availability to serve and making any disclosures required by paragraph (b) of this section. If the arbitrator does not accept in writing within 15 days after the notice of appointment is mailed or delivered to him, he is deemed to have declined to act, and the parties shall select a new arbitrator in accordance with paragraph (d) of this section.

(b) *Disclosure by arbitrator and disqualification.* Upon accepting the appointment, the arbitrator shall disclose to the parties any circumstances likely to affect his impartiality, including any bias or any financial or personal interest in the result of the arbitration and any past or present relationship with the parties or their counsel. If any party determines that the arbitrator should be disqualified because of the information disclosed, that party shall notify all other parties and the arbitrator no later than 10 days after the arbitrator makes the disclosure required by this paragraph (but in no event later than the commencement of the hearing under § 2641.5). The arbitrator shall then withdraw, and the parties shall select another arbitrator in accordance with paragraph (d) of this section.

(c) *Challenge and withdrawal.* After the arbitrator has been selected, a party may request that he withdraw from the proceedings at any point before a final award is rendered on the ground that he is unable to render an award impartially. The request for withdrawal shall be served on all other parties and the arbitrator by hand or by certified or registered mail and shall include a statement of the circumstances that, in the requesting party's view, affect the arbitrator's impartiality and a statement that the requesting party has brought these circumstances to the attention of the arbitrator and the other parties at the earliest practicable point in the proceedings. If the arbitrator determines that the circumstances adduced are likely to affect his impartiality and have been presented in a timely fashion, he shall withdraw from the proceedings and notify the parties of the reasons for his withdrawal. The parties shall then select a new arbitrator in accordance with paragraph (d) of this section.

(d) *Filling vacancies.* If the designated arbitrator declines his appointment or, after accepting his appointment, is disqualified, resigns, dies, withdraws, or is unable to perform his duties at any time before a final award is rendered, the parties shall select another arbitrator to fill the vacancy. The selection shall be made, in accordance with the procedure used in the initial selection, within 20 days after the parties receive notice of the vacancy. The matter shall then be reheard by the newly chosen arbitrator, who may, in his discretion, rely on all or any portion of the record already established.

(e) *Failure to select arbitrator.* If the parties fail to select an arbitrator within the time prescribed by this section, either party or both may seek the designation and appointment of an arbitrator in a United States district court pursuant to the provisions of Title 9 of the United States Code.

§ 2641.4 Powers and duties of the arbitrator.

(a) *Arbitration hearing.* Except as otherwise provided in this part, the arbitrator shall conduct the arbitration hearing under § 2641.5 in the same manner, and shall possess the same powers, as an arbitrator conducting a proceeding under Title 9 of the United States Code.

(1) *Application of the law.* In reaching his decision, the arbitrator shall follow applicable law, as embodied in statutes, regulations, court decisions, interpretations of the agencies charged with the enforcement of the Act, and other pertinent authorities.

(2) *Prehearing discovery.* The arbitrator may allow any party to conduct prehearing discovery by interrogatories, depositions, requests for the production of documents, or other means, upon a showing that the discovery sought is likely to lead to the production of relevant evidence and will not be disproportionately burdensome to the other parties. The arbitrator may impose appropriate sanctions if he determines that a party has failed to respond to discovery in good faith or has conducted discovery proceedings in bad faith or for the purpose of harassment. The arbitrator may, at the request of any party or on his own motion, require parties to give advance notice of expert or other witnesses that they intend to introduce.

(3) *Admissibility of evidence.* The arbitrator determines the relevance and materiality of the evidence offered during the course of the hearing and is the judge of the admissibility of evidence offered. Conformity to legal rules of evidence is not necessary. To the extent reasonably practicable, all evidence shall be taken in the presence of the arbitrator and the parties. The arbitrator may, however, consider affidavits, transcripts of depositions, and similar documents.

(4) *Production of documents or other evidence.* The arbitrator may subpoena witnesses or documents upon his own initiative or upon request by any party after determining that the evidence is likely to be relevant to the dispute.

(b) *Prehearing conference.* If it appears that a prehearing conference will expedite the proceedings, the arbitrator may, at any time before the commencement of the arbitration hearing under § 2641.5, direct the parties to appear at a conference to consider—

(1) Settlement of the case;

(2) Clarification of issues and stipulation of facts not in dispute;

(3) Admission of documents to avoid unnecessary proof;

(4) Limitations on the number of expert or other witnesses; and

(5) Any other matters that could expedite the disposition of the proceedings.

(c) *Proceeding without hearing.* The arbitrator may render an award without a hearing if the parties agree and file with the arbitrator such evidence as the arbitrator deems necessary to enable him to render an award under § 2641.7.

§ 2641.5 Hearing.

(a) *Time and place of hearing established.* Unless the parties agree to proceed without a hearing as provided in § 2641.4(c), the parties and the arbitrator shall, no later than 15 days after the written acceptance by the arbitrator is mailed to the parties, establish a date and place for the hearing. If agreement is not reached within the 15-day period, the arbitrator shall, within 10 additional days, choose a location and set a hearing date. The date set for the hearing may be no later than 50 days after the mailing date of the arbitrator's written acceptance.

(b) *Notice.* After the time and place for the hearing have been established, the arbitrator shall serve a written notice of the hearing on the parties by hand or by certified or registered mail.

(c) *Appearances.* The parties may appear in person or by counsel or other representatives. Any party that, after being duly notified and without good cause shown, fails to appear in person or by representative at a hearing or conference, or fails to file documents in a timely manner, is deemed to have waived all rights with respect thereto and is subject to whatever orders or determinations the arbitrator may make.

(d) *Record and transcript of hearing.* Upon the request of either party, the arbitrator shall arrange for a record of the arbitration hearing to be made by stenographic means or by tape recording. The cost of making the record and the costs of transcription and copying are costs of the arbitration proceedings payable as provided in § 2641.9(b) except that, if only one party requests that a transcript of the record be made, that party shall pay the cost of the transcript.

(e) *Order of hearing.* The arbitrator shall conduct the hearing in accordance with the following rules:

(1) *Opening.* The arbitrator shall open the hearing and place in the record the notice of initiation of arbitration or the initiation agreement. The arbitrator may ask for statements clarifying the issues involved.

(2) *Presentation of claim and response.* The arbitrator shall establish the procedure for presentation of claim and response in such a manner as to afford full and equal opportunity to all parties for the presentation of their cases.

(3) *Witnesses.* All witnesses shall testify under oath or affirmation and are subject to cross-examination by opposing parties. If testimony of an expert witness is offered by a party without prior notice to the other party, the arbitrator shall grant the other party a reasonable time to prepare for cross-examination and to produce expert witnesses on its own behalf. The arbitrator may on his own initiative call expert witnesses on any issue raised in the arbitration. The cost of any expert called by the arbitrator is a cost of the proceedings payable as provided in § 2641.9(b).

(f) *Continuance of hearing.* The arbitrator may, for good cause shown, grant a continuance for a reasonable period. When granting a continuance, the arbitrator shall set a date for resumption of the hearing.

(g) *Filing of briefs.* Each party may file a written statement of facts and argument supporting the party's position. The parties' briefs are due no later than 30 days after the close of the hearing. Within 15 days thereafter, each party may file a reply brief concerning matters contained in the opposing brief. The arbitrator may establish a briefing schedule and may reduce or extend these time limits. Each party shall deliver copies of all of its briefs to the arbitrator and to all opposing parties.

§ 2641.6 Reopening of proceedings.

(a) *Grounds for reopening.* At any time before a final award is rendered, the proceedings may be reopened, on the motion of the arbitrator or at the request of any party, for the purpose of taking further evidence or rehearing or rearguing any matter, if the arbitrator determines that—

(1) The reopening is likely to result in new information that will have a material effect on the outcome of the arbitration;

(2) Good cause exists for the failure of the party that requested reopening to present such information at the hearing; and

(3) The delay caused by the reopening will not be unfairly injurious to any party.

(b) *Comments on and notice of reopening.* The arbitrator shall allow all affected parties the opportunity to comment on any motion or request to reopen the proceedings. If he determines that the proceedings should be reopened, he shall give all parties written notice of the reasons for reopening and of the schedule of the reopened proceedings.

§ 2641.7 Award.

(a) *Form.* The arbitrator shall render a written award that—

(1) States the basis for the award, including such findings of fact and conclusions of law (which need not be explicitly designated as such) as are necessary to resolve the dispute;

(2) Adjusts (or provides a method for adjusting) the amount or schedule of payments to be made after the award to reflect overpayments or underpayments made before the award was rendered or requires the plan sponsor to refund overpayments in accordance with § 2644.2(d); and

(3) Provides for an allocation of costs in accordance with § 2614.9.

(b) *Time of award.* Except as provided in paragraphs (c), (d), and (e) of this section, the arbitrator shall render the award no later than 30 days after the proceedings close. The award is rendered when filed or served on the parties as provided in § 2641.12. The award is final when the period for seeking modification or reconsideration in accordance with § 2641.8(a) has expired or the arbitrator has rendered a revised award in accordance with § 2641.8(c).

(c) *Reopened proceedings.* If the proceedings are reopened in accordance with § 2641.6 after the close of the hearing, the arbitrator shall render the award no later than 30 days after the date on which the reopened proceedings are closed.

(d) *Absence of hearing.* If the parties have chosen to proceed without a hearing, the arbitrator shall render the award no later than 30 days after the date on which final statements and proofs are filed with him.

(e) *Agreement for extension of time.* Notwithstanding paragraphs (b), (c), and (d), the parties may agree to an extension of time for the arbitrator's award in light of the particular facts and circumstances of their dispute.

(f) *Close of proceedings.* For purposes of paragraphs (b) and (c) of this section, the proceedings are closed on the date on which the last brief or reply brief is due or, if no briefs are to be filed, on the date on which the hearing or rehearing closes.

(g) *Publication of award.* After a final award has been rendered, the plan sponsor shall make copies available upon request to the PBGC and to all companies that contributes to the plan. The plan sponsor may impose reasonable charges for copying and postage.

§ 2641.8 Reconsideration of award.

(a) *Motion for reconsideration and objections.* A party may seek modification or reconsideration of the arbitrator's award by filing a written motion with the arbitrator and all opposing parties within 20 days after the award is rendered. Opposing parties may file objections to modification or reconsideration within 10 days after the motion is filed. The filing of a written motion for modification or reconsideration suspends the 30-day period under section 4221(b)(2) of the Act for requesting court review of the award. The 30-day statutory period again begins to run when the arbitrator denies the motion pursuant to paragraph (c) of this section or renders a revised award.

(b) *Grounds for modification or reconsideration.* The arbitrator may grant a motion for modification or reconsideration of the award only if—

(1) There is a numerical error or a mistake in the description of any person, thing, or property referred to in the award; or

(2) The arbitrator has rendered an award upon a matter not submitted to the arbitrator and the matter affects the merits of the decision; or

(3) The award is imperfect in a matter of form not affecting the merits of the dispute.

(c) *Decision of arbitrator.* The arbitrator shall deny the motion for modification or reconsideration or render an opinion pursuant to the request within 20 days after the request is filed with the arbitrator, or within 30 days after the request is filed if an objection is also filed.

§ 2641.9 Costs.

The costs of arbitration under this part shall be borne by the parties as follows:

(a) *Witnesses.* Each party to the dispute shall bear the costs of its own witnesses.

(b) *Other costs of arbitration.* Except as provided in § 2641.5(d) with respect to a transcript of the hearing, the parties shall bear the other costs of the arbitration proceedings equally unless the arbitrator determines otherwise. The parties may, however, agree to a different allocation of costs if their agreement is entered into after the employer has received notice of the plan's assessment of withdrawal liability.

(c) *Attorneys' fees.* The arbitrator may require a party that initiates or contests an arbitration in bad faith or engages in dilatory, harassing, or other improper conduct during the course of the arbitration to pay reasonable attorneys' fees of other parties.

§ 2641.10 Waiver of rules.

Any party that fails to object in writing in a timely manner to any deviation from any provision of this part is deemed to have waived the right to interpose that objection thereafter.

§ 2641.11 Calculation of periods of time.

For purposes of calculating any period of time under this part, the period begins to run on the day following the day that a communication is received or an act is completed. If the last day of the period is a Federal, State, or local holiday or a non-business day for one of the parties or the arbitrator, the period runs until the end of the first business day that follows. Holidays or non-business days occurring during the running of the period of time are included in calculating the period.

§ 2641.12 Filing or service of documents.

(a) *By mail.* A document that is to be filed or served under this part is considered filed or served on—

(1) The date of the receipt provided to the sender by the United States Postal Service, if the document was sent by certified or registered mail, postage prepaid, properly packaged, and properly addressed; or

(2) The date of the United States Postal Service postmark stamped on the cover in which the document is mailed, if subparagraph (1) is not applicable, a legible postmark was made, and the document was sent postage prepaid, properly packaged, and properly addressed.

(b) *By means other than mail.* A document required to be delivered under this part that is not mailed in accordance with paragraph (a) of this section is considered filed or served on the date on which it is received.

§ 2641.13 PBGC-approved arbitration procedures.

(a) *Use of PBGC-approved arbitration procedures.* In lieu of the procedures prescribed by this part, an arbitration may be conducted in accordance with an alternative arbitration procedure approved by the PBGC in accordance with paragraph (c) of this section. A plan may by plan amendment require the use of a PBGC-approved procedure for all arbitrations of withdrawal liability disputes, or the parties may agree to the use of a PBGC-approved procedure in a particular case.

(b) *Scope of alternative procedures.* If an arbitration is conducted in accordance with a PBGC-approved arbitration procedure, the alternative procedure shall govern all aspects of the arbitration, with the following exceptions:

(1) The time limits for the initiation of arbitration may not differ from those provided by § 2641.2.

(2) The arbitrator shall be selected after the initiation of the arbitration.

(3) The arbitrator shall give the parties opportunity for prehearing discovery substantially equivalent to that provided by § 2641.4(a)(2).

(4) The award shall be made available to the public to at least the extent provided by § 2641.7(g).

(5) The costs of arbitration shall be allocated in accordance with § 2641.9.

(c) *Procedure for approval of alternative procedures.* The PBGC may approve arbitration procedures on its own initiative by publishing an appropriate notice in the **Federal Register.** The sponsor of an arbitration procedure may request PBGC approval of its procedures by submitting an application to the PBGC. The application shall be submitted to the Case Classification and Control Division, Code 542, Insurance Operations Department, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, and shall include the following information:

(1) A copy of the procedures for which approval is sought;

(2) A description of the history, structure and membership of the organization that sponsors the procedures; and

(3) A discussion of the reasons why, in the sponsoring organization's opinion, the procedures satisfy the criteria for approval set forth in this section.

(d) *Criteria for approval of alternative procedures.* The PBGC shall approve an application if it determines that the proposed procedures will be substantially fair to all parties involved in the arbitration of a withdrawal liability dispute and that the sponsoring organization is neutral and able to carry out its role under the procedures. The PBGC may request comments on the application by publishing an appropriate notice in the **Federal Register.** Notice of the PBGC's decision on the application shall be published in the **Federal Register.** Unless the notice of approval specifies otherwise, approval will remain effective until revoked by the PBGC through a **Federal Register** notice.

Issued at Washington, DC this 22nd day of August 1985.

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this Final Rule.

Edward R. Mackiewicz,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 85-20461 Filed 8-26-85; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MS-009; A-4-FRL-2888-1]

Designation of Areas for Air Quality Planning Purposes Mississippi; Redesignation of Total Suspended Particulate (TSP) Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today is approving a request by Mississippi that the attainment status designation of the City of Laurel (Jones County) be changed from nonattainment to attainment for the primary and secondary air quality standards for total suspended particulate (TSP). The State's request was supported by air quality data showing attainment and evidence of emission reductions.

DATE: This action will be effective on September 26, 1985.

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

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

Bureau of Pollution Control, Mississippi Dept. of Natural Resources, P.O. Box 10385, Jackson, Mississippi 39209

Also, a Technical Support Document setting forth the criteria upon which EPA evaluated the Mississippi request may be examined at the EPA Region IV address.

FOR FURTHER INFORMATION CONTACT: Al Yeast, EPA Region IV Air Management Branch, at the Atlanta address above, telephone 404/881-2864 [FTS 257-2864].

SUPPLEMENTARY INFORMATION: Section 107 of the Clean Air Act provides for changes in attainment status designation by the Administrator. On September 28, 1984, the Mississippi Bureau of Pollution Control submitted a request that EPA promulgate a new air quality classification for the City of Laurel (Jones County) with respect to total suspended particulate (TSP). This request was based on eight quarters of monitoring data and a demonstration of emission reduction consistent with the State's 1979 TSP Part D plan. EPA approved Mississippi's Part D plan for the Jones County TSP nonattainment area on January 10, 1980 (45 FR 2031). This redesignation was proposed on April 22, 1985 (50 FR 15762); no comments were received.

Supporting documentation submitted by the State shows that there have been no recorded violations of the primary or secondary TSP standards since 1981. In fact, air quality has been steadily improving since 1981. These data were collected at monitoring site number 1480002F02, which is located in the City of Laurel. This is a SLAMS site meeting EPA's siting requirements. This improvement in air quality corresponds to emission reductions achieved by implementing measures identified in the Part D control strategy for the area. A lumber mill dominates the emission-inventory for the area. During 1981, there was an unexpected increase in nontraditional emissions (building demolition and land clearing for construction of a shopping mall) in the immediate area of the monitor. Once the added emissions ceased in 1981, the ambient TSP concentrations were reduced, and there have been no violations since. The base year 1975 inventory shows total point source emissions of 6,513 tons per year. By 1983 total emissions had been reduced by 71.6% to 1,857.1 tons per year.

Additional TSP monitoring data which has become available since the State's request provides further support for the redesignation of Jones County in that it shows no exceedance of any national ambient TSP standard.

Final Action

On the basis of eight quarters of monitoring data showing attainment and a determination by EPA that the improvement in the area's air quality is not a result of emission reductions brought about by an economic downturn, EPA is approving the redesignation of a portion of Jones County from nonattainment to full attainment for TSP.

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 October 28, 1985. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 20, 1985.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 81, continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. In § 81.325 the attainment status designation table for Total Suspended Particulates (TSP) is revised to read as follows:

§ 81.325 Mississippi.

MISSISSIPPI—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Statewide				X

* * * * *

[FR Doc. 85-20437 Filed 8-26-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[SWH-FRL-2885-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Wastes

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is today granting final exclusions for the solid wastes generated at five particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261. 31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "site-specific basis" from

the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: August 27, 1985.

ADDRESSES: The public docket for these final exclusions is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C 20460, and is available for public viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free (800) 424-9346 or at (202) 382-3000. For technical information contact Mr. Myles Morse, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION: On October 23, 1984, EPA proposed to exclude specific wastes generated by: (1) Imperial Clevite, located in Salem, Indiana; (2) LCP Chemical Company, located in Orrington, Maine; (3) Stauffer Chemical Company, located in Axis, Alabama, and St. Gabriel, Louisiana; and (4) Texas Instruments, Inc., located in Dallas, Texas, from the lists of hazardous wastes (see 49 FR 42580).[1] These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their waste from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based on the criteria for which the waste was listed. The petitioners also have provided information in order for the Agency to consider whether any other toxicants are present in the waste at levels of regulatory concern. The purpose of today's action is to make final those proposals and to make the exclusions effective immediately. More specifically, today's rule allows these facilities to manage these wastes as non-hazardous, in accordance with any conditions of the exclusion. These exclusions remain in effect unless: (1) They are granted for a one-time disposal of a specific volume of waste or (2) the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[2] In addition, generators still are obliged to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required under the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated all other factors (including additional constituents) for which there was a reasonable basis to believe that their presence could cause these wastes to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, oily waste EP toxicity test data (where appropriate), and test data on the four hazardous waste characteristics, and in some cases additional test data, including total organic carbon and total oil and grease, that their wastes do not exhibit any of the hazardous waste characteristics and do not contain any other toxicants at levels of regulatory concern. The Agency, in its proposal to exclude the wastes covered by this rule, provided all pertinent information necessary to evaluate the additional factors.

It also should be noted that the Agency recently proposed to use a dispersion model in evaluating the migratory potential of toxicants from wastes which are landfilled. (See 50 FR 7882, February 26, 1985.) This change in review procedure was developed to assist in standardizing the petition review process. The petitioners in today's publication were not required to undergo review using this proposed approach, since our decisions regarding the hazardousness of these wastes were proposed with a request for public comment under previous procedures. Since no public comments were received which questioned the technical decisions to delist the wastes listed below,[3] we have decided to proceed to exclude these wastes from the lists of hazardous wastes.[4]

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's, pursuant to Section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, no State delisting programs are presently authorized. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State delisting program. Since a petitioner's waste may be regulated by a dual system, (*i.e.*, both Federal RCRA and State non-RCRA programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

Imperial Clevite, Salem, Indiana
LCP Chemical Company, Orrington, Maine
Stauffer Chemical Company, Axis, Alabama
Stauffer Chemical Company, St. Gabriel, Louisiana

[1] The Agency also proposed to exclude electroplating wastes generated by the Chrysler Corporation at their plants in Fenton, Missouri, and Belvidere, Illinois, and refinery wastes generated by the Amoco Oil Company at their Wood River, Illinois, petroleum refinery. The Agency is not making a final decision on Chrysler's petitions since the additional information required by the Hazardous and Solid Waste Amendments of 1984 has not been submitted. In particular, these amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was listed in order to determine whether any other toxicants may reasonably be present in the waste at levels of regulatory concern. Thus, petitioners are now required to submit sufficient information for the Agency to make such a determination. Until this information is submitted, the Agency cannot make a final decision as to the hazardousness of these wastes. With respect to Amoco, the Agency indicated concern over PNAs in Amoco's waste and deferred a decision until a study regarding PNAs in particular wastes was completed. This study has been completed and a notice of availability was published on May 9, 1985 (see 50 FR 19550). A final decision will be made after public comments on this report are addressed.

[2] The current exclusion only applies to the process covered by the original demonstration. A facility may file a new petition if it alters its process; however, the facility must treat its waste as hazardous until a new exclusion is granted.

[3] Comments addressing other points such as terminology or sampling under contingency plans were received and are addressed separately below.

[4] The Agency notes that although these petitioners were not required to make a demonstration under the petition review approach proposed on February 26, 1985, the decisions made here are equivalent under both "old" and "new" review approaches. That is, if the Agency used the modeling approach for these wastes, the same technical decision to exclude these wastes from hazardous waste control would be made.

Texas Instruments, Inc., Dallas, Texas

I. Imperial Clevite

A. Proposed Exclusion

Imperial Clevite has petitioned the Agency to exclude its still bottom waste from EPA Hazardous Waste No. F002 based on the low concentration of the listed solvent in the waste. The only solvent used by Imperial Clevite and found present in its resin cake is 1,1,2-trichloro-1,2,2-trifluoroethane (FC–113). FC–113 is used to clean metallurgy parts of excess liquid thermosetting epoxy resin. The FC–113 is recovered actively within the process, allowing only minor concentrations to remain in the spent resin still bottoms. In addition, Imperial Clevite submitted data on the other non-listed hazardous constitutents which indicates that no other hazardous constituents are present in these wastes at levels of regulatory concern. (See 49 FR 42582–42583, October 23, 1984, for a more detailed explanation of why EPA proposed to grant Imperial Clevite's petition.)

B. Agency Response to Public Comments

There were no comments on the proposed exclusion of this waste.

C. Final Agency Decision

Based on the low concentrations of FC–113 in Imperial Clevite's resin cake, and the low solubility of this solvent in water, this waste is not considered hazardous either through exposure by inhalation or ingestion (in drinking water). Minimal toxicological response has been reported in mammals for FC–113 at exposure levels in excess of 12,000 ppm. The American Conference of Governmental Industrial Hygienists has established a recommended threshold limit value of 1,000 ppm for FC–113 in workroom air. Due to the high vapor pressure of FC–113 and the retention time and operational temperature of Imperial Clevite's recovery system, most of the FC–113 available in the resin matrix would be expected to be recovered. The small quantity of FC–113 remaining within the still bottom resin (maximum 182 ppm) would not be expected to be mobile through evaporation or leaching. Even in a worst case scenario, if all of the FC–113 present in the waste were to enter the atmosphere, the total amount present in the waste would be well below the health-based standard and not of regulatory concern. If the FC–113 present in the waste were assumed to leach, the resultant levels expected in ground water also would not be considered of regulatory concern. The level of FC–113 available for leaching can be estimated from the compound's solubility in water, which is 17 ppm. Even if the FC–113 leached from the waste at its solubility limit, which is unlikely, since the waste is a solidified resin, this concentration would not pose a hazard to human health or the environment. This concentration is well below all available health-based standards. In addition, as indicated in the proposal, Imperial Clevite also submitted data on the other non-listed hazardous constituents which may reasonably be expected to be present in the waste. In particular, Imperial Clevite submitted a list of raw materials used in their manufacturing process; this list indicated that no other hazardous constitutents are used in the process.

The Agency considers Imperial Clevite's still bottom resin cake to be non-hazardous, for all reasons, and believes it should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Imperial Clevite for its still bottom resin cake listed as EPA Hazardous Waste No. F002 generated at its Salem, Indiana, facility.

II. LCP Chemical Company

A. Proposed Exclusion

LCP Chemicals and Plastics (LCP) has petitioned the Agency to exclude their treatment residues from EPA Hazardous Waste Nos. K071 and K106 based on their low mercury content and the inability of mercury to leach from these residues. LCP proposed to use either of the following treatment processes: (1) Retort distillation of the wastewater treatment sludges (K106 wastes) and stabilization of the brine muds (K071 wastes) using the SolidTek System "nine," an inorganic solidification and stabilization technology; or (2) sodium hydrosulfide treatment and filtration of the combined brine mud and mercury bearing wastewater treatment sludges. Both processes were designed to immobilize the mercury concentrations remaining in the wastes. In addition, LCP also submitted data on the other non-listed hazardous constituents which indicates that no other hazardous constituents are present in these wastes at levels of regulatory concern. (See 49 FR 42584–42586, October 23, 1984, for a more detailed explanation of why EPA proposed to grant LCP's petition.)

B. Agency Response to Public Comments

The Agency received one comment from the petitioner indicating that they did not submit a contingency plan to include continuous testing, but rather that bi-monthly testing using the EP toxicity test would provide satisfactory quality assurance.

The Agency notes that LCP proposed to test the treated waste to ensure proper treatment; however, LCP was correct that they did not offer to test *each batch* using the EP toxicity test. Thus, the Agency was incorrect in stating "In addition, LCP proposes to test each batch of waste to ensure proper treatment (no matter which treatment system is employed) using the EP toxicity test." See 49 FR 42586, October 23, 1984. Nevertheless, the Agency incorporated the batch testing requirement into the contingency plan to ensure consistent treatment.[3] The Agency notes that both treatment alternatives proposed by LCP were tested as "pilot" treatment processes, neither of which have been continuously used at the facility. Since these treatment procedures were not "on-line" processes, the Agency believes it is necessary to collect continuous "on-line" batch data over a period of time. The need for batch data is emphasized due to the Agency's experience with the inherent variability of mercury content in chlor-alkali wastewater and brine sludges. The Agency, therefore, maintains that the exclusion requires continuous batch testing for mercury using the EP toxicity test prior to disposal. The Agency, however, will review the data collected over an initial six-month period of "on-line" treatment. If the data indicate that mercury extract levels exhibit low variability, the Agency may propose to amend the exclusion to require frequent testing.

The petitioner also indicated that the proposed exclusion misstated the maximum mercury extract levels of the SolidTek treated brine waste as 100 ppm. The Agency notes that this was a typographical error and was correctly listed on the following page of the proposed exclusion as 0.015 ppm.

C. Final Agency Decision

Based on the low levels of mercury demonstrated to be present in the mercury-bearing wastewater treatment sludges and the low mercury extract levels exhibited by both of the proposed sludge treatment processes, the Agency believes the treatment residue is non-hazardous based on the criteria for which the waste was listed. The maximum extract levels of less than 0.015 ppm exhibited by the SolidTek

[3] The Agency indicated in the proposed exclusion that the waste would have to be tested on a batch basis for mercury mobility, using the EP toxicity test.

treated waste, and the average extract [6] level of 0.02 ppm exhibited by the sodium hydrosulfide treatment and filtration process are considered relatively low by the Agency (*i.e.*, within one order of magnitude of the National Interim Primary Drinking Water Standard). Attenuation and dilution by the soil column and any ground water source are expected to reduce these mercury concentrations below the drinking water standard. The Agency further believes that the matrices of both the SolidTek treated sludge and the slag residue from the retort furnace have high metal binding capacity. The Agency has, however, imposed a maximum acceptable mercury extract level for the treatment residue generated by both of these processes of 0.05 ppm. [7] This level was selected to ensure that very low levels of mercury would leach from the waste and is in part based on the large quantity of waste generated by LCP. LCP must test each batch of waste before disposal to assure that the waste exhibits mercury extract levels below 0.05 ppm. The Agency will review this data to determine whether variability is low enough to allow less frequent testing.

Based on the raw materials used by LCP in their manufacturing process, the Agency also has concluded that no other hazardous organic constituents are present in the waste at levels of regulatory concern. For the other toxic metals, the data submitted by LCP exhibited low extract levels. The Agency believes that attenuation and dilution will result in ground water concentrations well below the National Interim Primary Drinking Water Standards.[8] The Agency believes that LCP's petitioned wastes are non-hazardous for all reasons, under the conditions described above. The Agency, therefore, is granting a final conditional exclusion to LCP for its mercury bearing wastewaste treatment sludges and treated brine mud waste from EPA Hazardous Wastes Nos. K106 and K071 at its Orrington, Maine, facility.

[6] The average level was used since the maximum level was considered an outlier. Since this value was claimed to be caused by a modification of the treatment system rather than a laboratory or analytical aberration, the mean value was calculated using this maximum level rather than ignoring it.

[7] The Agency notes that if the proposed VHS modeling approach were used to evaluate this petition, the receptor well values generated (using the maximum extract levels from each treatment residue) would be below the National Interim Primary Drinking Water Standard for mercury. The modeling approach also indicates that if the waste exhibited an extract level of 0.05 (the maximum acceptable level set by the condition noted above) the receptor well value would still be below the National Interim Primary Drinking Water Standard.

[8] Analyses of extract data for all other EP toxic metals and nickel using the VHS model indicate receptor well levels below each appropriate health-based standard.

III. Stauffer Chemical Company

A. Proposed Exclusion

Stauffer Chemical Company (Stauffer) has petitioned the Agency to exclude its brine purification muds from EPA Hazardous Waste No. K071. Stauffer proposed to install a brine washing and filtration system at its St. Gabriel, Louisiana, facility. Stauffer claimed that the mercury present in the brine muds treated using this proposed, pilot scale system were immobile and, accordingly non-hazardous. In addition, Stauffer submitted data on other non-listed constituents which indicates that no other hazardous constituents are present in these wastes at levels of regulatory concern. (See 49 FR 42584, October 23, 1984, for a more detailed explanation of why EPA proposed to grant Stauffer's petition.)

B. Agency Response to Public Comments

The Agency received one comment from the petitioner. Stauffer claimed that although they had indicated in the petition that they would monitor the treatment system to assure that a non-hazardous waste was generated, they did not state that they would run an EP toxicity test on each batch of waste. Stauffer also claimed that it would not be necessary to run the EP toxicity test on each batch to ensure the non-hazardous nature of the waste. Stauffer states that normal operating and inspection procedures combined with EP toxicity testing of monthly composite samples (after an initial batch testing period) would be a sufficient program to assure non-variability and the non-hazardousness of the waste.

The Agency notes that Stauffer proposed to test and monitor the waste to ensure proper treatment; however, Stauffer was correct that they did not offer to test each batch continuously using the EP toxicity test. Thus, the Agency was incorrect in stating "To ensure proper treatment all the time, however, Stauffer also has proposed to test each batch of the brine purification muds generated at its facility using the EP toxicity test procedures." See 49 FR 42584, October 23, 1984. Nevertheless, the Agency incorporated the continuous batch testing requirement into the contingency plan to ensure consistent treatment. Due to the Agency's experience with the inherent variability of mercury content in chlor-alkali wastewater and brine sludges, the Agency maintains the need for batch testing using the EP toxicity test. This point is emphasized by the fact that Stauffer's petition was based on laboratory scale and pilot plant data for a washing and filtration treatment system which was not installed at the time the petition was filed. The Agency will therefore require continuous batch testing of the waste for mercury using the EP toxicity test prior to disposal. The Agency will, however, review the data collected over an initial six-month period of "on-line" treatment. If the data indicate that mercury extract levels exhibit low variability, the Agency may propose to amend the exclusion to require less frequent testing.

C. Final Agency Decision

Based on the low levels of mercury demonstrated to be present in the treated brine sludge and the low mercury extract levels exhibited by Stauffer's proposed sludge treatment system, the Agency believes the treatment residue is non-hazardous based on the criteria for which the waste was listed. The maximum extract level of 0.024 ppm exhibited by the treated brine sludge is below that of regulatory concern (*i.e.*, levels within approximately one order of magnitude of the National Interim Primary Drinking Water Standard). Attenuation and dilution by the soil column and any ground water source is expected to reduce these mercury concentrations below the drinking water standard. The Agency, however, has imposed a condition on Stauffer, requiring continuous batch testing of the treated brine sludge for mercury using the EP toxicity test. The Agency has imposed a maximum acceptable mercury extract level of 0.05 ppm on this batch testing condition.[9] This level was selected to ensure that very low levels would leach from the waste and is in part based on the variability associated with the brine muds generated in the chlor-alkali industry. Stauffer must perform continuous batch testing before disposal. The Agency will review this data to determine whether variability is low enough to allow sampling and testing on a less frequent basis.

Based on the raw materials used by Stauffer in their manufacturing process, the Agency also has concluded that no other hazardous organic constituents are present in the waste at levels of regulatory concern. For the other toxic metals, the data submitted by Stauffer shows extract levels within one order of

[9] See footnote 7.

magnitude of National Interim Primary Drinking Water Standards. These levels are below that of regulatory concern. The Agency believes that attenuation and dilution will result in ground water concentrations well below the National Interim Primary Drinking Water Standards.[10]

The Agency believes that Stauffer's proposed treatment system will produce, under the conditions described above, a treatment residue which is non-hazardous for all reasons. The Agency, therefore, is granting a final conditional exclusion to Stauffer for its treated brine sludge from EPA Hazardous Waste No. K071 at its St. Gabriel, Louisiana, facility.

IV. Stauffer Chemical Company

A. Proposed Exclusion

Stauffer Chemical Company (Stauffer) has petitioned the Agency to exclude its brine purification muds contained in its brine muds pond (designated HWTF: 5 EP-201) at its LaMoyne Plant in Axis, Alabama, from EPA Hazardous Waste No. K071. Stauffer claimed that this impounded sludge was non-hazardous due to the immobility of the mercury in the waste. In addition, Stauffer also submitted data on other non-listed constituents which indicates that no other hazardous constituents are present in these wastes at levels of regulatory concern. (See 49 FR 42583–42584, October 23, 1984, for a more detailed explanation of why EPA proposed to grant Stauffer's petition.)

B. Agency Response to Public Comment

No public comments were received regarding this petition.

C. Final Agency Decision

Based on the low levels of mobile mercury in this waste, the Agency believes that the waste contained in the brine mud pond is non-hazardous, based on the criteria for which the waste was listed. The maximum mercury extract level exhibited by this waste, 0.0032 ppm, is below that of regulatory concern (*i.e.*, levels less than one order of magnitude of the National Interim Primary Drinking Water Standard).[11] Attenuation and dilution by the soil column and any ground water source will reduce these mercury concentrations below the drinking water standard.

Based on the raw materials used by Stauffer in their manufacturing process, the Agency also has concluded that no other hazardous organic constituents are present in the waste at levels of regulatory concern. For the other toxic metals, the data submitted by Stauffer shows extract levels below the National Interim Primary Drinking Water Standards.[12]

The Agency believes the sludge contained in Stauffer's brine mud pond (5 EP-201) is non-hazardous for all reasons. The Agency, therefore, is granting a final one-time exclusion for the treated brine mud waste contained in pond 5 EP-201 at Stauffer's Axis, Alabama, facility.

V. Texas Instruments, Inc.

A. Proposed Exclusion

Texas Instruments, Inc., has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste Nos. F006 and F019 based on the destruction and immobilization of the listed hazardous constituents by its wastewater treatment system. In addition, Texas Instruments submitted data on other non-listed constituents which indicates that no other hazardous constituents are present in these wastes at levels of regulatory concern. (See 49 FR 42581–42582, October 23, 1984, for a more detailed explanation of why EPA proposed to grant Texas Instruments' petition.)

B. Agency Response to Public Comments

There were no comments on the proposed exclusion of these wastes.

C. Final Agency Decision

Texas Instruments' claim that their wastewater treatment sludge is non-hazardous was substantiated. First, representative samples of this waste were tested for total cyanide and leachable cyanide. Maximum total cyanide content for this waste was 0.25 ppm, which is well below the threshold limit value of 10 ppm for workroom air suggested by the American Conference of Governmental Industrial Hygienists. This low level is therefore not of regulatory concern to the Agency from an atmospheric exposure route. The maximum cyanide extract level was 0.01 ppm, which is well below the U.S. Public Health Service's Suggested Drinking Water Standard for cyanide, and is therefore not of regulatory concern with respect to ground water contamination.

The maximum extract levels for cadmium, chromium, and nickel were 0.37, 0.88, and 3.09 ppm, respectively. The Agency had proposed to condition the exclusion to include batch testing of the waste for cadmium, due to the cadmium extract variability reported in the petition.[13] The Agency proposed that any batch exhibiting a cadmium extract level above 0.3 ppm should be handled as a hazardous waste. This limitation was imposed by the Agency to ensure that only relatively low levels of cadmium would leach from the waste. Attenuation and dilution attributed to the soil column as well as any ground water source is expected to decrease these extract levels below the National Interim Primary Drinking Water Standards.[14] The Agency is still concerned about the variability exhibited by the cadmium extract values, and therefore is requiring TI to test each batch for cadmium using the EP toxicity test. The Agency is requesting TI to tabulate and report this data to the delisting program office on a monthly basis, as an addendum to their delisting petition. The Agency will not remove this condition until TI's data have been evaluated and made available for comment.

The maximum chromium and nickel extract values also are not considered of regulatory concern, since they are within approximately one order of magnitude of the National Interim Primary Drinking Water Standard for chromium and the Agency's Interim Health Advisory for nickel, respectively.[15] [16] Again, attenuation

[10] See footnote 8.

[11] The Agency notes that if the proposed VHS modeling approach were used to evaluate this petition, the receptor well values generated (using the maximum extract level for the treatment residue) would also be below the National Interim Primary Drinking Water Standard for mercury.

[12] See footnote 8.

[13] Cadmium extract levels varied from 0.06 to 0.37 ppm.

[14] The Agency notes that if the proposed VHS modeling approach were used to evaluate this petition, the receptor well values generated (using the maximum cadmium extract level and TI's annual waste generation rate of 339 tons per year), would be below the National Interim Primary Drinking Water Standard for cadmium. The modeling approach also indicates that the maximum acceptable cadmium level which will generate a receptor well value below the National Interim Primary Drinking Water Standard is 0.5 ppm. The exclusion condition will remain at the 0.3 ppm level, however, since public comments on the modeling approach proposed on February 26, 1985, have not yet been evaluated.

[15] The Agency's previous delisting decisions for nickel were based on the 1980 Ambient Water Quality Criterion (AWQC) of 632 ppb. Since that time, various offices within the Agency have reviewed the studies from which the AWQC was determined. These studies were found to be flawed with respect to reproductive effects; therefore the Agency is conducting a new reproductive effects study to re-evaluate the toxicity of nickel. This will probably take more than eight months to complete. In the interim, the Agency has determined that the systemic toxicity results reported in the original studies (see Ambrose, *et al.*, 1976., J. Food Sci. Technol. 13:181–187) should be used to calculate an

Continued

and dilution are expected to decrease these levels below these health-based standards.

Based on the raw materials used by TI in their manufacturing process, the Agency also has concluded that no other hazardous organic constituents are present in the waste at levels of regulatory concern. For the other toxic metals, the data submitted by TI shows low extract levels. The Agency believes that attenuation and dilution will result in ground water concentrations well below the National Interim Primary Drinking Water Standards.[17]

The Agency believes that this waste is non-hazardous (for all reasons) and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final conditional exclusion to Texas Instruments for its electroplating wastewater treatment sludge listed as EPA Hazardous Waste Nos. F006 and F019 generated at its Dallas, Texas, facility.

VI. Effective Date

This rule is effective immediately. The HSWA amended Section 3010 of RCRA to allow rules to become effective in less than six-months period when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that these rules should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

VII. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous.

VIII. Regulatory Flexibility Act

Pursuant to the Regulatory flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepares and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small Governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: August 12, 1985.

J. Winston Porter,

Assistant Administrator, Office of Solid Waste and Emergency Response.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order:

Appendix IX—Waste Excluded under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Imperial Clevite	Salem, IN	Solid resin cakes containing EPA Hazardous Waste No. F002 generated after August 27, 1985, from solvent recovery operations.
Texas Instruments, Inc.	Dallas, TX	Wastewater treatment sludges (EPA Hazardous Waste Nos. F006 and F019) generated after August 27, 1985, from their electroplating operations that have been batch tested for cadmium using the EP toxicity procedure and have been found to contain less than 0.30 ppm cadmium in the EP extract. Wastewater treatment sludges that exceed this level will be considered a hazardous waste.

TABLE 2.—WASTE EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
LCP Chemical	Orrington, ME	Brine purification muds and wastewater treatment sludges generated after August 27, 1985 from their chlor-alkali manufacturing operations (EPA Hazardous Waste Nos. K071 and K106) that have been batch tested for mercury using the EP toxicity procedures and have been found to contain less than 0.05 ppm mercury in the EP extract. Brine purification muds and wastewater treatment sludges that exceed this level will be considered a hazardous waste.
Stauffer Chemical Co.	Axis, AL	Brine purification muds generated from their chlor-alkali manufacturing operations (EPA Hazardous Waste No. K 071) and disposed of in brine mud pond HWTF, S EP-201.
Stauffer Chemical Co.	St. Gabriel, LA	Brine purification muds, which have been washed and vacuum filtered, generated after August 27, 1985 from their chlor-alkali manufacturing operations (EPA Hazardous Waste No. K071) that have been batch tested for mercury using the EP toxicity procedure and have been found to contain less than 0.05 ppm in mercury in the EP extract. Brine purification muds that exceed this level will be considered a hazardous waste.

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interim health advisory for nickel. (See 50 *FR* 20247, Appendix I, May 15, 1985.) The Agency will use a calculated allowable drinking water concentration of 350 ppb. Until this study is completed, and a new health-based nickel standard is established, the Agency will grant final exclusions in cases where the predicted exposure to nickel is less than 350 ppb. For cases where the predicted concentration exceeds 350 ppb, the Agency will defer its decision on nickel, pending the establishment of a new standard.

[16] The Agency notes that if the proposed VHS modeling approach were used to evaluate this petition, the receptor well values generated (using the maximum extract levels from the treatment residue) would be below the National Interim Primary Drinking Water Standard for the listed EP toxic metals.

[17] Analysis of extract data for all other EP toxic metals and nickel using the VHS model indicate receptor well levels below each appropriate health-based standard.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Social Security Administration

45 CFR Parts 232, 233, 302, and 303

Child Support Enforcement Program, and Aid to Families With Dependent Children Program; Treatment of Assigned Support Payments Received Directly and Retained by AFDC Applicants or Recipients

AGENCY: Office of Child Support Enforcement (OCSE), and Social Security Administration (SSA), HHS.

ACTION: Final rule.

SUMMARY: The Child Support Enforcement program under title IV–D of the Social Security Act (the Act) is charged with establishing paternity and securing support on behalf of recipents of Aid to Families with Dependent Children (AFDC) under title IV–A of the Act. As a condition of eligibility for AFDC, applicants and recipients must assign to the State the support rights of any person on whose behalf aid is sought or received. Assigned support collections are used, in part, to reimburse the assistance payments provided by the State and Federal governments, and generally do not affect the amount of the AFDC grant.

Another condition of eligibility for AFDC is that the applicant or recipient "cooperate with the State . . . in obtaining support payments." Current AFDC regulations at 45 CFR 232.12(b)(4) specify that cooperation includes "paying to the child support agency any [assigned] child support payments received from the absent parent." In some cases, however, recipients fail to forward these payments to the IV–D agency, and as a result have the use of the payments as income. To codify joint AFDC and Child Support Enforcement policy for handling those situations in which an AFDC recipient receives and retains child support payments from an absent parent, we published final regulations with comment period on October 5, 1982. (See Volume 47 of the Federal Register, pages 43953-43957.) This document responds to the comments received on those regulations.

EFFECTIVE DATE: This document is effective August 27, 1985.

FOR FURTHER INFORMATION CONTACT: Marianne Rufty, OCSE, Policy Branch, 6110 Executive Blvd., Rockville, MD 20852, (301) 443–5350; or Gary Ashcraft, SSA, Office of Family Assistance, Office of Policy, Transport Building, 2100 Second Street S.W., Washington, D.C. 20201, (202) 245–3284.

SUPPLEMENTARY INFORMATION:

Background

When an assignment of support rights has been made by an AFDC applicant or recipient under section 402(a)(26)(A) of the Act (42 U.S.C 602(a)(26)(A)), it is the responsibility of the IV–D agency under section 454(4) of the Act (42 U.S.C. 654(4)) to establish, enforce, and collect a support obligation for anyone covered by that assignment. Section 454(5) of the Act (42 U.S.C. 654(5)) specifically requires the IV–D agency to ensure that assigned payments "shall be made to the State for distribution pursuant to section 457 [with one exception] and shall not be paid directly to the family." Section 457 provides the method for assigned support collections to be either distributed among the State and Federal governments or given to the family.

The distribution requirements cannot be implemented when support payments are permitted to flow directly from the absent parent to the family for several reasons: first, the statutory requirements for distribution of assigned collections by the IV–D agency cannot be carried out when the IV–D agency does not receive the collection; second, the enforcement function of the IV–D agency is hampered because the agency cannot monitor payments by the absent parent. It is, therefore, a primary responsibility of the IV–D agency to take prompt action to redirect payments which are being received by the family so that these payments flow from the absent parent to the IV–D agency and not to the family. However, there are circumstances, such as a backlog of cases or the need to change the payee of a court-ordered support obligation, in which the AFDC recipient continues to receive support payments directly from the absent parent for some time after the case has been referred to the IV–D agency. For this reason, as noted above, AFDC regulations require that direct support payments be paid by the recipient to the IV–D agency, as a condition of AFDC eligibility.

A problem arises when a recipient fails to forward to the IV–D agency assigned support payments received directly from an absent parent (direct payments). For this reason, the Office of Family Assistance (OFA) and the Office of Child Support Enforcement (OCSE) issued a joint Action Transmittal-Program Instruction (SSA–AT–81–7 (OFA) and OCSE–AT–81–7, dated March 27, 1981) to provide Federal policy on treatment of support payments received and retained by AFDC applicants or recipients until publication of final regulations on this subject. The Action Transmittal also provides for the application of the sanction for failure to cooperate for retention of past as well as current support payments.

We published final regulations with a comment period in the **Federal Register** on October 5, 1982 to codify the policy contained in the Action Transmittal. This document responds to comments received on those regulations. One change was made to the final regulations as a result of the comments. In addition, one technical change was made as a result of enactment of Section 173 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, which amends section 454(5) of the Act.

Provisions of the Final Regulations

States must implement on a Statewide basis one of two methods for the treatment of retained direct support payments. We emphasize that the two methods for treatment of retained direct support payments are not intended to preclude or restrict the prosecution for fraud under applicable State civil or criminal law where warranted. In addition, we want to remind States of the recently revised sections 402(a)(8)(A) and 457(b) of the Act which require that the first $50 collected on a monthly support obligation be paid to the AFDC family. Despite the fact that retained amounts must be repaid in accordance with either of the methods described below, the individual who retains a direct payment is entitled to the first $50 of the monthly support obligation. Therefore, regardless of whether the State is a IV–A income or a IV–D recovery State, the State must take into account the $50 payment to the AFDC family when determining the amount of retained support that is owed by an individual.

1. IV–A Income Method

Before publication of the regulations on October 5, 1982, AFDC regulations at 45 CFR 233.20(a) (1) and (3) required that the IV–A agency treat assigned support payments retained in the current month as income in determining need and amount of the assistance payment. An overpayment of assistance occurs for each month in which a direct support payment is retained by the recipient and not counted by the IV–A agency to reduce the AFDC payment. Under the IV–A income method, a State must implement the IV–A plan provisions of

45 CFR 233.20(a)(13) for recovering these overpayments.

After publication of the October 5, 1982 regulations, States that treated retained direct payments as income were not required to change. Under the IV–A income method of accounting for retained support payments, the role of the IV–D agency is essentially limited to: (1) Contacting the recipient in the month in which a payment is due to be forwarded to the IV–D agency to secure the release of that payment if it is in the possession of the recipient, and (2) informing the IV–A agency when it discovers that a recipient is retaining or has retained directly paid support.

Notwithstanding these provisions for IV–A agencies to account for retained direct support payments, recipients must still forward directly received support payments to the IV–D agency as a condition of eligibility under 45 CFR 232.12. If, in a IV–A income State, a recipient receives and retains a support payment in one month and consequently receives an overpayment of assistance for that month, the IV–A agency will implement recovery procedures consistent with the IV–A State plan.

2. IV–D Recovery Method

The final regulations published on October 5, 1982 amended IV–D State plan requirements at 45 CFR 302.31 by adding paragraph (a)(3) to provide a second method for treatment of retained direct payments whereby the IV–D agency elects to recover the retained amounts through a repayment agreement with the recipient. This required an exception to 45 CFR 223.20(a)(3) which had provided that retained support payments covered by an assignment be counted as income by the IV–A agency. When a State IV–D agency elects the IV–D recovery method in its State plan, the IV–A agency will not count any retained direct support payments as income to meet need, except when a sanction for failure to cooperate is applied under 45 CFR 232.12(d). The procedures for IV–D recovery are specified at 45 CFR 302.31(a)(3) and 303.80.

If a State elects the IV–D recovery method, the IV–D agency will establish a repayment plan with the AFDC recipient in accordance with the requirements of § 303.80. Section 303.80 provides specific procedures and limitations for repayment agreements between IV–D agencies and AFDC recipients. First, the IV–D agency must document that directly paid support has been retained and the amounts. Second, the IV–D agency must provide the recipient prior written notice of its intent to recover the retained amounts and the proposed method for recovery. The specific elements of this notice are specified at § 303.80(c)(2)(i) through (iv).

In addition to the written notice of intent to recover, the IV–D agency must provide the AFDC recipient with the opportunity for an informal meeting for the purpose of resolving any differences regarding repayment of the directly received retained support. The requirements for this meeting are specified in § 303.80(c)(3). At this meeting, the IV–D agency will explain the nature and amount of the recipient's debt. The recipient can submit documentation to rebut any part of the State's claim.

After these requirements have been met, the recipient enters into a repayment agreement with the IV–D agency subject to the requirements of § 303.80(d). This subsection provides that the repayment agreement must be individually structured so as to account for both the recipient's ability to repay and the size of the debt. Under the repayment agreement, a recipient may pay out-of-pocket in one payment or on an installment basis or through voluntary vendor payments pursuant to 45 CFR 234.60(a)(14). We believe that an individualized agreement is essential to avoid both undue hardship on the recipient and unreasonably long repayment periods in relation to the amount of retained support.

Under § 303.80(e), when a recipient does not enter into or comply with the terms of a repayment agreement with the IV–D agency, the IV–D agency must refer the case to the IV–A agency with evidence of failure to cooperate. Section 303.80(f) requires the IV–D agency to notify the IV–A agency when the recipient begins to cooperate. Cooperation is restored under § 303.80(f)(1) when a recipient, who initially refused to enter into an agreement, signs a repayment agreement with the IV–D agency and, under § 303.80(f)(2), when a recipient who defaults on a repayment agreement begins making regularly scheduled payments according to that agreement. Section 303.80(f)(2) further provides that the resumption of payment in the case of a default does not mean payment of past due amounts which went unpaid during the period of default. Rather, cooperation is restored when the recipient makes a current, regularly scheduled payment according to the terms of the agreement. Amounts due from any period of default simply extend the duration of the repayment agreement by the number of months in which payments were not made. We also specify at § 303.80(f)(2) that repayment agreements may not include provisions for balloon payments or an acceleration clause as a condition for restoring cooperation in the case of a default.

We also made a technical change in the regulations published October 5, 1982 which amended 45 CFR 233.20(a)(3)(vi) to delete the first full sentence. This section incorrectly provided that support from legally responsible relatives, in addition to an absent parent, can be sought for purposes of income to an AFDC assistance unit. Under section 402(a)(26) of the Act and 45 CFR 232.11, assigned support from any individual whom the State holds legally responsible must be paid to the IV–D agency and, with one exception, cannot be counted in the determination of the amount of the assistance payment. The remaining two sentences in this subparagraph remained unchanged.

Changes to Final Regulations

This document makes one change as a result of a comment received in response to the regulations published in the **Federal Register** on October 5, 1982.

Section 303.80(f)(2) stated that the IV–D agency must notify the IV–A agency when "the recipient who defaulted on repayment agreement begins making regularly scheduled payments according to the agreement." This paragraph further explains that "resumption of regularly scheduled payments cannot be interpreted to mean payment of amounts which were not paid during the period of default, nor amounts which could be categorized as balloon payments or which would be due as a result of an acceleration clause." Based on a comment received concerning the term "regularly scheduled payment," we revised § 303.80(f)(2) to include a definition of this term and to clarify how the IV–D agency is to recover amounts which were not paid during the period of default. The new § 303.80(f)(2) defines a "regularly scheduled payment" as a payment made in the current month for the amount specified in the initial repayment agreement between the IV–D agency and the recipient. It also provides that, in order to recover amounts which were not paid during the period of default, the IV–D agency must extend the duration of the repayment agreement.

We are also making a technical change to the final regulations. Under the current § 303.80(b), a direct payment which is used by the IV–A agency to determine an assistance unit ineligible for continued assistance is exempt from being recovered from the family. As of October 1, 1982, section 173 of Pub. L.

97-248 amended section 454(5) of the Act to require that a support payment used to determine the assistance unit ineligible for AFDC be retained by the State to reimburse it for assistance paid to the family. Since this payment is no longer paid to the family, the exception currently under § 303.80(b) is not applicable and any support payment retained by the family which causes ineligibility must be recovered by the IV-D agency. Therefore, this document deletes reference to that exception.

State Plan Amendments

We required amendments to both the IV-A State plan and the IV-D State plan to indicate whether a given State elects the IV-A income method or the IV-D recovery method. OCSE issued the necessary preprint page as part of the revised State Plan Preprint via Action Transmittal OCSE-AT-82-11 on September 21, 1982. OFA issued the necessary preprint page via Action Transmittal SSA-AT-82-32 on December 13, 1982. States are currently in the process of submitting the preprint pages for approval.

Response to Comments

We received five letters from State agencies response to the final rule published on October 5, 1982. A discussion of the comments contained in these letters and our responses follow.

Comment: One commenter stated that these regulations do not clearly define how the IV-A agency is to handle lump sum arrearage payments when an AFDC applicant or recipient receives the lump sum and retains it.

Response: Regardless of whether the State has decided to recover directly received and retained support payments through the IV-A income or the IV-D recovery method, Federal regulations at 45 CFR 233.20(a)(3)(ii)(D) apply to applicants who received a lump sum arrearage payment in the month of application. Applicants whose income in the month of application exceeds the need standard because of the receipt of lump sum income, regardless of the source, must be considered ineligible for assistance for the period computed by the IV-A agency under that regulation.

In IV-A income States only, lump sum arrearange support payments that are received directly and retained by an AFDC recipient must also be treated in accordance with 45 CFR 233.20(a)(3)(ii)(D). (See Section II. A. of SSA-AT-81-7 (OFA), March 27, 1981.)

Comment: Several State commenters felt that they were being forced to be IV-D recovery States because of the fiscal sanctions under the quality control system. However, they felt that reductions in assistance payments under title IV-A are the most efficient and effective way of recovering support payments that are received directly and retained by an AFDC recipient. One State believed that retained support payments should not be counted in computing a State's IV-A quality control error rate. Similarly, another recommended that State agencies be allowed to implement the IV-A income method without fear of fiscal sanction.

Response: One State which has chosen to be a IV-D recovery State has a productive idea for increasing the collection of retained support under that method. In addition to permitting recipients who have retained support to pay out-of-pocket in a single payment or on an installment basis, they will also permit the use of voluntary vendor payments authorized by section 406(b)(2) of the Social Security Act and implemented under 45 CFR 234.60(a)(14) as a way of meeting the terms of the repayment agreement. Under this optional provision, a recipient could voluntarily request that vendor payments be made by the IV-A agency to the IV-D agency or its designee for repayment of retained support. States whose title IV-A State plan does not now provide for this option must amend their plan if they elect to offer this method of repayment. A State may limit its use of this option solely to repayment of retained support by so stating in its State plan.

There are no plans to eliminate the review of directly received and retained support payments from the quality control system and the related fiscal sanctions in either IV-A income States or IV-D recovery States.

Comment: One commenter asked if the IV-A agency will make the determination of cooperation if a recipient refuses to enter into a repayment agreement or fails to make a payment under the repayment agreement. The commenter also asked if this determination will be straightforward or involve other considerations.

Response: The determination of whether an applicant or recipient has cooperated in establishing paternity and securing support will be made by the IV-A State agency. This is a title IV-A State plan requirement under section 402(a)(26) of the Act and 45 CFR 232.12. See the preamble to the regulations published on October 5 for explanation of how cooperation is determined.

Comment: One commenter recommended that States opting to implement the IV-D recovery method be allowed to recoup past support payments retained by the recipient by way of reduction of the recipient's AFDC grant.

Response: The regulations provide States with a choice between two methods. The elements of the two methods, however, are not interchangeable. There is no statutory or regulatory provision that authorizes a IV-D agency to reduce a recipient's AFDC grant. Therefore, the direct payment must be considered either as income to the recipient or an overpayment under title IV-A (IV-A income method), or as an amount owed to the State to be recovered by the IV-D agency (IV-D recovery method). If a State elects the IV-D recovery method, it may only recover direct payments using the recovery method authorized under § 302.80. As stated in response to the second comment, an AFDC recipient may voluntarily make a written request for the IV-A agency to make vendor payments to IV-D agency in satisfaction of a repayment agreement.

Comment: One commenter asked if the informal meeting between the IV-D agency and the AFDC recipient who retained direct payments can be conducted by telephone when the recipient resides in a rural area.

Response: To clarify the AFDC recipient's responsibilities and to resolve differences regarding the repayment of retained direct payments, we strongly urge that a face-to-face meeting occur between the IV-D agency and the recipient. This meeting can take place at the IV-D agency or at the recipient's residence and may involve travel by either party to the selected site. We do recognize, however, that in some situations travel by either party would be unreasonable or costly. In these cases, telephone contact may be used in place of a face-to-face meeting.

Comment: One commenter asked for more specific guidance in the area of the repayment agreement; however, the commenter did not indicate what areas needed further clarification.

Response: We believe that this regulation is sufficiently clear with respect to the repayment agreement. For more specific details on developing a repayment agreement, we suggest that the State agency contact the appropriate OCSE Regional Office for technical assistance on this matter.

Comment: One commenter asked if the AFDC recipient who defaults on a repayment agreement must repay the amounts that went unpaid during the period of default before a payment is considered a "regularly scheduled payment." In addition, the commenter asked how to distinguish between a current, regularly scheduled payment

and an AFDC recipient's effort to catch up on past due amounts which went unpaid.

Response: There is no need to distinguish between a current, regularly scheduled payment and the recipient's effort to catch up on past due amounts which went unpaid during default. In response to this comment, however, we revised § 303.80(f)(2) of the final regulations to clarify the term "regularly scheduled payment." (See previous discussion under Changes to Final Regulations.) As provided in the new § 303.80(f)(2), as soon as the recipient makes a payment according to the terms of the agreement, it is considered a current, regularly scheduled payment and cooperation is restored. Amounts due from any period of default simply extend the duration of the repayment agreement.

Comment: One commenter recommended that States be given flexibility to use both the IV–D recovery and the IV–A income methods to recoup retained direct payments, dependent on whether or not an individual was on public assistance. The commenter believes that the State would be most effective if its IV–A agency sought recovery while the individual was receiving assistance and its IV–D agency sought recovery after termination of assistance. In addition, because some States have sophisticated computer systems, the commenter recommended that these States be allowed to demonstrate to the Department that double recovery would be an unlikely result of combined IV–A and IV–D recoupment.

Response: In developing the final regulation, the Department felt that duplicate systems for recovering directly received and retained support payments would be administratively burdensome, create confusion for, and increase the possibility of duplicate recoveries from the AFDC recipient. Under the final regulation, a State cannot choose to be a IV–A income State while the responsible individuals are receiving AFDC and a IV–D recovery State after the case is closed. In a IV–A income State, the responsibility of the IV–A agency to collect overpayments of assistance does not end when the case is closed. Thus, it would be inconsistent with current regulations for the State to function as a IV–D recovery State once a case is closed. Similarly, the responsibility of the IV–D agency in a IV–D recovery State to collect retained support does not end when the AFDC case is closed. Therefore, to provide a uniform Federal policy that is workable and equitable to all States and to ensure equal treatment of AFDC recipients, the regulations require that each State select one of the two methods for treatment of retained direct payments and apply the procedures specified in that selected method to all recipients within the State.

Comment: One commenter expressed concern that, although this regulation states that the ". . . treatment of retained direct support payments are not intended to preclude or restrict the prosecution for fraud under applicable State, civil or criminal law where warranted," it does in fact restrict a State IV–D agency's obligation to notify the appropriate prosecutor.

Response: We believe that there are some instances where the direct payment is inadvertently retained by the AFDC recipient. In such cases where there is no criminal intent, there is no violation of criminal law. In cases where there is evidence of criminal intent, we believe that there is nothing in these regulations which preclude the caseworker from referring evidence of criminal activity to the local authorities.

OMB Clearance

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the revisions to the IV–A and IV–D State plans (§§ 232.12(b)(4), 233.20(a)(3)(v) and (vi) and 302.31(a)(3)) were approved by the Office of Management and Budget under existing OMB Nos. 0960–0252(OFA) and 0960–0253(OCSE).

Regulatory Impact Analysis

No significant costs will result from implementation of the final regulations because these regulations codified policy that is already in place in States. Therefore, the Secretary has determined that this document, which responds to the comments received on the final regulations, is not a major rule as described by Executive Order 12291. In addition, the Secretary certifies that for the reason stated above, these regulations will not have a significant economic impact on a substantial number of small entities and, therefore, will not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

List of Subjects

45 CFR Part 232

Aid to families with dependent children, Child support (new term), Child welfare, Family assistance office, Grant programs—social programs.

45 CFR Part 233

Aid to families with dependent children, Aliens, Family assistance office, Public assistance programs, Reporting requirements.

45 CFR Parts 302 and 303

Child welfare, Grant programs/social programs.

PART 303—[AMENDED]

1. The authority citation for Part 303 is revised to read as set forth below and the authority citations following all the sections in Part 303 are removed.

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. The final regulations published in the **Federal Reigster** on October 5, 1982 (47 FR 43953–43957) are confirmed as final rules with the following amendments: 45 CFR 303.80 (b) and (f)(2) are revised to read as follows:

§ 303.80 Recovery of Direct payments.

* * * * *

(b) *Direct payments that must be recovered by the IV–D agency.* In States that place the responsibility for recovery of direct payments with the IV–D agency under the State plan option at § 302.31(a)(3)(ii) of this chapter, the IV–D agency must recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect, as provided at 45 CFR 232.12(d).

* * * * *

(f) *Subsequent notification to the IV–A agency as required.* If the IV–D agency has referred a case to the IV–A agency with evidence of failure to cooperate for either of the reasons in paragraph (e) above, the IV–D agency must notify the IV–A agency when either of the following changes in circumstances occurs:

(1) The recipient who refused to enter into a repayment agreement consents to do so and signs the agreement; or

(2) The recipient who defaulted on an agreement begins making regularly scheduled payments according to the agreement. Under this paragraph, a regularly scheduled payment is a payment made in the current month for the amount specified in the initial repayment agreement between the IV–D agency and the recipient. The resumption of regularly scheduled payments cannot be interpreted to mean payment of amounts which were not paid during the period of default, nor amounts which could be categorized as balloon payments or which would be due as a result of an acceleration clause. To recover amounts due from any period of default, the IV–D agency must extend

the duration of the repayment agreement.

(Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program, and Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid))

Dated: June 6, 1985.

Martha A. McSteen,

Acting Commissioner, Social Security Administration.

Dated: April 16, 1985.

Stephen Ritchie,

Director, Office of Child Support Enforcement.

Approved: June 24, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 85-20292 Filed 8-26-85; 8:45 am]

BILLING CODE 4150-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

Interpretation Letter Regarding Separations Manual

AGENCY: Federal Communications Commission.

ACTION: Interpretation letter.

SUMMARY: Under delegated authority, the Common Carrier Bureau, in response to a request by Eagle Communications Inc./Colorado has provided an interpretation of Part 67 of the FCC Rules and Regulations. The issue concerns the frozen customer premises equipment (CPE) balances established in accordance with the *Decision and Order* in FCC Docket 80-286, released February 26, 1982. The interpretation provides guidance with respect to the transfer of the frozen CPE balances in the event of the sale of the telephone exchange.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Arthur S. Leahy, Common Carrier Bureau, (202) 632-7500.

August 13, 1985.

Mr. Bob Adkisson,
Eagle Telecommunications Inc./Colorado, 801 Sowatch, Box 570, Eagle, Colorado 81631

Dear Mr. Adkisson: In your letter of July 15, 1985, you requested clarification of the procedures for the transfer of frozen customer premise equipment (CPE) balances in the event of the sale of telephone exchanges. Specifically, you requested information as to whether Eagle Telecommunications, Inc. should include in the calculation of its revenue requirement the phase out amount of CPE associated with the purchase of two exchanges from Continental Telephone of the West. In response to that request we are providing the following interpretation of the Separations Manual, Part 67 of the *FCC Rules and Regulations.*

In its *Decision and Order (Order)* in Docket 80-286, released February 26, 1982, the Commission adopted the Amendment to the Separations Manual which required the amounts in the CPE plant accounts (other than Category 2) on the books as of December 31, 1982, to be frozen and to constitute a base amount for separations purposes. In the *Order* it is stated that the freeze and the associated phase out of the frozen base over five years is "to facilitate the implementation of the Commission's policies regarding detariffing of customer premises equipment . . . and to ensure that the detariffing does not result as [*sic*] abrupt rate increases."

As we indicated in our previous interpretation letter of June 4, 1984 to Mr. Ron Commingdeer of Panhandle Telephone Cooperative, it is our opinion that the Commission's intention of precluding abrupt rate increases will most properly be served when the frozen CPE balance continues to be effectively associated with the same locale it was associated with when the balance was frozen. Thus, any rate increase curtailment effected by the inclusion of the frozen CPE amount in the separations process would benefit the ratepayers in that area. In the event of a transfer of ownership of an exchange, the overriding consideration shall be that the ratepayer benefitting or likely to benefit from the frozen CPE balance at the time of transfer should continue to so benefit after the transfer to the extent possible. To assure this, it is expected that the frozen CPE balance shall remain with the exchange with which it was associated at December 31, 1982, and if an entire exchange should be sold, the associated frozen CPE balance shall transfer with the exchange to the new owner.

If you have any questions concerning this response, please contact Arthur Leahy at (202) 632-7500.

Sincerely,

Gerald P. Vaughan,

Chief, Accounting and Audits Division.

[FR Doc. 85-20382 Filed 8-26-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-1232; RM-4569]

FM Broadcast Station in Grass Valley, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allots Channel 257A to Grass Valley, California, as that community's second local FM service, in response to a petition for reconsideration filed by Eric Hilding.

EFFECTIVE DATE: September 30, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1063, as amended. 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Memorandum Opinion and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Grass Valley, California); MM Docket No. 83-1232, RM-4569.

Adopted: August 13, 1985.
Released: August 22, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for reconsideration [1] of the *Report and Order*, 49 FR 37125, published September 21, 1984, which denied a request of Eric R. Hilding ("petitioner") to substitute FM Channel 280A for Class C Channel 255 at Chester, California, and to allot Class B Channel 256 to Grass Valley, California. Opposition comments were filed by Michael E. and Teresa G. Worrall ("Worralls").[2]

[1] *Public Notice* of the petition was given November 2, 1984, Report No. 1485.

[2] The Worralls are one of two applicants for Channel 255 at Chester (File No. BPH831026AH). An application has also been filed by Almanor Broadcasting Associates (File No. BPH840731II).

Additionally, a motion to strike opposition comments, and a separate addendum thereto, were filed by Chester Coleman ("Coleman"), to which petitioner responded.

2. In the *Report and Order*, the Commission found that, on the basis of evaluating criteria for conflicting proposals,[3] Channel 255 should be retained at Chester in order to provide that community with the opportunity for its first local service. That determination was based not only on petitioner's failure to meet the burden of justifying the requested reallotment of the channel, for which applications are pending and for which no equivalent channel is available, citing *Martin and Salyersville, Kentucky*, 50 R.R. 2d 502 (1981), but also the fact that Grass Valley currently receives full time service from a local AM as well as a Class A FM station. Moreover, the Commission found that although no alternative Class B or B1 frequencies were available for Grass Valley, several Class A channels could be allotted to provide the diversity of service petitioner claims is needed. However, no interest in a Class A allotment was expressed by petitioner, or any other party. Thus, the Grass Valley proposal was denied.

3. On reconsideration, petitioner, *inter alia*, reiterates his previous arguments in favor of allotting Class B Channel 256 to Grass Valley, with the concomitant allotment of two Class C2 channels at Chester to satisfy the expressed interests there. However, in the absence of favorable consideration of his request, petitioner seeks the allotment of Channel 257A to Grass Valley to provide that community with an added voice for the dissemination of diverse viewpoints and programming. Accordingly, petitioner indicates that he will apply for Channel 257A if it is allotted to Grass Valley, as requested.

4. The bulk of petitioner's comments concern the assumed intentions of Chester Coleman to apply for Channel 255 at Chester. In response, Coleman addresses petitioner's alleged attack on the veracity of his intentions as a prospective applicant. However, since there are other *bona fide* applicants for the Chester allotment, the Coleman dispute is not relevant to the merits of the instant proceeding, nor, in fact, is it appropriate for consideration at the rule making level. Thus, to the extent comments are directed thereto, they warrant no further discussion.

5. Although the Worralls steadfastly oppose any suggested allotment of one or more Class C2 channels to Chester in exchange for a Class B channel at Grass Valley, they interpose no objection to petitioner's suggested allotment of a Class A channel to the latter community, provided it will not interfere with their intended operation on Channel 255 at Chester.

6. In view of the above, we believe that it is appropriate to respond to petitioner's interest in a Class A channel which could have been allotted to Grass Valley earlier, had we received the requisite expression of interest. See, *St. Johnsbury, Vermont*, 47 FR 2867, published January 20, 1982.

7. A staff engineering analysis reveals that Channel 257A can be allotted to Grass Valley with a site restriction 3.4 kilometers (2.1 miles) east to eliminate a short spacing to Station KRFD(FM) (Channel 260), Marysville, California.

8. Accordingly, it is ordered, that the petition for reconsideration, filed by Eric R. Hilding, is granted.

§ 73.202 [Amended]

9. It is further ordered, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, effective September 30, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Grass Valley, CA	232A, 257A

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

11. The filing window for applications on Channel 257A will open on October 1, 1985, and close on October 30, 1985.

12. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–20366 Filed 8–26–85; 8:45 am]

BILLING CODE 6712-01-M

[3] See, *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

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47 CFR Part 73

[MM Docket No. 84–785; RM–4717]

FM Broadcast Station in Indio and Desert Center, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allots Channel 272A to Indio, CA, as that community's second local service, and substitutes Channel 288A for Channel 272A at Desert Center, CA, in response to a petition filed by Lynn A. Christian. The outstanding permit of Station KORS(FM) (Channel 272A) at Desert Center is modified to specify operation on the newly allotted channel.

EFFECTIVE DATE: September 30, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

Radio broadcasting.

List of Subjects in 47 CFR Part 73

PART 73—[AMENDED]

The authority citation of Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Indio and Desert Center, California); MM Docket No. 84–785, RM–4717.

Adopted: August 13, 1985.

Released: August 22, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 49 FR 33148, published August 21, 1984, proposing the allotment of Channel 272A to Indio, California, as that community's second FM allocation, and the substitution of Channel 288A for Channel 272A at Desert Center, California, to accommodate the proposal. Lynn A. Christian ("petitioner") filed comments in support of the proposal and reiterated her intention to apply for the channel. Additionally, supporting comments were filed by Glenn E. Thompson ("Thompson"). Comments were also filed by Janice A. Murphy, d/b/a Desert Center Broadcasters, Inc. ("Desert Center"), permittee of Station KORS [1]

[1] When the *Notice* herein was issued, Channel 272A was unoccupied at Desert Center. Murphy advises that although the *Notice* identified the applicant for Channel 272A at Desert Center as Bill Harling, Desert Center Broadcasters, Inc. was, in fact, issued a construction permit on July 17, 1984, to operate Station KORS(FM) on that channel.

(Channel 272A) at Desert Center. Reply comments were filed by the petitioner.

2. In its comments, Desert Center advises it will not oppose the proposed modification of its construction permit provided it is reimbursed for all expenses incurred in changing frequencies.

3. In response, petitioner objects to Desert Center's request that she reimburse it for the entire sum of its liabilities involved in effectuating the requested frequency change. Rather, petitioner states, if she is the ultimate permittee of Channel 272A at Indio, she is willing to assume Desert Center's reimbursable and documented expenses incidental to the frequency change. Further, petitioner adds, that such reimbursable costs should be marginal since Station KORS is not an established operation or even licensed.

4. Based on the provision of a second local service to Indio, which could provide a diversity of information and programming, we find that the allocation of Channel 272A is warranted. Also, we will substitute channels at Desert Center to accommodate the proposal, and modify the permit for Station KORS (Channel 272A), Desert Center, to specify operation on Channel 288A.

5. Established Commission policy provides for reimbursement for reasonable costs of a channel change in a station's frequency from the party benefitting from a new channel assignment. We believe that equitable considerations dictate that Desert Center Broadcasters, Inc. should be reimbursed for such costs from the ultimate Indio permittee. Assisted by guidelines which we have furnished in similar cases, such as *Circleville, Ohio*, 8 FCC 2d 159 (1967), the appropriate costs constituting a "reasonable" reimbursement figure are generally left to the good faith judgment of the parties eventually involved, subject to Commission approval in the event of disagreement. See also, *Mitchell, South Dakota*, 62 FCC 2d 70 (1976).

6. Since Channel 272A is within 320 kilometers (199 miles) of the common U.S.-Mexican border, the Commission obtained the Mexican Government's consent to the proposal.

§ 73.202 [Amended]

7. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective September 30, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules is amended with respect to the communities listed below, as follows:

City	Channel No.
Indio, CA	224A, 272A
Desert Center, CA	288A

8. It is further ordered, that, pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding permit held by Desert Center Broadcasters, Inc. for Station KORS(FM), Desert Center, California, is modified, effective September 30, 1985, to specify operation on Channel 288A in lieu of Channel 272A with the condition it will be reimbursed for the reasonable costs incurred in switching frequencies from the ultimate permittee of Channel 272A at Indio. Station KORS(FM) may continue to operate on Channel 272A at Desert Center for 1 year from the effective date of this action, or until it is ready to operate on Channel 288A, whichever is earlier, unless the Commission sooner directs. In addition, Station , KORS(FM) shall comply with the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301) specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

9. It is further ordered, that the Secretary of the Commission shall send a copy of this Order by Certified Mail, Return Receipt Requested, to Janice A. Murphy, d/b/a Desert Center Broadcasters, Inc., 640 W. Sheldon Street, Prescott, AZ 86301, and also a copy thereof, by regular mail, to her attorney, Robert L. Olender, Esq., of Baraff, Koerner, Olender and Hochberg, 2033 M Street, NW, Suite 203, Washington, D.C. 20036.

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

11. The filing window for applications on Channel 272A at Indio, California will open on October 1, 1985 and close on October 30, 1985.

12. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-20368 Filed 8-26-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-464; RM-4569]

FM Broadcast Station in Crestview and Fort Walton Beach, FL; Table of Allotments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein denies the request of Gulf Shores Broadcasting Company to reassign Channel 257A from Fort Walton Beach to Crestview, Florida.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), FM Broadcast Stations, Table of Allotments (Crestview and Fort Walton Beach, Florida); MM Docket No. 84-464, RM-4667.

Adopted: August 13, 1985.
Released: August 22, 1985.

By the Chief, Policy and Rules Division.

1. On May 8, 1984, the Commission issued the *Notice of Proposed Rule Making*, 49 FR 21962, published May 24, 1984, in the above proceeding proposing the deletion of Channel 257A from Fort Walton Beach, Florida, and its reallotment to Crestview, Florida. The *Notice* was adopted in response to a petition filed by Gulf Shores Broadcasting ("petitioner"). Supporting comments were filed by the petitioner reaffirming its interest in the Crestview allotment. Comments in opposition to the proposal were filed by Gospel Music

Productions, Inc. ("Gospel"); Contemporary Communications, Inc.[1]; PTP Limited; and Gulf Coast Broadcasters, Inc. ("GCBI"). Petitioner filed reply comments.[2]

2. As we indicated in the *Notice*, Channel 257A is currently allocated to Fort Walton Beach, Florida, and occupied by Vacationland Broadcasting Company ("Vacationland"), Station WFTW(FM). Vacationland has been granted a construction permit to convert its operation to Channel 243 at Fort Walton Beach in an Initial Decision (MM Docket 81-855). That decision was recently upheld by the Commission's Review Board. Thus, Channel 257A can be considered for reallotment.

3. In response to the *Notice* Gospel comments that there is an overwhelming need for additional FM service at Fort Walton Beach. Gospel refers to the fact that there were five applications when Channel 243 was designated for hearing. Gospel favors retaining Channel 257A at Fort Walton Beach and states its intention to apply for the channel. In opposition to the proposal, GCBI states that it does not dispute that Crestview as the seat of Okaloosa County would only be receiving its second FM station. However, it argues that the Commission should take into account, as it did in allotting Channel 243 to Fort Walton Beach in preference to Crestview,[3] that Fort Walton Beach is the preferred community in terms of need, size and growth. GCBI claims that the 1980 Census shows an even greater population disparity than that of 1970, inasmuch as Fort Walton Beach's population has increased 4.2% (to 20,829) while Crestview's population declined 4.2% (to 7,617).[4] Contemporary Communications, Inc. comments that Fort Walton Beach's population is nearly three times that of Crestview, thereby enabling more people to be served. Contemporary also contends that each community has equal service (2 AM and 1 FM stations).

4. In reply the petitioner argues that the number of potential applicants for a Fort Walton Beach facility is not material to its request. Rather the service to be provided to the two communities is the overriding concern. In this regard petitioner states that Crestview has three stations: two AM (daytime only) and one FM; while Fort Walton Beach also has three stations: two AM (one of which is fulltime) and one FM. In addition, FM stations at Destin and Mary Esther, Florida, are said to provide service to Fort Walton Beach. Petitioner alleges that the public interest could best be served by the Crestview proposal, in view of the abundance of service presently available to Fort Walton Beach.

5. Our *Notice* proposing the reallotment of Channel 257A from Fort Walton Beach to Crestview, Florida, was premised on a lack of interest for Channel 257A at Fort Walton Beach. However, subsequent to the *Notice* three applications for Channel 257A were received removing that basis for the proposed deletion of the channel. In an effort to satisfy the needs of both communities, our staff conducted a channel search and found that no other channels are available to either community. The Commission's criteria for evaluating conflicting proposals was set forth in *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982) as follows:

(1) First fulltime aural service
(2) Second fulltime aural service
(3) First local service
(4) Other public interest matters

Fort Walton Beach (population 20,829)[5] receives fulltime service from two AM stations, one daytime only AM station, and acceptable coverage from FM stations: WMMK (Destin), WMEZ and WTKX (Pensacola), and WXBM (Milton). In comparison Crestview receives local service from one FM station, two daytime only stations and nearby FM stations: WTKX (Pensacola, Florida), WXBM (Milton, Florida) and WKYD (Andalusia, Alabama). The population of Fort Walton Beach clearly favors that community over Crestview for the allocation.

6. Based on the above discussion we find that both communities appear to deserve a second FM service. Thus in making our decision we shall keep in mind our longstanding policy that unless the community can be accorded a clear preference, we shall not delete an existing allotment for which an application is pending. See *Martin and Salyersville, Kentucky*, 50 R.R. 2d 502 (1981). Here we find that the petitioner has not met the burden of justifying a reallotment of a channel for which an application is pending and for which no equivalent channel is available. Fort Walton Beach is significantly larger in population and was previously favored on a comparative basis to Crestview for a second FM channel.[6]

7. Accordingly it is ordered, that the petition of Gulf Shores Broadcasting to reallocate Channel 257A from Fort Walton Beach to Crestview, Florida is denied.

8. It is further ordered, that the petition of Marvin S. Steinman to reallot Channel 257A from Fort Walton Beach, Florida to Niceville, Florida is dismissed without prejudice.

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

10. For further information contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division.

[FR Doc. 85-20369 Filed 8-26-85; 8:45 am]

BILLING CODE 6712-01-M

[1] On July 25, 1984, Contemporary Communications, Inc. filed additional opposing comments. Since these comments were filed after the comment period ended, they will not be considered in this proceeding.

[2] In addition, on June 4, 1984, Marvin S. Steinman, submitted a letter requesting that Channel 257A be reallotted from Fort Walton Beach to Niceville, Florida. This request was advanced during the comment period as required by § 1.420(d). However, it does not meet the requirements of paragraph (9) (c) and (d) in that Steinman failed to serve the other parties and did not file an original and four copies of the petition. Therefore we have dismissed this petition as unacceptable for filing.

[3] See *Fort Walton Beach, Crestview and Destin, Florida*, 67 F.C.C. 2d 434 (1978); and 70 F.C.C. 2d 2007, 2011 (1979).

[4] GCBI reports that this information was taken from County and City Data Book 1983, U.S. Department of Commerce, Bureau of Census, page 827.

[5] Population figures were extracted from the 1980 U.S. Census.

[6] See footnote 3, *supra*.

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47 CFR Part 73

[MM Docket No. 83-357; RM-4379; RM-4462]

FM Broadcast Station in Killington, VT, Lake George, NY, Kittery, ME, and Concord, NH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 287A to Kittery, Maine, as that community's first local FM service, at the request of various parties, and Channel 287C2 to Killington, Vermont, as that community's first local FM service, at the request of First VT Women's Boradcasters. The request of Rumford Communications to substitute FM Channel 287B1 for Channel 288A at Concord, New Hampshire, is denied. In addition, the request of Edward F. Perry, Jr. for the allotment of Channel 287B to Lake George, New York, is denied.

EFFECTIVE DATE: September 27, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Killington, Vermont, Lake George, New York [1], Kittery, Maine, and Concord, New Hampshire [1]); MM Docket No. 83–357, RM–4379, RM–4462.

Adopted: August 13, 1985.
Released: August 21, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 16068, published April 14, 1983, proposing the allocation of Class B Channel 287 to Killington, Vermont, as that community's first local FM service, at the request of First VT Women's Broadcasters ("VT") and the counter-proposal of Edward F. Perry, Jr. ("Perry") requesting that the channel be allocated instead to Lake George, New York, as that community's first local FM service.[2] The Commission, on its own motion, proposed the allocation of Channel 287A to Kittery, Maine, as that community's first local FM service, in the omnibus *Notice* in Docket 84–231.[3] Timely filed as a counterproposal to the Kittery allotment was a request from Rumford Communications, Inc. ("Rumford") seeking the substitution of Channel 287B1 for Channel 288A at Concord, New Hampshire, and the simultaneous modification of its license for Station WJYY(FM) to specify operation on the new channel.[4] These proposals are being given joint consideration as the Commission's mileage separation requirements will not permit each community to receive its requested channel allotment.

2. Comments to this proceeding were filed by VT, Perry, John L. Eddy ("Eddy")[5] Vermont Radio, Inc. ("Vermont Radio"), Sherburne Corporation ("Sherburne") and Rumford, with VT and Rumford also filing reply comments. Rumford additionally filed a petition to consolidate this proceeding with pending Docket 84–718 which concerns FM allotments at Plattsburgh, New York, and Rutland, Vermont, to which Plattsburgh Broadcasting Corporation ("Plattsburgh Broadcasting") filed an opposition. Numerous parties filed comments in support of the Kittery proposal in Docket 84–231.[6] Seacoast Broadcasting Co., Inc. filed comments in opposition to the allocation. Keith B. Handyside, Richard A. DeFabio and Douglas B. Welldon filed reply comments supporting the Kittery allotment. Rumford also filed a counterproposal requesting the substitution of Channel 287B1 for Channel 288A at Concord, reply comments opposing the Kittery allocation, and a petition for reconsideration of the Commission's rejection of its counterproposal.

3. Class B co-channel allocations must be separated by 241 kilometers (150 miles) and Killington and Lake George are only 72 kilometers apart. Co-channel Class B and B1 channels must be 211 kilometers (131 miles) apart and Concord is only 171 kilometers from Lake George and 105 kilometers from Killington. Class A and B1 co-channels must be separated by 138 kilometers (86 miles) and Kittery and Concord are only 65 kilometers apart. In an effort to resolve these conflicts, the staff performed an engineering study to determine if alternate channels were available for allocation to any of the communities. We found that no other channel, other than the ones proposed, were available, with the exception of Killington. As pointed out in the *Notice*, Killington is located in Zone II, which is reserved for Class C stations. However, due to the allocation rules then in effect, no Class C channel was available for allocation to Killington in compliance with the mileage separation requirements. Therefore, as requested by VT, we proposed that Class B channel 287 be allocated to Killington, but stipulated a site restriction of 11.5 miles south, in Zone I. With the adoption of BC Docket 80–90, there are now two new Class C operations, these being C1 and C2, both of which require lesser facilities and lesser mileage separations than full Class C operations. We find that Channel 287C2 can be allocated to Killington, with a transmitter site restriction of only 0.6 kilometers (0.4 miles) west to avoid a short-spacing to Station WNKV(FM), St. Johnsbury, VT. This channel could allow placement of the transmitter in close proximity to Killington, within Zone II, thus negating the waiver of § 73.211(c) as contemplated by both VT and Sherburne. Channel 287C2 at Killington, however, remains in conflict with the Lake George and Concord proposals.

4. *Killington, Vermont:* The Commission proposed the allocation of Class B Channel 287 to Killington, as that community's first local aural service. Killington (population 891 persons),[6] [7] in Rutland County (population 58,347), is located approximately 16 miles east of Rutland, Vermont. With the availability of Channel 287C2, which can be sited in close proximity to Killington, we believe the arguments of Vermont Radio concerning possible coverage problems arising from the use of the originally proposed transmitter site need not be discussed. Comments in support of the Killington allocation were filed by VT and Sherburne. Both also expressed a desire to locate the transmitter within Zone II. In opposition, Perry and Vermont Radio contend that Killington is not a community for allocation purposes. They state that the place is not listed in the U.S. Census and argue that VT provided no information to show that Killington is anything more

[1] These communities have been added to the caption.

[2] Public Notice of the filing of the counterproposal was given on June 2, 1983, Report No. 1407.

[3] *Implementation of BC Docket 80-90 to Increase the Availability of FM Broadcast Assignments*, 49 FR 11214, published March 26, 1984.

[4] Rumford also filed a counterproposal in this proceeding requesting that Channel 286B1 be allocated to Killington so as to make possible the use of Channel 287B1 at Concord. In the *Order* extending time for filing replay comments, the Commission stated that the request would not be accepted as it was premised on the new Docket 80–90 allocation rules, for which an effective date had not been set at that time. On July 16, 1984, Rumford filed a Motion for Acceptance of Late-File Request for Consideration of Comments and Counterproposal in this proceeding. It states that it had interpreted our rejection of its counterproposal herein as an invitation to file a counterproposal in the Docket 84–231 proceeding. Noting that the Commission has also declined to consider its request in that proceeding, Rumford again requests consideration of its Concord proposal here while simultaneously seeking reconsideration in Docket 84–231. The new allocation rules are now in effect and we believe that the public interest and the Commission's administrative procedures would be served by considering the Concord substitution at this time.

[5] Eddy filed comments herein for the purpose of apprising the Commission of a possible technical conflict between the Killington request and his request for the allocation of Channel 285A at Warren, Vermont. As no such conflict exists, Eddy's petition has been accepted as a separate request and is now the subject of the *Notice of Proposed Rule Making* in MM Docket 83–950, 48 FR 41464, published September 15, 1983. Therefore, his comments will not be discussed herein.

[6] Comments were filed by Perry, Pamela W. Peterson, Leon A. Byrnes, Eugene F. Mitchell, Douglas E. Welldon, jointly by Carol Benton and Andy Santamaria, Gary H. Reiner, Bay Communications, Inc., Harvey J. Shulman, David L. Mayer, William P. Egan, Donna L. Halper, jointly by Gene Fisk and Rudolf F. Haffenreffer, IV, Richard Taylor, Daniel E. Viles, Jr., Bill Holland, William L. Mayer, Walter D. Leathers, and Louis Frey, Jr.

[7] All population figures are derived from the 1980 U.S. Census, unless otherwise indicated.

[8] The population of Killington is that attributed to the community of Sherburne, Vermont, as shown in the 1980 U.S. Census and the 1980 Population and Local Government, State of Vermont.

than a ski resort with virtually no permanent population. Since it has no defined boundaries, according to Perry, the Commission would not be able to determine if the required 70 dBu city-grade signal would be provided to the entire community of license. Both parties cite *Cascade Village, Colorado*, 48 FR 19917 (1983), as being on point wherein the Commission denied the request for an FM allocation based on our finding that Cascade Village was only a ski resort and had none of the components traditionally considered by the Commission as comprising a "community" and additionally, with no officially recognized boundaries, there was no assurance that Section 73.315 of the Rules, with respect to signal coverage, could be met. Rumford, while not questioning Killington's status, suggests that Channel 286B1 be allocated to Killington, sited at Rutland's Station WRUT transmitter site, thus allowing Channel 287B1 to be allocated to Concord. If this is not possible, Rumford argues that Concord's larger population and its status as a state capital should override any first local service preference which would accrue to Killington.

5. VT, in its reply comments, refutes the allegation that Killington is not a "community" for allotment purposes. It appends a letter from James H. Douglas, Secretary of State for the State of Vermont, wherein he states that the Town of Sherburne is more commonly referred to as Killington, with the postal address being Killington and most businesses referring to their location not as Sherburne but as Killington. VT also included in its reply comments a photocopy of the State of Vermont's 1980 Population and Local Government publication, which shows that Killington, with a incorporation date of July 1761, was granted a change of name to Sherburne on November 4, 1800. It also provided information showing that the Town of Sherburne, with a 1980 U.S. Census population of 891 persons, has its own local government, with a Board of Selectmen and Town Manager, and community organizations and businesses which identify themselves with Killington. VT notes that the permanent populations of Lake George and Killington are similar and the allocation could provide each community with a first local aural service. However, VT believes that Killington should be preferred as its current population figure reflects continued and sustained growth, at an average rate of 6% a year since 1960, whereas the population of Lake George had remained virtually stagnant over the same period of time. It also claims that Killington's average daily population swells by about 1,000% with many of these vacationers not being transitory but permanent vacation home owners. Based on this information, VT argues that Killington, with continuing growth in permanent population, coupled with its large vacation population, should receive the allocation, citing *Palm Springs, California*, Docket 21174, 41 R.R. 2d 301 (1977), as support.

6. *Lake George, New York:* Perry seeks the allocation of Class B Channel 287 to Lake George, as that community's first local aural service. Lake George (population 1,047), in Warren County (population 54,854), is located approximately 7 miles north of Glens Falls, New York. He states that Lake George is a well known resort area. Perry seeks the allocation to the village of Lake George but states that he would also apply for the frequency should we allocate the channel to the Town of Lake George, with its larger population of 3,394 persons. Perry states that since Lake George is within Zone I, the transmitter can be sited close to the community without the necessity of a waiver of § 73.211 of the Rules.

7. Rumford opposes the proposal, reiterating its contention that Concord's large population and status as a state capital should negate any first local service preference for Lake George. It also implies that Lake George currently receives adequate local service, noting that the transmitter of Station WENU(FM), Hudson Falls, New York, is located closer to Lake George than could a transmitter for Channel 287. Rumford appends an engineering study stating that the site restriction for Lake George must be in a southeast direction, rather than the southwest, as claimed by Perry. It contends that it would be extremely difficult, if not impossible, for a station to serve Lake George from a transmitter site within the restricted area as the intervening terrain would preclude line-of-sight service and the signal would be subject to severe fading and multipath distortion. In order to clear the intervening terrain, Rumford states that an antenna of 1000 feet above ground would be required. However, it argues that the Federal Aviation Administration ("FAA") would restrict the height of the transmitter due to the close proximity of the Warren County Airport. It claims that this is a real, not theoretical problem, stating that Station WENU(FM) was restricted to an antenna height of only 248 feet above average terrain.

8. *Kittery, Maine:* The Commission proposed the allocation of Channel 287A to Kittery, as that community's first local aural service, as part of the omnibus *Notice* in Docket 84-231, *supra*. Rumford filed a counterproposal requesting the substitution of Channel 287B1 for Channel 288A at Concord, New Hampshire, and the modification of its license for Station WJYY to specify operation on the new frequency. Kittery (population 9,314), in York County (population 139,666), is located approximately 10 miles from Portsmouth, New Hampshire. Numerous parties filed letters of intent to apply for the frequency at Kittery. According to Bay Communications, Inc., the allocation would fulfill the Commission's section 307(b) mandate to allocate channels in a fair, efficient and equitable manner while also achieving one of the highest Commission priorities, that is the provision of a first local aural service to a community. Bay Communications also provides population and economic data concerning Kittery in support of the allotment. Gary H. Reiner, Chairman of the Kittery Town Council, supports the allotment and claims that Kittery "is the gateway to Maine" and thus has a large daily tourist influx. He also points out that the Portsmouth Naval Shipyard, with its 10,000 employees, is located in Kittery. Reiner acknowledges that Kittery receives aural service from Portsmouth, New Hampshire. However, he states that the community does not receive any radio service from stations located within Maine, with the nearest station being located 50 miles away in Portland. He believes that the residents of Kittery feel a lack of adequate coverage and exposure of the unique needs of the community by the Portsmouth stations. Seacoast Broadcasting Co., Inc., licensee of AM Station WBBX, Portsmouth, opposes the Kittery allotment, contending that the community is already well served as it receives radio service from a total of nine AM and FM stations, located in Portsmouth, Exeter, Rochester and Dover, all in New Hampshire.

9. *Concord, New Hampshire:* Rumford seeks the allocation of Channel 287B1 to Concord and the modification of its license for Station WJYY to specify the higher powered channel. Concord (population 30,400), in Merrimack County (population 98,302), is the capital of New Hampshire and is located 10 miles from Manchester, New Hampshire. Rumford states that it has long desired to upgrade its Station WJYY operation but that prior to the new allocation rules, no Class B channel was available which could be allocated in compliance with the Commission's

mileage separation requirements. Now it finds that Class B1 Channel 287 can be allocated but that it is the only such channel which can be. However, should the Commission allocate Channel 287A to Kittery, it would preclude its use at Concord. Rumford claims that the proposals should be jointly considered as the new allocation at Concord would provide a second aural service to an area of 13.5 square kilometers (5.2 square miles). While acknowledging that the Kittery proposal would provide a first local transmission service, it argues that this is an inferior priority under section 307(b) of the Communications Act. It claims that it is unlikely that a Kittery operation would provide any first or second transmission service due to the community's proximity to the Class B stations at Portsmouth and Dover, New Hampshire, contending that the 1 mV/m contour of a Class A station at Kittery would be fully encompassed by the 1 mV/m contour of these nearby facilities. It also argues that Concord should be preferred as it is a far larger community and more isolated from other communities than Kittery.

10. Perry filed comments opposing the Concord counterproposal. He notes that Rumford also filed a counterproposal to the Lake George and Killington rule makings, which the Commission refused to consider as it was predicated on allocation rules which were not then in effect. He argues that Rumford's proposal should not be considered here, either, since Concord already has two local FM stations whereas neither Kittery, Lake George nor Killington have any such local aural outlet.

Discussion

11. The Commission, in *Revision of FM Assignment Policies and Procedures*,[8] set forth the following allotment priorities:

(1) First fulltime aural service;
(2) Second fulltime aural service;
(3) First local service;
(4) Other public interest matter.

(Co-equal weight given to priorities 2 and 3).

Kittery, Lake George and Killington receive service from nearby communities but have no local aural service. Concord has local aural service from fulltime AM and FM stations. Rumford argues that no first local service perference should be awarded to the other communities as the new operation at Concord would provide a second aural service to outlying areas. Thus, it believes that all of the proposals should be considered on an equal footing.

12. In determining that priorities (2) and (3) would be given co-equal weight, the Commission envisioned a situation where, like here, a substantially larger community seeks an additional allotment which would provide service to unserved or underserved areas but is in competition with a much smaller community seeking its first local allotment. Therefore, in order to determine which proposal would provide a greater benefit to the public, the Commission stated that the populations which would benefit from the proposed allocations would be compared.[9] Here, a first local service could be provided to Kittery and either to Killington or Lake George, thus benefitting at least 10,205 persons. If Concord receives the allocation, no first local service is provided to any population but a second aural service could be provided to a 5.2 square mile area. However, Rumford does not provide any population figure for this area. Based on the omission of this data, we can only assume that the second aural service area is either unpopulated or very sparsely populated. Thus, we find that Rumford's proposal cannot be considered on an equal footing with the other proposals herein as it would not provide a comparable, much less superior, benefit to the public.

13. When viewed in this light, Rumford's proposal only falls within the fourth priority, that is other public interest matters. Concord already enjoys a number of local aural services, having two commercial FM stations, one fulltime AM station, as well as two noncommercial educational FM stations. We cannot find that an upgraded second local commercial FM service at Concord, with possibly no population receiving the alleged second aural service, would be of more benefit to the public than could a first aural service at Kittery, Lake George or Killington. Therefore, Rumford's proposal for the allotment of Channel 287B1 at Concord will be denied.

14. Besides the Concord proposal, there remains no bar to Kittery receiving its first local allotment. Numerous parties have expressed an intent to apply for the frequency and the channel can be allocated in compliance with the Commission's mileage separation requirements regardless of the disposition of the Killington and Lake George proposals. As to the opposition of Seacoast Broadcasting Co., the Commission has long held that reception service from stations licensed to nearby communities, who have no obligation to serve the needs of the distant community, is not a substitute for a community having its own local station. See *Clinton, Louisiana*, 45 R.R. 2d 1587 (1979) and *Westover and Grafton, West Virginia*, 46 FR 10737, published February 4, 1981. We believe the public interest would be served by allocating Channel 287A to Kittery, as that community's first local FM service.

15. Remaining for consideration are the requests for first FM allotments at Lake George and Killington. As stated in paragraph 3, *supra*, Channel 287C2 can be allocated to Killington, in lieu of the originally proposed Channel 287B, but this change in classification still requires a mileage separation of 241 kilometers (150 miles) between the two communities. Thus, both communities cannot receive an FM allotment.

16. Before a decision can be made, the status of Killington as a community needs to be resolved. Perry and Rumford contend that Killington is "merely a ski resort" and that it is not listed in the U.S. Census, indicating that there is no permanent population. We disagree. We find that VT has provided us with sufficient data which shows that Killington and Sherburne are one and the same community, as attested to by the Secretary of State of the State of Vermont. As such, Killington/Sherburne has a 1980 U.S. Census population of 891 persons and its own local government, with a Board of Selectmen and Town Manager. We have been provided with information that shows there are numerous area businesses and community organizations which identify themselves with Killington. Finally, the U.S. Postal Service does not recognize Sherburne, but rather mail must be addressed to Killington, which has its own zip code. Based on this information, we believe that Killington does meet the Commission's definition of a "community" for allocation purposes.

17. In comparing the two communities, we find that both are resort areas with insubstantial differences in population. Both receive several aural services from nearby communities. Killington's population, while somewhat smaller, reflects a substantial increase, which has continued over a long period of time, having grown from almost 300 persons in 1960. Lake George, on the other hand, has remained virtually the same, having increased by only 16 persons over the last 20 years. Killington, in addition to attracting both a very large number of winter and summer tourists also appears to have a sizeable part-time population, as reflected in the number of vacation

[8] 90 F.C.C. 2d 88 (1982).

[9] 90 F.C.C. 2d 88, 92 (1982).

homes which have been purchased. Perry has provided no comparable community and vacation population data other than to state that Lake George is a well known resort area.

18. Therefore, based on the above discussion, we believe that Killington, with its growing permanent population and large vacation population, should be preferred for the Channel 287 allocation. Channel 287C2 can be allocated to Killington with a site restriction of 0.6 kilometers (0.4 miles) west which should pose no coverage problems as the transmitter can also be sited in the same area currently being used by Rutland's FM stations. Channel 287A can be allocated to Kittery without requiring a site restriction. Canadian concurrence in the allotments has been received as both Kittery and Killington are located within 320 kilometers (200 miles) of the U.S.-Canadian border.

73.202 [Amended]

19. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's rules, it is ordered, that effective September 27, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the communities listed below, to read as follows:

City	Channel No.
Kittery, ME	287A
Killington, VT	287C2

20. It is further ordered, that the petition of Edward F. Perry, Jr. (RM-4462) is denied.

21. It is further ordered that the petition of Rumford Communications, Inc. is denied.

22. It is further ordered, that the petition to Consolidate Dockets 83-357 and 84-718, filed by Rumford Communications, Inc. is dismissed as moot.

23. The period for filing applications for these channels will open on September 30, 1985, and close on October 30, 1985.

24. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-20367 Filed 8-26-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 81-332; RM-3756; RM-4184]

FM Broadcast Station in Newport, WA; Sandpoint, ID, and Libby, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action allots FM channels to Sandpoint, Idaho and Newport, Washington, in response to a petition from Tri County Broadcasting and comments from Robert Johnson. Newport would receive a first local service and Sandpoint could obtain a second local service.

EFFECTIVE DATE: September 30, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by secific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Newport, Washington: Sandpoint, Idaho, and Libby, Montana) BC Docket No. 81-332, R1-3756, RM-4784.

Adopted: August 13, 1985.
Released: August 22, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Further Notice of Proposed Rule Making*, 47 FR 54521, published December 3, 1982, which proposed the allotment of FM Channel 285A to Newport, Washington, as a first FM channel and the allotment of Channel 269A to Sandpoint, Idaho, as that community's second FM channel. The Sandpoint allotment would require the substitution of Channel 292A for Channel 269A at Libby, Montana. Gerald E. Carpenter, Eric E. Carpenter, and Louis Musso, III, d/b/a Tri County Broadcasting ("Tri-County") filed comments reaffirming their interest in the Newport, Washington, and Sandpoint, Idaho, allotments. Robert Johnson filed comments in support of the Newport allotment. West Way, Inc., applicant for FM Channel 269A in Libby, Montana, filed opposing comments.

2. In the *Further Notice*, the proposed allotments of Channel 269A to Sandpoint, Idaho, and Channel 285A to Newport, Washington, were jointly considered. The *Further Notice* required petitioners to supply information regarding the nature and extent of the interest of the principals in Pend Oreille Valley ("Pend Oreille") and ("Tri-County Broadcasting") since there appeared to be common ownership and to demonstrate whether there would be any overlap of the 1 mV/m contours of the proposed Newport and Sandpoint stations with the earlier grant for a station at Deer Park, Washington, in contravention of § 73.240 of the Commission's Rules regarding concentration of control and prohibited signal overlap. However, in light of the Commission's recent decision deleting the regional concentration rule, our earlier expressed concerns have been rendered moot. Therefore, this issue will not be considered here. See, *Repeal of the Regional Concentration of Control Provisions of the Commission's Multiple Ownership Rules*,[1] *recon. den* F.C.C. 85-225, Mimeo No. 35700, rel. May 8, 1985.

3. In order to avoid the substitution of channels at Libby where a construction permit was recently issued, the staff has determined that Channel 273A can be allotted to Sandpoint. The Sandpoint and Newport proposals can be made consistent with the minimum separation requirements of the Commission's Rules. Canadian concurrence has been obtained for both communities.

§ 73.202 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 204(b), and 0.239 of the Commission's Rules, it is ordered, That effective September 30, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the communities listed below:

City	Channel No.
Sandpoint, ID	237A, 273A
Newport, WA	285A

[1] 55 R.R. 2d 1389 (1984) *appeal pending sub nom. National Asociation for Better Broadcasting, et al. v. F.C.C.*, No. 84-1274, (D.C. Cir. filed June 29, 1984).

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

6. The window period for filing applications on both channels will open on October 1, 1985, and close on October 30, 1985.

7. For further information concerning this proceeding contact Arthur D. Scrutchins, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 85–20370 Filed 8–26–85; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 3 to Revised Service Order No. 1500]

The Milwaukee Road Inc. Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Debtor, (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 3 to revised service order No. 1500.

SUMMARY: Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes The Milwaukee Road Inc. to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., August 31, 1985, and continuing in effect until 11:59 p.m., October 31, 1985, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M.F. Clemens, Jr., (202) 275–7840 or 275–1559.

List of Subjects in 49 CFR Part 1033

Railroads.

Decided: August 21, 1985.

Upon further consideration of Revised Service Order No. 1500 (50 FR 11366, 21264 and 26774) and good cause appearing therefor:

§ 1033.1500 [Amended]

It is ordered, § 1033.1500 *The Milwaukee Road Inc. Authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee),* Revised Service Order No. 1500 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order are extended for an additional period of time and shall expire at 11:59 p.m., October 31, 1985, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1985.

This action is taken under the authority of 49 U.S.C. 10304–10305 and section 122, Pub. L. 96–254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Bernard Gaillard, William J. Love and John H. O'Brien.

James H. Bayne,

Secretary.

[FR Doc. 85–20452 Filed 8–26–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 50458–5048]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the recreational salmon fishery in the fishery conservation zone (FCZ) between Leadbetter Point, Washington, and Cape Falcon, Oregon, at midnight, August 22, 1985, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Washington Department of Fisheries (WDF) and the Oregon Department of Fish and Wildlife (ODFW) that the recreational fishery quota of 99,000 coho salmon for the area will be reached by midnight, August 22, 1985. The intended effect is to ensure conservation of coho salmon.

EFFECTIVE DATE: Closure of the FCZ between Leadbetter Point, Washington, and Cape Falcon, Oregon, to recreational salmon fishing is effective at 2400 hours Pacific Daylight Time, August 22, 1985.

ADDRESS: Information relevant to this notice has been compiled in aggregate form and is available for public review at the Northwest Region, NMFS, 7600 Sand Point Way N.E., Building 1, Seattle, Washington, from 8:00 a.m. to 4:30 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: The regulations implementing the framework amendment to the ocean salmon fishery management plan (49 FR 43679, October 31, 1984) specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species during any period open to fishing in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register,** close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Under the provisions of the framework amendment, the 1985 management measures were published on May 2, 1985 (50 FR 18672). The 1985 recreational season in the FCZ between Leadbetter Point, Washington, and Cape Falcon, Oregon, was established as June 30 through the earliest of September 19 or attainment of a quota of either 99,000 coho salmon or 12,100 chinook salmon. Based on the most recent catch and effort information supplied by WDF and ODFW, the recreational fishery catch in the area is projected to reach the 99,000 coho salmon quota by midnight, August 22, 1985. The Secretary therefore issues this notice to close the recreational fishery in the FCZ between Leadbetter Point, Washington, and Cape Falcon, Oregon, effective midnight, August 22,

1985. This notice does not apply to treaty Indian fisheries operating in the same area or other fisheries which may be operating in other areas.

The Regional Director consulted with the Directors of WDF and ODFW regarding this closure. The Directors of WDF and ODFW have confirmed that Washington and Oregon will close the recreational fishery in State waters adjacent to this area of the FCZ effective midnight, August 22, 1985.

Other Matters

This action is taken under the authority of 50 CFR Part 661 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: August 22, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-20463 Filed 8-22-85; 5:00 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 166
Tuesday, August 27, 1985

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 Parts 870, 871, and 872

Basic Life Insurance, Standard Optional Life Insurance, and Additional Optional Life Insurance

AGENCY: Office of Personnel Management.

ACTION: Proposal rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed regulation which would eliminate one of the major restrictions on obtaining life insurance coverage under the Federal Employees' Group Life Insurance (FEGLI) program. Under the proposed regulation, the under age-50 requirement for cancellation of a waiver of insurance coverage would be lifted. Thus, an employee who has waived insurance coverage my cancel the waiver and become insured at any age if at least one year has elapsed since the effective date of the waiver and if the employee provides satisfactory evidence of insurability.

DATE: Comments must be received on or before October 28, 1985.

ADDRESS: Written comments may be sent to Jean M. Barber, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C., 20044, or delivered to OPM, Room 4351, 1900 E Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 254–7052.

SUPPLEMENTARY INFORMATION: The FEGLI law allows eligible employees to waive or decline program participation at any time (5 U.S.C 8702(b)), and the conditions under which such declination may be cancelled are governed by OPM regulations implementing the law. Presently, the regulations allow an individual to cancel a previous waiver of life insurance if he or she (1) is under age 50, (2) waits at least one year from the effective date of the last waiver, and (3) furnishes satisfactory evidence of insurability (5 CFR 870.204(b); 871.205(a); and 872.205(a)).

The age restriction on cancellation of a waiver has been in effect since the early days of the FEGLI program, when only the Basic coverage was available. Because voluntary retirement is permitted under the Civil Service Retirement System as early as age 55, a measure was necessary to prevent individuals from entering the FEGLI program at the very end of their careers and obtaining the "free" post-retirement coverage without having contributed to the funding of such benefits while employed. The age-50 limitation was prescribed to serve this purpose.

Two intervening legislative changes, however, have lessened the need for such a precaution. In 1978, the FEGLI law was changed to require a minimum of 5 years' participation in the program (or participation from first opportunity, if less) in order to continue the coverage during retirement. Thus, an employee must pay premiums for 5 years in order to obtain the "free" post-retirement benefit. Futher, the 1980 FEGLI amendments provide that employees retiring after December 31, 1989, will continue to pay premiums through age 65, the point at which the face value coverage begins to decline. Prospectively, an employee who retires at 55 will have to pay premiums for a minimum of 15 years, five years before retirement and 10 years after. This assurance that employees will contribute to the fund for a reasonable period of time serves essentially the same purpose as the age-50 limitation.

Except for the fact that an employee must be enrolled in Basic FEGLI to be eligible for optional coverage, the reasons that justified the age-50 limitation are largely irrelevent in the optional programs. Each optional coverage can be continued into retirement only if the employee is eligible to continue basic coverage into retirement and participates in the optional coverage for a minimum of five years prior to retirement. Further, the retiree must continue to pay premiums until the insurance begins to decline at age 65. and, except for a factor in the premium to cover the period during which the insurance declines after age 65, the premiums are age-related and there are no subsidies across age categories. An employee who enrolls before or at age 55 will pay his full share of the costs.

In view of the 1978 and 1980 legislative changes, the age-50 limitation has no vital role in the program as it exists today.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Parts 870, 871, and 872

Administrative practice and procedure, Government employees, Life insurance.

U.S. Office of Personnel Management.

Loretta Cornelius,

Acting Director.

For the reasons set out in the preamble, the OPM is proposing to amend Part 870, 871, and 872 of Title 5 of the Code of Federal Regulations as follows:

1. The authority citation for Parts 870, 871, and 872 continues to read as follows:

Authority: 5 U.S.C. 8716, unless otherwise noted.

PART 870—BASIC LIFE INSURANCE

2. In § 870.204, paragraph (b) is revised to read as follows:

§ 870.204 Cancellation of waiver of insurance coverage.

* * * * *

(b) An employee who has filed a waiver of regular insurance coverage may cancel the waiver and become insured if (1) at least 1 year has elapsed since the effective date of such waiver and (2) he or she furnishes satisfactory evidence of insurability.

* * * * *

PART 871—STANDARD OPTIONAL LIFE INSURANCE

3. In § 871.205, paragraph (a) is revised to read as follows:

§ 871.205 Cancellation of declination.

(a) An employee who has declined the optional insurance may elect it if (1) at least 1 year has elapsed since the effective date of his or her last declination or waiver, and (2) he or she furnishes satisfactory evidence of insurability.

* * * * *

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

4. In 872.205, paragraph (a)(1) is revised to read as follows:

§ 872.205 Cancellation of declination.

(a) (1) An employee who has declined the additional optional insurance may elect it if (i) at least 1 year has elapsed since the effective date of his or her last declination or waiver, and (ii) he or she furnishes satisfactory evidence of insurability.

* * * * *

[FR Doc. 85-20409 Filed 8-26-85; 8:45 am]

BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70, 72, 73, and 74

Changes to Safeguards Reporting Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission proposes to amend its regulations for the reporting of safeguards events. The proposed rule would clarify the reporting requirements for NRC licensees and would improve the NRC safeguards event data base by requiring more uniform safeguards event reports. Licensees who will be affected are power and nonpower reactors, fuel cycle facilities, and some transporters, importers and exporters of special nuclear material. The NRC uses the reported information to respond to incidents and to identify potentially generic safeguards problems. The benefits to be derived from this action are the elimination of unnecessary reporting (which will result in significant savings for affected licensees and the NRC) and a more uniform and detailed reporting and data analysis system which will provide feedback to the industry for improving safeguards systems.

DATES: Submit comments by November 27, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given unless comments are received on or before this date.

ADDRESSES: Send comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: Room 1121, 1717 H Street NW., Washington, DC, between 8:15 am and 5:00 pm.

Examine comments received and the regulatory analysis at: The NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Yardumian (301) 427-4010 or Priscilla A. Dwyer, (301) 427-4773, Reactor Regulatory Requirements Section, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: 10 CFR 73.71 establishes an event reporting program to inform the Commission of safeguards events to permit timely response to incidents. The data from this reporting program allows the Commission to determine the significance of events to identify possible generic problems in safeguards systems.

Paragraphs (a) and (b) of § 73.71 were first published in December 1973 (38 FR 35430). They require reports of unaccounted for shipments of special nuclear material, incidents or attempts of theft or unlawful diversion of special nuclear material, and incidents or attempts of sabotage. Subsequently, the Commission determined that it also needed reports of events which could be indicative of a loss of safeguards capability or circumstances which could be part of an overall plan to commit an act of theft or sabotage. In response to the Commission concern that a substantial public hazard could occur as a result of a deficiency in a given licensee's safeguards program, an amendment to 10 CFR 73.71 was proposed in October 1979 (44 FR 60743) that requires reports of events that threaten certain nuclear activities or lessens the effectiveness of a safeguards system. This amendment was published in January 1981 (46 FR 4858) in final form, as a new paragraph (c) to § 73.71.

Since the promulgation of 10 CFR 73.71, the NRC staff has found that the requirements are frequently misinterpreted, that reports submitted pursuant to the regulation lack uniformity, and that insufficient detail is reported for NRC analysis. Unless these problems can be corrected, the usefulness of these reports in developing an adequate data base for generic analysis is limited. For these reasons, the Commission is proposing clarifying amendments to 10 CFR 70.52, 72.52, 73.67, 73.71, and 74.11 and issuing revised guidance to assist licensees in determining which events should be reported and to provide a format for doing so.

For clarity, the distinction between an explicit and a potential threat has been removed. This distinction is now made clearer in the descriptions of reportable events. The categories of major and moderate losses have been eliminated and replaced by the descriptions of each type of loss. The losses are: "failures of the safeguards system that could allow unauthorized and undetected access" and "failures that degrade the effectiveness of the system." Events that must be reported are described in a new Appendix G to Part 73.

The primary impact of the revised reporting requirements on licensees will be an approximate 80% decrease in the number of telephonic and written reports to the NRC because the twenty-four hour telephonic notification and associated follow-up written report requirement has been deleted. This requirement can be deleted because the revised requirements will ensure that all events requiring immediate NRC response will be reported within one hour and those pertinent to NRC analysis activities will be logged for quarterly submittal.

The requirements of § 73.71 are consistent with those of §§ 50.72 and 50.73. Events reported under §§ 50.72 and 50.73 are safety-oriented in nature; those reported under § 73.71 are security-oriented. Proposed changes to § 73.71 do not alter commitments made in response to the requirements of Part 50. Events of a dual nature, having both safety and safeguards impact, do not require duplicate reports. Information on how to report events of a dual nature is provided in a revised Regulatory Guide.

This proposed rulemaking also contains conforming amendments to 10 CFR 70.52, 72.52, 73.67, and 74.11 to provide further consistency among reporting requirements.

The Commission received a petition for rulemaking assigned Docket No. PRM 50-38 from the Nuclear Utility Backfitting and Reform Group, (NUBARG). As discussed below, this proposed rule would grant a portion of the petition. The petitioner has requested that the Nuclear Regulatory Commission amend 10 CFR 50.54(p); 50.54(q); 50.55(e); 50.59(b); 50.72(a); Part 50, Appendix E, section 73.71; and the Commission's NUREG's on Standard

Technical Specifications with respect to certain reporting requirements. The members of this petitioner are constructing and/or operating nuclear power reactors used for the production of electricity under licenses issued by the NRC. Utilities licensed by the NRC to operate nuclear power reactors are currently subject to a variety of reporting requirements in connection with licensed activities. The petitioner suggests that the majority of these reporting requirements are valid and the purpose they serve justifies the considerable time which must be devoted to meeting them. However, some of these requuirements are, in the opinion of the petitioner, excessive and/or duplicative. Accordingly, the petitioner has proposed that the Commission modify the various reporting requirements discussed in PRM 50-36 in order to promote more efficient use of licensee time and resources. This proposed rulemaking responds specifically to section VI of the petition, Reporting Requirments Associataed with 10 CFR 73.71. In this section, the petitioner suggests that this regulation be amended to provide that the required written reports be submitted by the licensee within 30 days of initial notification rather than within 15 days. According to the petitioner, this would allow the licensee's staff more time during the critical period immediately following such occurence to devote to the resolution of the problem itself and would minimize interference with daily operations. The Commission agrees that it is desirable to extend this particular reporting period from 15 to 30 days and has included provisions to do so in this proposed rulemaking.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore neither and environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Statement

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

Regulatory Analysis

The costs to industry will decrease from the current cost of $972,000 per year to $317,800 per year, or a net decrease of over 66 percent. This is due to the decrease in the number of reports that must be made or submitted by affected licensees. The costs to the NRC will decrease from the current cost of $72,000 per year to $46,800 per year, or a net decrease of 35 percent. This is due to the reduction in telephone and written reports which will result in less time spent by the NRC in documenting and analyzing the submittals.

Regulatory Flexibility Certification

Based on the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities and should result in a reduction in burden to affected licensees. Some transporters, importers, and exporters of strategic special nuclear material (SSNM) and spent fuel may be affected by this rule. Each year out of approximately 600 reported events, about three come from this group which includes small entities. The NRC invites comments from these parties.

The proposed rule also affects licensees who operate nuclear power plants and fuel facilities under 10 CFR Parts 50 and 73. The companies that own these plants and facilities do not fall within the scope of the definition of "small entities" set forth in section 605(b) of the Regulatory Flexibility Act of 1980, or within the definition of Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121.

List of Subjects

10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordingkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 73

Hazardous materials—transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 74

Accounting, Material control and accounting, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Special nuclear material.

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, notice is hereby given that adoption of the following amendments to 10 CFR Parts 70, 72, 73, and 74 is contemplated.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5945, 5946).

Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70-36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273): §§ 70.3, 70.19(c), 70.21(c), 70.22 (a), (b), (d)-(k), 70.24(a) and (b), 70-32(a) (3), (5), (6), (d), and (i), 70.36, 70.39 (b) and (c), 70.41(a), 70.42 (a) and (c), 70.56, 70.57 (b), (c), and (d), 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a (a), and (d), 70.20b (c), and (e), 70.21(c), 70.24(b), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)-(g), 70.56, 70.57 (b) and (d), 70.58(a)-(g)(3) and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.20b (d) and (e), 70.38, 70.51 (b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58 (g)(4), (k), and (l), 70.59, and 70.60 (b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 70.52 is revised to read as follows:

§ 70.52 Reports of accidental criticality or loss or theft or attempted theft of special nuclear material.

(a) Each licensee shall notify the NRC Operations Center listed in Appendix A of Part 73 of this chapter within one hour after discovery of any case of accidental criticality or any loss, other than normal operating loss, of special nuclear material.

(b) Each licensee who possesses one gram or more of contained uranium-235, uranium-233, or plutonium shall notify the NRC Operations Center listed in Appendix A of Part 73 of this chapter within one hour after discovery of any loss or theft or unlawful diversion of special nuclear material which the licensee is licensed to possess or any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of such material.

(c) This notification must be made to the NRC Operations Center via the Emergency Notification System if the licensee is party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic system or any other method that will ensure that a report is received by the NRC Operations Center [1] within one hour. The exemption of § 73.21(g)(3) applies to all telephonic reports required by this section.

(d) Reports required under § 73.71 need not be duplicated under the requirements of this section.

PART 72—LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL AT AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION

1. The authority citation for Part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2239, 2282); sec. 274, 73 Stat. 688, as amended (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332).

Section 72.10 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

2. Section 72.52 is revised to read as follows:

§ 72.52 Reports of accidental criticality or loss of special nuclear material.

(a) Each licensee shall notify the NRC Operations Center listed in Appendix A of Part 73 of this chapter within one hour of discovery of accidental criticality or any loss of special nuclear material.

(b) This notification must be made to the NRC Operations Center via the Emergency Notification System if the licensee is party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or any other dedicated telephonic system or any other method that will ensure that a report is received by the NRC Operations Center [1] within one hour. The exemption of § 73.21(g)(3) applies to all telephonic reports required by this section.

(c) Reports required under § 73.71 need not be duplicated under the requirements of this section.

[1] Commercial telephone number of the NRC Operations Center is (202) 951-0550.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for 10 CFR Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, 88 Stat. 1242, as amended, sec. 204, 88 Stat. 1245 (42 U.S.C. 5841, 5844).

Section 73.37(f) is also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26(b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40 (b) and (d), 73.46 (g)(6) and (h)(2), 73.50(g)(2), (3)(iii) (B) and (h), 73.55(h)(2), and (4)(iii)(B), 73.70, 73.71, 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 73.67, paragraphs (e)(3)(vii) and (g)(3)(iii) are revised to read as follows:

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

* * * * *

(e) * * *

(3) * * *

(vii) Notify the NRC Operations Center within one hour after the discovery of the loss of the shipment and within one hour after recovery of or accountability for such lost shipment in accordance with the provisions of § 73.71 of this part.

* * * * *

(g) * * *

(3) * * *

(iii) Conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and notify the NRC Operations Center within one hour after the discovery of the loss of the shipment and within one hour after recovery of or accountability for such lost shipment in accordance with the provisions of § 73.71 of this part.

* * * * *

3. Section 73.71 is revised to read as follows:

§ 73.71 Reports of unaccounted for shipments, suspected thefts, or unlawful diversions and other safeguards events.

(a)(1) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center within one hour after discovery of the loss of any shipment of SNM or spend fuel, and within one hour after recovery of or accountability for such lost shipment.

(2) This notification must be made to the NRC Operations Center listed in Appendix A of Part 73 of this chapter via the Emergency Notification System, if the licensee is party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic systems or any other method that will ensure that a report is received by the NRC Operations Center [1] within one hour. The exemption of § 73.21(g)(3) applies to all telephonic reports required by this section.

(3) The licensee shall, upon request of the NRC, maintain an open and continuous communications channel with the NRC Operations Center.

(4) The initial telephonic notification must be followed within a period of thirty (30) days by a written report submitted to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555. The licensee shall also submit one copy each to the appropriate NRC Regional Office listed in Appendix A to this part and if applicable the appropriate NRC Resident Inspector.

(5) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center listed in Appendix A of Part 73 of this chapter and also submitted in a revised written report to the Regional Office, the Document Control Desk and if applicable the appropriate Resident Inspector. Errors discovered in a written report must be corrected in a revised report. The revised report must replace the previous report; therefore, the update must be a complete entity and not contain only supplementary or revised information. Each licensee shall maintain a copy of the written report of an event submitted

under this section as a record for a period of three years from the date of the report.

(b)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.55, 73.60, and 73.67 shall notify the NRC Operations Center listed in Appendix A of Part 73 of this chapter within one hour of discovery of the safeguards events described in paragraph I.(a)(1) of Appendix G to this part. Licensees subject to the provisions of § 73.20, 73.37, 73.55, 73.60 and each licensee possessing strategic special nuclear material (SSNM) and subject to §§ 73.67 (d) and (e) shall notify the NRC Operations Center within one hour after discovery of the safeguards events described in paragraphs I.(a)(2), (3), (b), and (c) of Appendix G to this part.

(2) This notification must be made in accordance with the requirements of paragraphs (a)(2), (3), (4), and (5) of this section.

(c)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.55, 73.60, and each licensee possessing SSNM and subject to §§ 73.67(d), and 73.67(e) shall maintain a current log and record the safeguards events described in paragraphs II.(a) and (b) of Appendix G to this part within 24 hours of discovery by a licensee employee or member of the licensee's contract security organizations. The licensee shall retain the log of events recorded under this section as a record for three years after the last entry is made in each log.

(2) Every three months, each licensee shall submit to the NRC copies of all safeguards event log entries not previously submitted. Each licensee shall submit one copy each of its log entries to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, and if applicable the appropriate NRC Resident Inspector.

(d) Each licensee shall submit to the Commission the 30-day written reports and copies of the safeguards event log entries required under the provisions of this section that are of a quality which will permit legible reproduction and micrographic processing. If the facility is subject to § 50.73 of this chapter, the licensee shall prepare the written report on NRC Forms 366 and 366A. If the facility is not subject to § 50.73 of this chapter, the licensee shall not use these forms but shall prepare the written report in letter format. In either case the report must include sufficient information for NRC analysis and evaluation.

(e) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.

4. A new Appendix G is added to read as follows:

Appendix G—Reportable Safeguards Events

Pursuant to the provisions of 10 CFR 73.71 (b) and (c), licensees subject to the provisions of 10 CFR 73.20, 73.37, 73.50, 73.55, 73.60, and 73.67 shall report or record, as appropriate, the following safeguards events.

I. *Events to be reported within one hour of discovery, followed by a written report within thirty days.*

(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a credible threat to commit or cause:

(1) A theft or unlawful diversion of special nuclear material; or

(2) Significant physical damage to any facility possessing SSNM or its equipment or carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel a facility or carrier possesses; or

(3) Interruption of normal operation of a licensed nuclear power reactor through the unauthorized use of or tampering with its machinery, components, or controls including the security system.

(b) Any failure of a safeguards system or discovered noninherent vulnerability in a system that could allow unauthorized or undetected access to a protected area, material access area, controlled access area, vital area, or transport for which proper compensatory measures have not been established. A "proper compensatory measure" for a particular safeguards event as used in this Appendix means a measure that is specified in a security or contingency plan or security procedure. If the particular safeguards event is not described in a plan or procedure, then a "proper compensatory measure" means a measure implemented within 10 minutes of an event's discovery that provides a level of security essentially equivalent to that existing before the event.

(c) Any unauthorized entries through a required barrier (whether or not the event is properly compensated.)

II. *Events to be recorded within 24 hours and submitted in quarterly log.*

(a) Any failure of a safeguards system or discovered vulnerability in a system that could allow unauthorized or undetected access to a protected area, material access area, controlled access area, vital area, or transport for which proper compensatory measures have been established.

(b) Any other failure of a safeguards system not included in paragraph II. (a) of this appendix if the failure degrades the effectiveness of the system.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 74 continues to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 74.31, 74.81, and 74.82 are issued under secs. 161b and 161i, 68 Stat. 948, 949, as amended (42 U.S.C. 2201(b), 2201(i)); and §§ 74.11, 74.13, and 74.15 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 74.11 is revised to read as follows:

§ 74.11 Reports of loss or theft or attempted theft of special nuclear material.

(a) Each licensee who possesses one gram or more of contained uranium-235, uranium-233, or plutonium shall notify the NRC Operations Center listed in Appendix A of Part 73 of this chapter within one hour of discovery of any loss or theft or other unlawful diversion of special nuclear material which it is licensed to possess, or any incident in which an attempt has been made to commit a theft or unlawful diversion of special nuclear material. The requirement does not pertain to measured discards or inventory difference quantities.

(b) This notification must be made to the NRC Operations Center via the Emergency Notification System if the licensee is party to that system.

If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic system or any other method that will ensure that a report is received by the NRC Operations Center [1] within one hour. The exemption of § 73.21(g)(3) applies to all telephonic reports required by this section.

(c) Reports required under § 73.71 need not be duplicated under the requirements of this section.

Dated at Bethesda, Maryland this 6th day of August, 1985.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

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FARM CREDIT ADMINISTRATION

12 CFR Parts 602, 620, 621

Disclosure of Information on Reports to Shareholders

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by its Federal Farm Credit Board (Federal Board), publishes for comment proposed new

regulations which would require banks and associations of the Farm Credit System (System) to issue annual reports and information statements to shareholders prior to annual meetings and to file reports of condition and performance with the FCA in accordance with prescribed accounting formats. The FCA also publishes for comment a proposed amendment to 12 CFR 605.250 relating to the disclosure of information under the Freedom of Information Act that designates reports to shareholders and specified portions of the reports of condition and performance as public information. The Federal Board believes that shareholders of System institutions should receive accurate and timely information prior to electing directors so as to encourage more shareholder participation in an institution's affairs and to hold directors and management accountable for their actions. The Federal Board also believes that disclosure to shareholders will assist the FCA in fulfilling its supervisory and examination responsibilities.

DATES: Written comments must be received on or before October 23, 1985.

ADDRESSES: Submit any comments in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Holland, Office of Examination and Supervision, Farm Credit Administration, (703) 883–4452;

or

Dorothy J. Acosta, Office of General Counsel, (703) 883–4020, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

SUPPLEMENTARY INFORMATION:

A. Disclosure to Shareholders

While System banks and associations currently report to their shareholders annually, there are no standards for the form, content, and distribution of such reports. The Federal Board believes that shareholders of System institutions should receive accurate and timely information prior to electing directors so as to encourage more shareholder participation in an institution's affairs and to hold directors and management accountable for their actions. The Federal Board also believes that disclosure to shareholders will assist the FCA in fulfilling its supervisory and examination responsibilities. Therefore, the Federal Board proposes new regulations that would require each System bank and association to issue an annual report to its shareholders within 90 days of the end of the fiscal year and transmit a statement containing information specified in the regulation to shareholders at least 15 days prior to annual meetings at which directors are to be elected. The reports would also be filed with the FCA and will be available for public inspection.

The proposed standards for disclosure in the annual report to shareholders are similar to, though not as extensive as, those required by the Securities and Exchange Commission and other financial regulators.

The proposed regulation would require each institution's annual report to contain the following information: A description of the institution's business and property, material pending legal proceedings, capital structure, selected financial data for the last 5 years, a discussion and analysis of the financial condition and results of operations, information about officers and directors and their compensation and transactions with the institution, and audited financial statements prepared in accordance with generally accepted accounting principles (GAAP), except as otherwise provided by the Regulations of the FCA. The regulation would require comparative financial statements for the last 3 fiscal years, audited by a qualified public accountant, except that the financial statements of Federal land bank associations (FLBAs) would not be required to have an independent audit. The Federal Board believes that because FLBAs act as agents for the Federal land bank (FLB), which is the primary lender, an independent audit of the FLB will require sufficient examination of FLBAs to provide assurance that the financial position of the association is fairly reflected in its financial statements. However, FLBAs are required to send their financial statements, as well as the FLB's to their shareholders. The independent audit requirement would take effect for banks as of the end of the 1986 fiscal year and for production credit associations (PCAs) as of the end of the 1987 fiscal year. The annual report must be signed by the institution's principal executive officer, principal financial or accounting officer, and each member of the Board of Directors. The institution is required to disclose the identity of any person required to sign but who is unable or refuses to sign and the reasons therefor.

The information statement incorporates by reference the annual report to shareholders and must disclose the number of shareholders entitled to vote, information about incumbent directors and nominees for directors similar to information disclosed in the annual report to shareholders, and any events known to the institution during the past 5 years that are material to an evaluation of the ability or integrity of the nominee; material pending legal proceedings other than ordinary routine litigation incidental to the business; and any other matter that will be discussed at the meeting upon which a shareholder vote will be taken. If the annual meeting is held more than 120 days after the end of the institution's fiscal year, interim comparative balance sheets and income statements as of the closest preceding quarter must be included but unaudited. Information statements are required to be filed with the FCA at least 30 days prior to dissemination and must be disseminated to shareholders at least 15 days prior to any meeting at which directors are to be elected. Information contained in documents previously filed with the FCA and disclosed to shareholders may be incorporated by reference, and information in any part of the statement may be incorporated by reference in answer or partial answer to any other item of the statement. All information contained in disclosure reports will be available to the general public upon request (see information below).

B. Accounting and Reporting Regulation

The proposed rule would establish accounting requirements to ensure a uniform foundation for generating, presenting, and disclosing accurate financial information to all persons having or contemplating business transactions with System institutions, and to the FCA.

The proposed accounting requirements include specific standards and requirements covering such items as: (1) Nonperforming loans; (2) uncollectible interest on loans; (3) chargeoffs; and (4) adjustments to the book value of assets when book value exceeds actual value or when documentation is insufficient to support book value.

To ensure comparability of financial statements between System institutions and other private business entities, the proposed rule would require System institutions to prepare their financial statements and reports in accordance with GAAP, except as otherwise directed by statutory and regulatory requirements. Such instances must be explained in the notes to the financial statements.

The proposed regulation would also require System banks and PCAs to have their financial statements audited by qualified public accountants and to include a copy of the accountant's opinion in annual reports.

Because the FCA is increasing its use of financial reporting to monitor the condition and performance of System institutions, the information reported will be used in support of and as a supplement to onsite examination and supervisory functions. The requirements would establish a regulatory basis for reports of financial condition and performance filed with the FCA by System banks and associations.

The proposed rule would formalize the requirement that reports of condition and performance be filed quarterly with the FCA. It requires that such reports be prepared in accordance with instructions and specifications as may be prescribed by the FCA.

In addition, the proposed rule would require reports of condition and performance to be certified as true and accurate representations of the financial condition and performance of reporting institutions by an officer of each reporting institution.

Finally, the proposed rule would require financial information reported to Boards of Directors and stockholders to be prepared in accordance with rules and standards for preparing reports of condition and performance filed with the FCA if the items reported to directors and stockholders correspond to items reported to the FCA.

C. Disclosure Under the Freedom of Information Act

The Federal Board proposes to amend 12 CFR 602.250 to clarify that reports to shareholders are publicly available and that certain portions of the reports of condition and performance filed with the FCA will be available to the public under the Freedom of Information Act for a reasonable fee upon request. The portions of the reports of condition and performance that will be available to the public are those items that correspond to items that must be disclosed to shareholders under 12 CFR 620.3 and 620.10.

List of Subjects in 12 CFR Parts 602, 620, and 621

Accounting, Annual reports, Freedom of information, Information, Reports of condition and performance.

PART 602—RELEASING INFORMATION

As stated in the preamble, it is proposed that Part 602 of Chapter VI, Title 12, of the Code of Federal Regulations, be revised as follows:

1. The authority citation for Part 602 is amended by adding 5 U.S.C. 552(a)(1) to read as follows:

Authority: Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 5 U.S.C. 552(a)(1), 12 U.S.C. 2243, 2246, 2252.

2. Section 602.250 is amended by revising the introductory text of paragraph (a) and paragraph (a)(8) as follows:

§ 602.250 Official records of the Farm Credit Administration.

(a) The Farm Credit Administration shall, upon any request for records which reasonably describe them and is made in accordance with the provisions of this Subpart, make the records available as promptly as practicable to any person, except exempt records which include the following:

* * * * *

(8) Records of or related to examination, operating, or condition reports of or related to Farm Credit institutions under the supervision of the Farm Credit Administration that are prepared by, on behalf of, or for its use except that reports to shareholders filed with the FCA pursuant to §§ 620.1–620.11 and 611.1120–611.1125 of this chapter and certain portions of the reports of condition and performance filed with the Farm Credit Administration shall be available to the public for a reasonable fee upon request.

* * * * *

3. A new Part 620 is added consisting of §§ 620.1–620.11 to read as follows:

PART 620—DISCLOSURE TO SHAREHOLDERS

Subpart A—Annual Reports to Shareholders

Sec.

620.1 Definitions.

620.2 Preparing, distributing, and filing the report.

620.3 Contents of the annual report to stockholders.

Subpart B—Annual Meeting Information Statement

620.10 Preparing, distributing, and filing the information statement.

620.11 Contents of the annual meeting information statement.

Authority: 12 U.S.C. 2252(a)(16).

Subpart A—Annual Reports to Shareholders

§ 620.1 Definitions.

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

(a) "Affiliated organization" means any organization of which a director or officer of the reporting institution is a director or officer or is a majority shareholder.

(b) "Immediate family" means any relationship by blood, marriage, or adoption not more remote than first cousin.

(c) "Institution" means a bank or association chartered by the Farm Credit Administration.

(d) "Related organization" means any Farm Credit institution that is a shareholder of the reporting institution or in which the reporting institution has an ownership interest.

(e) "Risk funds" means the allowance for loan losses and all capital accounts exclusive of capital stock and allocated equities.

§ 620.2 Preparing, distributing, and filing the report.

(a) Each institution of the Farm Credit System shall prepare and distribute to its shareholders an annual report within 90 days after the end of its fiscal year.

(b) For the purposes of § 620.3(j), a Federal land bank association shall include the Federal land bank's financial statements in addition to its own. Federal land bank associations shall comply with all other sections of this Part.

(c) The report shall contain at a minimum the information specified in § 620.3, and in addition, such further material information as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

(d) Three complete copies of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents that are part of the report, shall be filed with the Farm Credit Administration simultaneously with its dissemination to shareholders and shall be available for public inspection at the Farm Credit Administration. At least one of the reports shall be manually signed.

(e) The report shall be signed and dated by and on behalf of the institution by its principal executive officer, its principal financial officer or accounting officer, and each member of its board of directors. The name of each person signing the report shall be typed or printed beneath his signature. The statement to which the signers of the report shall attest shall read as follows:

The undersigned certify that the information contained in this report is true, accurate, and complete to the best of his or her knowledge.

If any officer or any member of the board of directors is unable to or refuses

to sign the report, the institution shall disclose the individual's name and the reasons therefor.

(f) If information required by this part is contained in information previously filed with the FCA and disclosed to shareholders, the information may be incorporated by reference as an exhibit to this report. Information in any part of the report may be incorporated by reference in answer, or partial answer, to any other item of the report.

§ 620.3 Contents of the annual report to shareholders.

The report shall address the following items:

(a) *Description of the institution's business.* The description shall include a brief discussion of the following items:

(1) The institution's business;

(2) The territory served;

(3) The persons eligible to borrow;

(4) The types of lending activities engaged in and financial services offered (banks shall also describe the lending and financial services offered by the associations that are its shareholders as well as financial services offered by any service corporation in which it has an ownership interest);

(5) Any significant developments within the last 5 years that had or could have a material impact on earnings or interest rates to borrowers, including, but not limited to, mergers or consolidations and financial assistance provided by or to the institution through loss-sharing or capital preservation agreements or any other source;

(6) The acquisition or disposition of any material assets other than in the ordinary course of business;

(7) Any material change in the manner of conducting the business;

(8) Any seasonal characteristics of the institution's business;

(9) Any concentrations of more than 10 percent of its assets in particular types of agricultural activity or business and the institution's dependence, if any, upon a single customer, or a few customers, including other financial institutions ("OFIs"), as defined in § 614.4540(e) of this title, the loss of any one of which would have a material effect on the institution; and

(10) A brief description of the business of any related Farm Credit organization and the nature of the institution's relationship to such organization.

(b) *Description of property.* State the location of and briefly describe the principal offices and other materially important physical properties of the institution. If any such property is not held in fee or is held subject to any major encumbrance, so state and describe briefly the terms and conditions of the agreement under which the property is used or occupied.

(c) *Legal proceedings.* Describe fully any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the institution, or any of its related organizations, is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Describe any material proceedings to which any director, officer, or related organization of the institution is a party. Provide a statement of management's opinion with respect to the impact the legal proceedings may have, if any, on the institution's financial position.

(d) *Description of institution's securities.* (1) Describe each class of stock and participation certificate the institution is authorized to issue and the rights, duties, and liabilities of each class. The description shall include:

(i) The number of shares of each class outstanding and the number of holders of each class;

(ii) The par or face value;

(iii) The voting and dividend rights;

(iv) The order of priority upon impairment or liquidation;

(v) The institution's retirement policies and restrictions on transfer;

(vi) The statutory requirement that a borrower must purchase stock as a condition to obtaining a loan;

(vii) The manner in which the stock is paid (i.e., promissory note to the issuer or cash not advanced by issuing institution); and

(viii) The statutory authority of the institution to require additional capital contributions.

(2) Describe the institution's debt, indicating the type, amount, maturity, and interest rates of each category of obligations outstanding at the end of the fiscal period just ended. Describe applicable and regulatory restrictions on the institution's ability to incur debt.

(3) Describe fully the institution's rights and obligations under any agreement, formal, or informal, between the institution and any other person or entity having to do with capital preservation, loss sharing, or any other financial assistance agreement.

(e) *Selected financial data.* Furnish in comparative columnar form for each of the last 5 fiscal years the following financial data:

(1) Operating revenues;

(2) Income (loss) from continuing operations;

(2) Net income;

(4) Total assets;

(5) Net loans;

(6) Long-term obligations;

(7) Cash dividends declared;

(8) Patronage refunds declared;

(9) The number of members of the institution;

(10) Loss-sharing assistance given or received;

11) Net chargeoffs;

(12) Analysis of the allowance for loan losses; and

(13) Such other schedules and items as the Farm Credit Administration shall require to effect adequate disclosure.

(f) *Management's discussion and analysis of financial condition and results of operations.* Fully discuss the institution's financial condition and changes in financial condition during the past 2 years. In addition to the items below, the discussion shall provide such other information that the institution believes to be necessary to an understanding of its financial condition, changes in financial condition, and results of operations.

(1) *Financial position.* Describe the institution's existing lines of credit and sources of lendable funds in relation to applicable statutory or regulatory restrictions on its ability to incur indebtedness. State the institution's debt-to-capital and loan-to-capital ratios, noting any material variances from System or regulatory guidelines, and describe the components of the institution's capital accounts. Discuss the adequacy of the allowance for loan losses and other risk funds to absorb the risk inherent in the institution's operations and comment upon any trends, commitments, contingencies, or events that are reasonably likely to have a materially adverse effect upon the adequacy of available risk funds.

(2) *Capital acquisitions.* Describe any material commitments for capital expenditures as of the end of the latest fiscal period, and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments.

(3) *Results of operations.* Describe on a comparative basis any unusual or infrequent events or transactions or any significant economic changes (including, but not limited to, financial assistance from or paid to other Farm Credit institutions) that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of

revenues or expenses that, in the institution's judgment, should be described in order to understand the institution's results of operations. Describe any known trends or uncertainties that have had or that the institution reasonably expects will have a material impact on net revenues or income from continuing operations. If known, disclose any events that will cause a material change in the relationship between costs and revenues. To the extent that the financial statements disclose material changes in revenues, provide a narrative discussion of the extend to which such changes are attributable to changes in fees or volume of services being sold or to the introduction of new products or services.

(g) *Directors and executive officers.* (1) List the names of all directors and executive officers of the institution, indicating the position and term of office of each.

(2) Briefly describe the business experience during the past 5 years of each director and executive officer, including each person's principal occupations and employment during the past 5 years.

(3) Indicate any other directorship(s) held by each director and briefly describe the principal business of the entity in which such directorship is held.

(4) Describe any event known to the institution that occurred during the past 5 years that is material to an evaluation of the ability or integrity of any director or executive officer, including, but not limited to, any bankruptcy or similar proceeding, any criminal proceeding, or any civil proceeding that reflects on the officer's ability or integrity.

(h) *Director compensation.* Describe the arrangements under which directors of the institution are compensated for all services as a director and state the total compensation paid to directors as a group. For each director, state:

(1) The number of days served at board meetings; and

(2) The total number of days served in other official activities.

(i) *Certain relationships and related transactions.* (1) State the institution's policies, if any, on loans to and transactions with officers and directors of the institution.

(2) Transactions other than loans. Describe briefly any transaction, or series of transactions (other than loans), that occurred at any time during the last fiscal year between the institution and any director or officer, any member of his or her immediate family, or any organization with which the director or executive officer is affiliated. State the name of the officer or director, his or her relationship to the institution, the nature of his or her interest in the transaction, and the terms of the transaction. No information need be given where the purchase price, fees, or charges involved were determined by competitive bidding or where the amount involved in the transaction (including the total of all periodic payments) does not exceed $5,000, or the interest of the person arises solely as a result of his or her status as a stockholder of the institution and the benefit received is not a special or extra benefit not available to all stockholders.

(3) *Loans to management.* (i) If true, state that the institution has had loans outstanding during the last full fiscal year to date to its officers and directors that:

(A) Were made in the ordinary course of business;

(B) Were made on the same terms, including interest rate, amortization schedule, and collateral, as those prevailing at the time for comparable transactions with other persons; and

(C) Did not involve more than the normal risk of collectibility or present other unfavorable terms.

(ii) If the conditions stated in paragraph (i)(3)(i) of this section do not apply to the loan(s) of any person who served as an officer or director during the specified time period, state:

(A) The person's name;

(B) The largest aggregate amount of indebtedness outstanding at any time during the last fiscal year;

(C) The nature of the loan(s);

(D) The amount outstanding as of the end of the last fiscal year;

(E) The rate of interest payable on the loan;

(F) The amortization schedule for the loan;

(G) The amount past due;

(H) The credit status of the loan as determined by the institution; and

(I) If applicable, the reason the loan is deemed to involve more than the normal risk of collectibility or present unfavorable features.

(j) *Financial statements.* (1) Furnish financial statements and related footnotes that have been prepared in accordance with generally accepted accounting principles and the instructions and other requirements of the Farm Credit Administration, and that have been audited in accordance with generally accepted auditing standards by a qualified public accountant, as defined in § 621.7(a)(1) of this title, and an opinion expressed thereon, except as provided in paragraph (j)(2) of this section. The statements shall include a comparative balance sheet, statement of income, statement of changes in capital, and statement of changes in financial position and related footnotes, for the last 3 fiscal years.

(2) The financial statements of Federal land bank associations need not be audited by a qualified public accountant for the purposes of this section.

(3) The audit requirements of paragraph (j)(1) of this section shall take effect as follows:

(i) For banks—as of the end of the bank's 1986 fiscal year; and

(ii) For production credit associations—as of the end of the association's 1987 fiscal year.

Subpart B—Annual Meeting Information Statement

§ 620.10 Preparing, distributing, and filing the information statement.

(a) Each institution of the Farm Credit System shall prepare and distribute to its shareholders at least 15 days prior to any meeting at which directors are to be elected an information statement (statement) containing the information specified in § 620.11.

(b) The statement shall contain, at a minimum, the information specified in this regulation, and in addition such further material information as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

(c) The statement shall incorporate by reference the annual report to shareholders required by Subpart A of this part. In addition, if any institution holds its annual meeting of shareholders more than 120 days after the end of its fiscal year, the information statement shall be accompanied by interim financial statements, prepared in accordance with Part 621, Subpart A, of this chapter, that accurately reflect the institution's financial condition as of the closest preceding quarter period and comparable statements for the same interim period in the prior fiscal year. The statements shall include, at a minimum, an interim balance sheet and income statement and may be unaudited.

(d) Three complete copies of the statement, including financial statements, financial statement schedules exhibits, exhibits, and all other papers and documents that are part of the statement, shall be filed with the Farm Credit Administration at least 30 days prior to its dissemination to shareholders. At least one of the statements shall be manually signed.

(e) The statement, including any interim financial statements that may be

required under paragraph (c) of this section, shall be signed and dated by and on behalf of the institution by its principal executive officer, its principal financial or accounting officer, and each member of its board of directors. The name of each person signing the statement shall be typed or printed beneath the signature. The statement to which the signers of the report shall attest shall read as follows:

> The undersigned certify that the information contained in this statement is true, correct, accurate, and complete to the best of his or her knowledge.

If any officer or any member of the board of directors is unable or refuses to sign the report, the institution shall disclose the individual's name and the reasons therefor.

(f) If any information required by this statement is contained in documents previously filed with the Farm Credit Administration and disclosed to shareholders, the information may be incorporated by reference. Information in any part of the statement may be incorporated by reference in answer, or partial answer, to any other item of the statement.

§620.11 Contents of the annual meeting information statement.

The statement shall address the following items:

(a) *Voting shareholders.* For each class of stock entitled to vote at the meeting, state the number of shareholders entitled to vote. State the record date as of which the shareholders entitled to vote will be determined.

(b) *Directors.* (1) State the names and ages of persons currently serving as directors of the institution, their terms of office, and the periods during which each such person has served. No information need be given with respect to any director whose term of office as a director will not continue after the meeting to which the statement relates.

(2) State the name of any incumbent director who attended fewer than 75 percent of the total of board meetings and any board committee meetings of committees on which he or she served during the last fiscal year.

(3) If any director resigned or declined to stand for reelection during the last year because of a policy disagreement with the board, and if the director has furnished a letter requesting disclosure of the nature of the disagreement, state the date of the director's resignation and summarize the director's description of the disagreement contained in the letter. If the institution holds a different view of the disagreement, the institution's view may be summarized.

(4) Describe the arrangements under which directors of the institution are compensated for all services as a director. For each director named, state:

(i) The number of days served at board meetings; and

(ii) The total number of days served.

(c) *Nominees.*

(1) If directors are nominated by region, describe the regions and state the number of shareholders entitled to vote in each region. If nominations from the floor are restricted by the bylaws to persons from a particular region, so state.

(2) If fewer than two nominees for each position are named, describe the efforts of the nominating committee to locate two willing nominees.

(3) For each nominee, state the nominee's age and business experience during the last 5 years, including each person's occupation and employment during the past 5 years.

(4) Describe any event known to the institution that occurred during the past 5 years that is material to an evaluation of the ability or integrity of any nominee, including, but not limited to, any bankruptcy or similar proceeding, any criminal proceeding, or any civil proceeding that reflects on the nominee's ability or integrity.

(5) Describe any transaction or series of transactions with the institution (other than loans) that occurred at any time since the beginning of the fiscal year between the institution and any nominee, any member of his or her immediate family, or any organization with which the nominee is affiliated. State the name of the nominee, the nature of his or her interest in the transaction, and the terms of the transaction. No information need be given where the rates or charges involved were determined by competitive bidding or where the amount involved in the transaction (including the total of all periodic payments) does not exceed $5,000 or the interest of the person arises solely as a result of his or her status as a stockholder of the institution and the benefit received is not a special or extra benefit not received by all stockholders. If any transactions were disclosed in the annual report to the shareholders, the information statement shall disclose the current status of the transactions.

(6) Describe any outstanding loan to any nominee that was not made in the ordinary course of business on the same terms, including interest rate, amortization schedule, or collateral, as those prevailing at the time for comparable transactions with other persons or that involves more than the normal risk of collectibility or presents other unfavorable features. For each such loan(s) state:

(i) The person's name;

(ii) The largest aggregate amount of indebtedness outstanding at any time during the year preceding the date of the annual meeting;

(iii) The nature of the loan(s);

(iv) The amount outstanding as of the date of the interim balance sheet, if any, provided in response to § 620.10(c);

(v) The rate of interest payable on the loan;

(vi) The amortization schedule for the loan;

(vii) The amount past due, if any;

(viii) The credit status of the loan; and

(ix) If applicable, the reason the loan is deemed to involve more than the normal risk of collectibility or present unfavorable features.

(7) If a person is nominated from the floor, he or she shall disclose the information required in paragraph (e)(6) of this section either orally or in writing.

(f) *Legal proceedings.* Describe fully any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the institution, or any of its related organizations, is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Describe any material proceedings to which any director, officer, or related organization of the institution is a party. Provide a statement of management's opinion with respect to the impact the legal proceedings may have, if any, on the institution's financial position.

(g) If shareholders are asked to vote on matters not normally required to be submitted to shareholders for approval, describe fully the material circumstances surrounding the matter, the reason shareholders are asked to vote, and the vote required for approval of the proposition.

(h) The information statement shall describe any other matter that will be discussed at the meeting upon which shareholder vote is not required.

4. A new Part 621 is added consisting of §§ 621.1–621.14 to read as follows:

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

Subpart A—Accounting Requirements

Sec.

Authority: 12 U.S.C. 2252(a)(3) and (16); 2254.

Subpart A—Accounting Requirements

§ 621.1 Purpose and applicability.

(a) This part sets forth accounting requirements to be followed by all banks, associations, and service corporations chartered by the Farm Credit Administration under authority of the Farm Credit Act of 1971, as amended.

(b) Accurate and reliable financial information, prepared in accordance with appropriate accounting requirements, is essential to ensuring the accountability of management and directors to stockholders.

(c) Accounting requirements are established to provide a uniform foundation for generating, presenting, and disclosing accurate and reliable information of a material nature to all persons having or contemplating business transactions with institutions of the Farm Credit System.

(d) The requirements set forth in this part include both requirements of general application and specific requirements focusing on particular areas of financial condition and operating performance. The specific requirements address areas of special importance to ensuring accurate and reliable information on lending operations.

§ 621.2 Generally accepted accounting principles and audit standards.

(a) *Definitions.*—(1) As used in this part, the term "generally accepted accounting principles" shall mean that body of conventions, rules, and procedures necessary to define accepted accounting practice at a particular time as promulgated by the Financial Accounting Standards Board and other authoritative sources recognized as setting standards of the accounting profession as practiced in the United States. Generally accepted accounting principles shall include not only broad guidelines of general application but also detailed practices and procedures which constitute standards against which financial presentations are evaluated.

(2) As used in this part, the term "generally accepted auditing standards" shall mean the standards and guidelines adopted by the Auditing Standards Board of the American Institute of Certified Public Accountants to govern the overall quality of audit performance.

(b) General rules. All banks, associations, and chartered service corporations of the Farm Credit System shall:

(1) Prepare and maintain accurate and complete records of their business transactions as necessary to prepare financial statements and reports, including reports to the Farm Credit Administration, in accordance with generally accepted accounting principles, except as otherwise directed by statutory and regulatory requirements;

(2) Prepare their financial statements and reports, including reports to the Farm Credit Administration, in accordance with generally accepted accounting principles, except as otherwise directed by statutory and regulatory requirements for all material items;

(3) Employ with such specific accounting priniciples, practices, or procedures on particular accounting or reporting matters as the Farm Credit Administration may require by regulation or otherwise, generally accepted accounting principles notwithstanding;

(4) Prepare and maintain their books and records in such a manner as to facilitate reconciliation with financial statements and reports prepared from them by Farm Credit Administration examiners and independent certified public accountants using generally accepted auditing standards.

(c) *Accrual basis of accounting*—(1) *Definition.* As used in this part, the term "accrual basis of accounting" shall mean that accounting method in which expenses are recorded when incurred, whether paid or unpaid, and income is recorded when earned, whether received or not received.

(2) *General rule.* The banks, associations, and chartered service corporations of the Farm Credit System shall use the accrual basis of accounting for all material items in the preparation and maintenance of their accounting records and to prepare their financial statements and reports for internal management purposes, for use by their boards of directors, to meet Farm Credit Administration reporting requirements, and for purposes of preparing reports to stockholders and investors.

§ 621.3 Nonperforming loans and similar assets.

(a) *Definitions.* For purposes of this part, the following definitions shall apply to all loans, leases, contracts, and similar assets appropriately classified as loans.

(1) *Adequately secured.* A loan shall be considered "adequately secured" only if:

(i) Collateralized by liens having a net realizable value sufficient to discharge the debt in full, including all principal, interest, and collection expenses as may be outstanding, accrued, or incurred to the time the debt is discharged in full; or,

(ii) Guaranteed by a financially responsible party in an amount sufficient to discharge the debt in full, including all principal as may be outstanding and all interest and collection expenses as may be accrued or incurred over the full contractual term of the loan.

(2) *Bankruptcy.* A loan shall be considered as being in "bankruptcy" if the lender has received formal notice that a petition has been filed in Bankruptcy Court by or against the borrower under any chapter of the Bankruptcy Act. Once a loan is in bankruptcy, it shall remain in that status so long as:

(i) The bankruptcy petition is not dismissed or the matter fully concluded and the court's jurisdiction terminated; or,

(ii) A repayment plan approved by the court remains in effect and no foreseeable contingencies exist that would reactivate the court's jurisdiction; or,

(iii) Any property in which the lender has a security interest has not gone to sale by foreclosure even though the automatic stay has been terminated and liquidation is proceeding.

(3) *Contractually past due.* A loan shall be considered "contractually past due" if any principal repayment(s) and/or interest payment(s) set forth or incorporated by reference in the lending agreement and/or otherwise required under any terms or conditions agreed to with the borrower is not received on or before the specified date required by the lender. Once contractually past due, loans shall remain in that status until the entire amount past due, including principal, accrued interest, and penalty interest if incurred by virtue of past due status, is collected or otherwise discharged in full.

(4) *Foreclosure.* A loan shall be considered in "foreclosure" if:

(i) The lender has authorized initiation of proceedings under state law or deed of trust to terminate the borrower's right in any property in which the lender has a security interest; and/or

(ii) The lender has received formal notice that a third party has initiated proceedings under state law or deed of trust to terminate the borrower's right in any property in which the lender has a security interest.

(5) *Formally restructured loans.* A loan shall be considered "formally restructured" if its contractual terms are amended or otherwise revised to incorporate concessions made to the borrower that would not otherwise be made by the lender for economic or legal reasons.

(i) Economic reasons shall include any and all factors influencing the borrower's ability to pay amounts contractually due.

(ii) Legal reasons shall include only concessions imposed by statute, regulation, or court order.

(iii) For purposes of this definition, the term "concessions" shall mean any modification to the term or conditions, or both, of a loan or that has the effect of:

(A) Reducing the amount of repayment(s) of principal or reducing the amount of interest payment(s), or both, from amounts stated or implicit in the original loan agreement; or

(B) Reducing the effective interest rate for the remaining original term of the debt; or

(C) Extending the term within which all principal and accrued interest is due in full.

(iv) After a loan is classified as "formally restructured," it shall continue to be reported as formally restructured until it is fully paid off or otherwise discharged.

(6) *Loans.* For purposes of this part, the term "loans" shall mean all extensions of credit, including lease financing, resulting from direct negotiations between a lender and a borrower which are recorded as assests on the books and records of a Farm Credit bank or association. A reporting institution may originate a loan through direct negotiation with a borrower or it may purchase all or part of a loan originated by another lender. Generally, the term "loans" shall include all loans, leases, contracts notes receivable, and other assets appropriately classified as loans.

(7) *Nonaccrual loans.* A loan shall be considered "nonaccrual" if and so long as:

(i) It has been classified "loss" as a result of a periodic credit evaluation, unless restructured; or

(ii) It is severely past due and not adequately secured and fully collectible with respect to all principal and interest, or both, as may be outstanding or accrued over its full term; or

(iii) Any amount of outstanding principal and all past and future interest accruals, considered over the full term of the asset, is determined to be uncollectible for reasons other than credit classification or past due status.

(8) *Nonperforming loans.* The term "nonperforming loans" shall include all nonaccrual, formally restructured, other restructured and reduced rate, and other high risk loans as defined in this Section.

(9) *Other high risk loans.* The term "other high risk loans" shall mean all loans that:

(i) Have been officially classified "vulnerable" as a result of a periodic credit evaluation, unless restructured; or

(ii) Are severely past due but adequately secured; or

(iii) Are in process of liquidation, collection, bankruptcy, or foreclosure; or

(iv) Are not classified vulnerable, not severely past due, not in process of liquidation, collection, bankruptcy or foreclosure, but require abnormal servicing to ensure performance or otherwise prevent further deterioration even though the credit weaknesses that justify abnormal servicing are not so serious as to warrant restructuring. For purposes of this part, the term "vulnerable" shall have the same meaning as it does under § 614.4051(a)(4)(iii) of this chapter.

(10) After a loan is classified as "other high risk," it shall continue to be reported in that performance status so long as it meets any of the criteria for inclusion in that performance status.

(11) *Other restructured and reduced rate loans.* The term "other restructured and reduced rate loans" shall have the same meaning as "formally restructured loans" except that the concessions granted to the borrower shall not have been incorporated into the contractual terms and conditions of the loan by amendment or other revision.

(12) The terms "concessions" and "economic reasons" shall have the same meanings with respect to "other restructured and reduced rate loans" as they do with respect to "formally restructured loans" as defined in paragraph (a)(5) of this section.

(13) After a loan is classified as "other restructured or reduced rate," it shall continue to be reported in that performance status so long as the concessions granted to the borrower remain in effect or until the loan is paid off or otherwise discharged in full.

(14) *Performing loans.* The term "performing loans" shall mean all loans not identified as nonperforming under the definitions and standards established in this part.

(15) *Severely past due loans.* A loan shall be considered "severely past due" if any portion thereof is contractually due and uncollected for a period in excess of 90 calendar days with respect to principal, interest, or both.

(b) *Acceptable tolerances in applying definitions*—(1) *Past due amounts.* In determining amounts contractually past due for purposes of this part, earned and contractually due but uncollected amounts may be considered paid in full if part of the amount due is collected such that:

(i) At least 90 percent of all contractually due principal and interest has been collected; and

(ii) No more than a combined total of $100 of contractually due principal and interest remains uncollected.

(iii) However, amounts collected in successive partial payments or other credits shall be applied to the oldest contractually past due amount until it is paid in full, then to the next oldest past due amount until it is paid in full, an so on until the total amount of the partial collection(s) is exhausted.

(2) *Renewals and reamortizations.* For purposes of this part, a renewal of principal on a loan at maturity shall not be considered a restructuring, that is, making a concession to the borrower, provided that:

(i) The financial condition and performance and loan performance of the borrower support renewal; and

(ii) The renewed or reamortized loan is made under the same terms and conditions as are used to make similar loans to other borrowers whose financial condition and performance are sound and not deteriorating.

(c) *General rules.* All banks, associations, and chartered service corporations of the Farm Credit System shall:

(1) Account for, report, and disclose all material items concerning nonperforming loans and similar assets in accordance with generally accepted accounting principles and practices and such other requirements as may be prescribed by the Farm Credit Administration; and

(2) Account for, report, and disclose all material items with respect to nonperforming loans and similar assets in accordance with and through the application of the definitions and rules set forth in this part; and

(3) Develop, adopt, and apply policies governing nonperforming loans and similar assets which, as a minimum, conform to the definitions, rules, and standards set forth in this part and such other requirements and procedures as may be established by the Farm Credit Administration; and

(4) At least quarterly, review, at a minimum, all nonperforming loans and similar assets;

(i) To determine the collectibility of income accrued thereon, as appropriate; and

(ii) To determine whether formally restructured, other restructured and reduced rate, and other high risk loans should be transferred to nonaccrual status, as appropriate; and

(5) Recognize interest income from informally restructured loans and similar assets on their books and records and on their financial statements only when received in cash or cash equivalents, or at a rate of accrual lower than the contractual rate and consistent with amounts that they may reasonably expect to collect given the material facts of the borrower's situation.

§ 621.4 Uncollectible interest on loans and similar assets—general rules.

(a) The banks, associations, and chartered service corporations of the Farm Credit System shall employ generally accepted accounting principles and practices to charge off earned but uncollected income on loans, leases, contracts, and similar investments.

(b) Generally accepted accounting principles and practices notwithstanding, however, the following types of income shall, as a minimum, be classified as uncollectible:

(1) Earned but uncollected interest on any loan, if any portion thereof is severely past due and the loan is not adequately secured; and

(2) Earned but uncollected interest on any loan, lease, or similar investment that is not adequately secured and on which the bank, association, or service organization has commenced legal action to acquire title to, secure possession of, or force liquidation of the underlying collateral security, or to otherwise enforce performance on the loan by the borrower; and

(3) Earned but uncollected interest on any loan that is not adequately secured on which the bank, association, or chartered service organization has received notice that the borrower's bankruptcy petition, or similar instrument, has been accepted by a court with jurisdiction; and

(4) Earned but uncollected interest on loans that are being or have been restructured but such interest is not explicitly included in the principal amount of the restructured loan.

§ 621.5 Chargeoff of losses on loans—general rules.

All banks, associations, and chartered service corporations of the Farm Credit System shall:

(a) Charge off loans, wholly or partially as appropriate, at the time they are determined to be uncollectible; and

(b) Apply generally accepted accounting principles, or regulatory requirements where appropriate, consistently in all material aspects of recognizing, estimating, and recording chargeoffs; and

(c) Maintain an allowance for losses which, when considered in combination with their ability to make additional provisions for losses from current income, is adequate to absorb all chargeoffs that may be reasonably expected to exist in the loan portfolio; and

(d) Develop, adopt, and apply policies governing the establishment and maintenance of the allowance for loan losses which, as a minimum, conform to the rules and definitions, and standards set forth in this Part and such other requirements as may be specified by the Farm Credit Administration.

§ 621.6 Adjustments to book value of assets.

If the Farm Credit Administration determines that the value of a loan or other asset recorded on the books and records of a bank, association, or chartered service corporation exceeds its actual value, or that the documentation supporting the recorded asset value is inadequate, then the institution should immediately:

(a) Charge off the asset in the amount specified by the Farm Credit Administration; or

(b) If management of the institution disagrees with the determinations made by the Farm Credit Administration, and the differences are material, the institution shall disclose the following items in the notes to the financial statements contained in its annual report to shareholders:

(1) The amount of the chargeoff recommended to be taken by the Farm Credit Administration; and

(2) The amount of the chargeoff actually recorded to its books and records and shown in its financial statements; and

(3) The reasons supporting management's decision not to record the chargeoffs recommended by the Farm Credit Administration.

(c) These provisions do not apply to situations in which the amount of the chargeoff recorded in the financial statement is greater than that recommended by the Farm Credit Administration or in which the total amount of difference between recommended and recorded chargeoffs is not material to the institution's financial position.

§ 621.7 Audit by qualified public accountants.

(a) *Definitions.* The term "qualified public accountant" shall mean a person who:

(1) Holds a valid and unrevoked certificate, issued to such person by a legally constituted State authority, identifying such person as a certified public accountant; and

(2) Is licensed to practice as a public accountant by an appropriate regulatory authority of a State or other political subdivision of the United States; and

(3) Is in good standing as a certified and licensed public accountant under the laws of the State or other political subdivision of the United States in which is located the home office or corporate office of the bank, association, or service corporation that is to be audited; and

(4) Is not suspended or otherwise barred from practice as an accountant or public accountant before the U.S. Securities and Exchange Commission or any other appropriate Federal or State regulatory authority; and

(5) Is independent of the bank, association, or service corporation that is to be audited; for the purpose of this definition the term "independent" shall have the same meaning as it does under the rules and interpretations of the American Institute of Certified Public Accountants.

(b) *General rules.* (1) All banks, production credit associations, and chartered service corporations of the Farm Credit System shall, at least annually, have their financial statements audited by a qualified public accountant.

(2) The qualified public accountant's opinion of each institution's financial statements shall be included as a part of each annual report distributed or otherwise provided to stockholders of each bank, association, or chartered service corporation of the Farm Credit System.

(3) A copy of the qualified public accountant's opinion of each institution's financial statements shall be sent immediately upon receipt by each institution to the: Chief Accountant, Farm Credit

Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

(c) *Disagreements with accountant's opinion.* If a bank, association, or chartered service corportation of the Farm Credit System disagrees with the opinion of a qualified public accountant provided under the requirements of paragraph (b) of this section, then the following actions shall be taken immediately:

(1) The institution shall prepare a brief but thorough written description of the scope and content of the disagreement, noting each point of disagreement and citing, in all cases, the specific provisions of generally accepted accounting principles and generally accepted auditing standards upon which the institution's position in the disagreement is based;

(2) A copy of the institution's final description of the disagreement shall be given to the accountant who provided the opinion with which the institution disagrees;

(3) The accountant shall have 10 business days to develop and provide a brief but thorough final response to the institution's description of the disagreement, including all items believed to be incorrect or incomplete, and citing, in all cases, the specific provisions of generally accepted accounting principles and generally accepted auditing standards upon which the accountant's position in the disagreement is based;

(4) Both the institution's final description of the disagreement and the accountant's final response to it shall be included in the institution's annual report directly following the accountant's opinion of the institution's financial statements.

(d) *Changes in qualified public accountants.* If a bank, association, or chartered service corporation of the Farm Credit System selects a qualified public accountant to audit its financial statements and provide an opinion thereon for its annual report who is different from the accountant whose opinion appeared in the institution's most recent annual report, then the following items shall be included in the institution's annual report for the year in which the change of accountant's took place:

(1) The name and address of the accountant whose opinion appeared in the institution's most recent annual report;

(2) A brief but thorough statement of the reasons why the accountant selected for the most recent annual report was not selected for the current annual report. Such a statement shall identify all disagreements with the accountant's opinion prepared pursuant to paragraph (c) of this section;

(3) The identification of the highest ranking officer, committee of officers, or board of directors, as appropriate, which recommended, approved, or otherwise made the decision to change qualified public accountants;

(e) *Exemption for wholly owned service corporations.* The provisions of this Section shall not apply to service corporations chartered by the Farm Credit Administration in which no equity interest is owned by one or more entities not chartered by the Farm Credit Administration.

Subpart B—Reports of Condition and Performance

§ 621.10 Applicability and purpose.

(a) All banks, associations, and service corporations chartered by the Farm Credit Administration under authority of the Farm Credit Act of 1971, as amended, shall prepare and file such reports of condition and performance as may be required by the Farm Credit Administration.

(b) Reports of condition and performance shall be prepared and filed in order to:

(1) Provide a basis for monitoring the financial condition and performance of Farm Credit banks, associations, and service corporations in support of specific onsite examinations and supervisory functions;

(2) Help ensure prompt discovery of violations of applicable laws, regulations, instructions, and guidelines as well as variances from sound business practices and, in those events, to provide a basis for prompt remedial action; and

(3) Help meet congressional reporting requirements.

§ 621.11 Frequency and place of filing.

(a) *General rule.* Unless instructed otherwise by the Farm Credit Administration, reports of condition and performance shall be filed four times each year and shall accurately represent the financial condition and performance of each institution at the end of, and over the period of, each calendar quarter, provided that such additional reports as may be necessary to ensure timely, complete, and accurate monitoring and evaluation of the affairs, condition, and performance of Farm Credit institutions may be required, as determined by the Deputy Governor and Chief Examiner.

(b) All reports of condition and performance shall be filed with the Farm Credit Administration, Office of Administration, Management Information Division, 1501 Farm Credit Drive, McLean, VA 22102–5090.

§ 621.12 Content and standards—general rules

All banks, associations, and service corporations chartered by the Farm Credit Administration shall prepare reports of condition and performance:

(a) In accordance with such instructions and specifications and on such media as may be prescribed by the Farm Credit Administration;

(b) In accordance with generally accepted accounting principles and such other accounting requirements, standards, and procedures as may be prescribed by the Farm Credit Administration; and

(c) In such manner as to facilitate their reconciliation with the books and records of reporting institutions by Farm Credit Administration examiners/supervisors and qualified public accountants consistent with generally accepted auditing standards.

§ 621.13 Certification of correctness.

(a) Each report of condition and performance filed with the Farm Credit Administration shall be certified correct in the sense of being a true and accurate representation shall be certified correct in the sense of being a true and accurate representation of the financial condition and performance of the bank, association, or chartered service corporation to which it applies.

(b) The certification of reports of condition and performance shall be made by made by an officer of the reporting bank, association, or service corporation, named for that purpose by action of the reporting instruction's board of directors, provided that, if the board of directors of a bank, association, or service corporation has not acted to name an officer to certify the correctness of its reports of condition and performance, then the reports shall be certified correct by the president or chief executive of the reporting institution.

§ 621.14 Corresponding reporting items.

(a) For purposes of this subpart, the term "corresponding reporting items" shall mean all items of essentially the same character used to monitor or other wise describe the financial condition and operating performance of Farm Credit banks, associations, or chartered service corporations that are required to be reported to the Farm Credit Administration and are also reported to boards of directors and/or stockholders of System institutions. Reporting items will be considered corresponding if

labeled with the same or similar titles or other descriptive labels.

(b) All corresponding reporting items shall be prepared in accordance with the rules set forth in §621.12 that govern the content and standards for preparing reports of condition and performance.

John C. Moore, Jr.,

Acting Governor.

[FR Doc. 85-20309 filed 8-26-85; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Nos. 85-AWA-2 and 85-AWA-3]

Proposed Establishment of Airport Radar Service Areas

Correction

In a correction document appearing on page 32578 in the issue of Tuesday, August 13, 1985, in the second column, entry 3.b. should have read:

b. In the third column, sixth line under the heading **Eppley Airfield, Omaha, NE**—[New] "5,00" should have read "5,000".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 160

[Docket No. 85P-0028/CP]

Lysozyme and Avidin Reduced Dried Egg Whites; Proposed Amendment of the Standard of Identity

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standard of identity for dried egg whites to provide for the optional reduction of lysozyme and avidin content by cation exchange procedures before drying. The proposal would increase the ability of manufacturers to substitute food ingredients and would be in the best interest of consumers. This action is based on a petition filed on behalf of two food ingredient producers.

DATES: Written comments by October 28, 1985. The agency proposes that any final rule that may issue based upon this proposal become effective 60 days following the publication of the final rule, except for any provisions that may be stayed by the filing of proper objections.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: Societa Prodotti Antibiotici and Henningsen Foods, Inc., in a petition dated January 17, 1985, have requested that the U.S. standard of identity for dried egg whites (21 CFR 160.145) be amended: (1) To provide for the optional form of the food, lysozyme and avidin reduced dried egg whites, in which approximately 75 percent of the lysozyme and 90 percent of the avidin are removed (by an ion exchange resin) from the egg whites before drying; and (2) to specify maximum levels of not more than 0.8 percent lysozyme and not more than 0.005 percent avidin, calculated on a dry basis, for the resin treated dried egg whites.

In support of their requested amendment, the petitioners submitted data that demonstrate: (1) That lysozyme and avidin reduced dried egg whites obtained by the use of an ion exchange resin are not inferior, but are nutritionally and functionally equal in all respects to the currently standardized dried egg whites; (2) that in processing the food no substantive changes in proximate analysis, caloric value, or amino acid profile occur; (3) that the biological quality of the protein, measured as protein efficiency ratio, is equivalent; and (4) that the functional qualities of treated egg whites show no loss of whipping or heat coagulation properties.

FDA has, therefore, concluded that revising the U.S. standards of identity for dried egg whites as requested would increase the flexibility manufacturers now have to use substitute products and would be in the interest of consumers. The agency believes, however, that the various limits suggest in the petition are unnecessarily restrictive and serve no purpose in the standard of identity. Accordingly, the agency is not including the limits in the proposed amendment to the standard.

Therefore, the agency is proposing to revise § 160.145 by: (1) Amending paragraph (a) to provide for the reduction of the Lysozyme and avidin content by optional ion exchange treatment of egg whites, (2) redesignating paragraph (c) as paragraph (d), (3) establishing a new paragraph (c) to state that the treated food shall be equivalent in the biological quality of the protein to the untreated food and to provide an analytical method to determine the biological quality, and (4) adding a new paragraph (e) to provide a common or usual name for the optional form of the food.

The agency proposes that any final rule that may issue based upon this proposal become effective 60 days following the publication of the final rule, except for any provisions that may be stayed by the filing of proper objections. The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce on or after the effective date.

FDA, in accordance with the Regulatory Flexibility Act (Pub. L. 96-354), has considered the effect that this proposal would have on small entities including small businesses and has determined that the proposal would provide a standard of identity that is less restrictive than the current regulation. The agency believes that the proposal would provide increased flexibility to all manufacturers of dried egg whites. Therefore, FDA certifies in accordance with the section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

The agency has determined under 21 CFR 25.24(b)(1) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment not an environmental impact statement is required.

Interested persons may, on or before October 28, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 160

Food standards, Eggs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, it is proposed that Part 160 be amended as follows:

PART 160—EGGS AND EGG PRODUCTS

1. The authority citation for 21 CFR Part 160 is revised to read as follows:

Authority: Secs. 401, 701, 52 Stat. 1046, 1055–1056 as amended (21 U.S.C. 341, 371); 21 CFR 5.10, 5.61.

2. In § 160.145 by revising paragraph (a), by redesignating paragraph (c) as paragraph (d), and by adding new paragraphs (c) and (e), to read as follows:

§ 160.145 Dried egg whites.

(a) The food dried egg whites, egg white solids, dried egg albumen, egg albumen solids is prepared by drying liquid egg whites conforming to the requirements of § 160.140 (or deviating from that section only by not being *Salmonella* free). As a preliminary step to drying, the lysozyme and avidin contents may be reduced. If lysozyme and avidin levels are reduced, cation exchange resins regulated for use under § 173.25 of this chapter shall be used. As a further preliminary step to drying, the glucose content of the liquid egg whites is reduced by adjusting the pH, where necessary, with food-grade acid and by following one of the optional procedures set forth in paragraph (b) of this section. If the food is prepared from liquid egg whites conforming in all respects to the requirements of § 160.140, drying shall be done with such precautions that the finished food is free of viable *Salmonella* microorganisms. If the food is prepared from liquid egg whites that are not *Salmonella* free, the dried product shall be so treated by heat or otherwise as to render the finished food free of viable *Salmonella* microorganisms. Dried egg whites may be powdered.

* * * * *

(c)(1) Dried egg whites in which the lysozyme and avidin have been reduced shall not be nutritionally inferior, as defined in § 101.3(3)(4)(i) of this chapter, and shall be considered nutritionally equivalent to untreated egg whites if they meet the condition that the biological quality of the protein contained is equal to or greater than that of untreated egg white from the same batch of liquid egg white.

(2) Compliance with the biological quality of protein requirement of paragraph (c)(1) of this section shall be determined by the analytical method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 14th Ed. (1984), § 43.253.257, "Protein Efficiency Ratio, Rat Bioassay, Final Action," which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, DC 20044, or may be examined at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20408.

* * * * *

(e) The name of the food for which a definition and standard of indentity is prescribed in this section is alternatively "Dried egg whites", "Egg white solids", "Dried egg albumen", or "Egg albumen solids". If the lysozyme and avidin content is reduced as provided in paragraph (a) of this section, the name shall be immediately preceded or followed by the statement "lysozyme and avidin reduced" when the food is sold as such.

Dated: August 20, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–20374 Filed 8–26–85; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Waiver of Two-Year Operation Requirement

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The law generally requires a course to be in operation for two years before it can be approved for VA (Veterans Administration) training. The law contains several exceptions to this general rule and permits waivers by regulation in certain instances. This proposal liberalizes the pertinent regulation to make a waiver easier to obtain for a course offered pursuant to a contract with the Department of Transportation at a Coast Guard station.

DATES: Comments must be received on or before September 25, 1985.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 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 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays), until October 8, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, (202) 389–2092.

SUPPLEMENTARY INFORMATION: This proposal would amend § 21.4251(g) to permit the waiver of the two-year operation requirement for certain courses offered under contract with the Department of Transportation at Coast Guard stations.

The VA has determined that this proposal does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no 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 Administrator certifies that this proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), sections 601–612. Therefore, pursuant to 5 U.S.C. 605(b) these proposed regulations are exempt from the initial and final regulatory flexibility analyses requirements of sectins 603 and 604.

This certification can be made because only a few educational institutions offer courses at Coast Guard stations. Therefore, the number of affected small entities will not be substantial.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocation education, Vocational rehabilitation.

Approved: August 5, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—[AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION, is amended by revising paragraphs (g)(1) introductory text and (g)(1)(i) of § 21.4251, to read as follows:

§ 21.4251 Period of operation of course.

* * * * *

(g) *Waivers.*

* * * * *

(1) The Director of the VA field station of jurisdiction may exercise the waiver authority found in paragraph (a)(6) of this section to exempt from the 2-year operation requirement certain courses given pursuant to a contract with the Department of Defense or the Department of Transportation on or immediately adjacent to a military base or Coast Guard station located within a State. He or she may grant such a waiver only when he or she finds that:

(i) The school on an application sent through the State approving agency certifies that the course is available only to military personnel or Coast Guard personnel, their dependents, civilian employees of the base or station, persons who began the course while on active duty and who were discharged while remaining continuously enrolled in it or any combination of these classes of people. (38 U.S.C. 1789(b))

* * * * *

[FR Doc. 85-20334 Filed 8-26-85; 8:45 am]

BILLING CODE 8320-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 201-8

Implementation of Federal Information Processing Standards (FIPS), Federal Telecommunication Standards (FED-STDS), and Joint FIPS/FED-STDS in the Federal Information Resources Management Regulation (FIRMR)

AGENCY: Office of Information Resources Management, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed regulation updates the implementation provisions for a number of Federal Information Processing Standards (FIPS), the Federal Telecommunication Standards (FED-STDS), and Joint Federal Information Processing Standards/Federal Telecommunication Standards (FIPS/FED-STDS). Associated standard terminology that shall be used in solicitation documents, including requirements documents, where the standard is applicable is provided. The regulation updates FIPS PUB 1-1 to FIPS PUB 1-2 by consolidating FIPS PUBS 1-1, 7, 15, 35, and 36. Other revisions implement new FIPS PUBS 2-1, 8-5, and 33-1. FIPS PUBS 107, 108, and 111 and FED-STDS 1015, 1026, and 1028 are also added. FIPS PUB 98 is suspended indefinitely.

DATE: Comments are due: September 26, 1985.

ADDRESS: Comments should be submitted to the General Services Administration (KMPP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Phillip R. Patton, Policy Branch, Office of Information Resources Management, telephone (202) 566-0194 or FTS, 566-0194. The full text of the proposed rule is available upon request.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Governmentwide management, acquisition, and use regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Part 201-8

Computer technology, Telecommunications, Information resources activities, and Standards for Information resources.

Dated: August 9, 1985.

Francis A. McDonough,

Deputy Assistant Administrator for Federal Information Resources Management.

[FR Doc. 85-20399 Filed 8-26-85; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 37

Amendment to Specifications for Medical Examinations of Underground Coal Miners

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, Public Health Service, HHS.

ACTION: Proposed rule.

SUMMARY: NIOSH proposes to amend the specifications for chest roentgenograms (X-rays) obtained in medical examinations of underground coal miners. The proposed amendments will enable X-ray readers in the Department's medical surveillance program for underground coal miners to interpret miners' chest X-rays more accurately to classify any existing or developing pneumoconiosis.

DATES: Comments on the proposed rule must be received on or before September 26, 1985.

ADDRESSES: Comments should be mailed or delivered to: Annette N. McElhannon, Regulations Specialist, NIOSH, CDC, Room 3421, 1600 Clifton Road NE., Atlanta, GA 30333—Phone (404) 321-2279 or FTS: 236-2279.

FOR FURTHER INFORMATION CONTACT: Ms. Mitzie Martin, Chief, Receiving Center Section, Examinations Processing Branch, Division of Respiratory Disease Studies, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, WV 26505—Phone (304) 291-4301 or FTS: 923-4301.

SUPPLEMENTARY INFORMATION: NIOSH administers an X-ray surveillance program for coal miners as mandated by the Federal Mine Safety and Helath Act of 1977 (30 U.S.C. 801). This program has been conducted since 1970 under the provisions of the Federal Coal Mine Health and Safety Act of 1969 which was amended by the 1977 Act. Section 203 of the Act (30 U.S.C. 843) directs that operators of underground coal mines shall cooperate with the Secretary of Health and Human Services to provide miners with an opportunity for periodic X-ray examinations at intervals not to exceed 5 years. All X-ray examinations are to be made, submitted, and interpreted according to specifications developed by the Secretary of HHS. Underground miners who, based upon their chest X-rays, show evidence of the development of pneumoconiosis are afforded the option of transferring to a less dusty area of the mine, with no reduction in pay, for such periods as may be necessary to prevent further development of the disease.

The system for classifying the pneumoconioses was devised in 1971 by an international committee of the International Labor Office (ILO). Several years later, another ILO international committee of experts undertook the task of revising that classification system. Completed in 1980, the revised system clarified ambiguities of the 1971 system, extended the classification of abnormalities of the lining of the lung, and provided standard X-rays based on extensive international reading trials. In 1984, the 1980 revision of the ILO system for classifying X-rays of the pneumoconioses was adopted by NIOSH.

As a result of recent interaction among NIOSH, the Mine Health Research Advisory Committee to NIOSH, and the American College of Radiology Task Force on Pneumoconiosis, it is proposed that Part 37 of Title 42, Code of Federal Regulations, be amended to provide additional specifications to enable X-ray

readers in the Department's medical surveillance program for underground coal miners to interpret miners' chest X-rays more accurately. This proposed rule expands the specification for X-ray film size, specifies film/screen combinations and speeds which can be used, and specifies the method for obtaining a definitive interpretation of chest X-rays when two reader's interpretations do not agree.

The Department of Health and Human Services has determined that this proposed rule will not significantly impact on a substantial number of small entities and, therefore, does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354.

The Department also has determined that this proposal is not a "major rule" under Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more, result in significant adverse effects in competition, nor otherwise meet the thresholds established in the Executive Order. Therefore, preparation of a regulatory impact analysis is not required.

List of Subjects in 42 CFR Part 37

Health care, Lung diseases, Medical research, Mine safety and health, Miners, X-rays.

It is, therefore, proposed to amend Part 37 of Title 42, Code of Federal Regulations, as set forth below.

Dated: March 26, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

Approved: July 24, 1985.

Margaret M. Heckler,

Secretary.

PART 37—[AMENDED]

42 CFR Part 37 is amended as follows:

1. The authority citation for Part 37 continues to read:

Authority: Sec. 203, 83 Stat. 763 (30 U.S.C. 843).

2. In § 37.41, paragraphs (a) and (h)(3) are revised to read as follows:

§ 37.41 Chest roentgenogram specifications.

(a) Every chest roentgenogram shall be a single posteroanterior projection at full inspiration on a film being no less than 14 by 17 inches and not greater than 16 by 17 inches. The film and cassette shall be capable of being positioned both vertically and horizontally so that the chest roentgenogram will include both apices and costophrenic angles. If a miner is too large to permit the above requirements, then the projection shall include both apices with minimum loss of the costophrenic angle.

* * * * *

(h) To insure high quality chest roentgenograms:

* * * * *

(3) Medium speed film and medium speed intensifying screens are recommended. However, any film-screen combination, the rated "speed" of which is at least 100 and does not exceed 300, which produces roentgenograms with spatial resolution, contrast, latitude and quantum mottle similar to those of systems designated as "medium speed" may be employed.

* * * * *

3. In § 37.52, paragraph (b) is revised to read as follows:

§ 37.52 Method of obtaining definitive interpretations.

* * * * *

(b) Two interpreters shall be considered to be in agreement when they both find either stages A, B, or C complicated pneumoconiosis, or their findings with regard to simple pneumoconiosis are both in the same major category, or (with one exception noted below) are within one minor category (ILO Classification 12-point scale) of each other. In the last situation, the higher of the two interpretations shall be reported. The only exception to the one minor category principle is a reading sequence of 0/1, 1/0, or 1/0, 0/1. When such a sequence occurs, it shall not be considered agreement, and a third (or more) interpretation shall be obtained until a consensus involving two or more readings in the same major category is obtained.

[FR Doc. 85-20430 Filed 8-26-85; 8:45 am]

BILLING CODE 4160-19-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-249; RM-4989]

FM Broadcast Station in Custer, SD

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of channel 286C2 to Custer, South Dakota, as that community's first local FM service, at the request of Richard A. Deno.

DATES: Comments must be filed on or before October 15, 1985, and reply comments on or before October 30, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Custer, South Dakota); MM Docket NO. 85-249, RM-4989.

Notice of Proposed Rule Making

Adopted: August 12, 1985.

Released: August 23, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Richard A. Deno ("petitioner") requesting the allocation of Channel 286C2 to Custer, South Dakota, as that community's first local FM service. Petitioner states that he will apply for the channel, if allocated. Channel 286C2 can be allocated in compliance with the Commission's mileage separation and other technical requirements.

§ 73.202 [Amended]

2. We believe the public interest would be served by proposing the channel allocation as it could provide a first local service to Custer. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with regard to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Custer, South Dakota		286C2

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is

required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before October 15, 1985, and reply comments on or before October 30, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Richard A. Deno, P.O. Box 89, Elm Street Court, Black River Falls, Wisconsin 54615.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b—, 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, 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. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 85–20371 Filed 8–26–85; 8:45]

BILLING CODE 6712–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 674

29 CFR Part 89

Senior Community Service Employment Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Department of Labor is extending for 30 days the comment period on the proposed rule for the Senior Community Service Employment Program.

DATE: Written comments on the proposed rulemaking must be received on or before September 19, 1985.

ADDRESS: Comments should be addressed to: Chief, OSTP, Office of Special Targeted Programs, Employment and Training Administration, U.S. Department of Labor, Room 6122, 601 D Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Paul A. Mayrand, telephone (202) 376–6225.

SUPPLEMENTARY INFORMATION: On July 19, 1985, the Department of Labor published at 50 FR 29606 a proposed rule for the Senior Community Service Employment Program (SCSEP) which is authorized under Title V of the Older Americans Act of 1965, as amended, (42 U.S.C. 3056 et seq.).

The Department has been requested by the Select Committee on Aging of the U.S. House of Representatives to extend the comment period on the proposed rule for 30 days. The Department has determined that this is a reasonable request which will allow all interested parties a fuller opportunity to comment on the proposed rule. Therefore, the comment period on the proposed rule published 50 FR 29606 (July 19, 1985) is hereby extended through September 19, 1985.

Signed at Washington, D.C., this 20th day of August 1985.

William E. Brock,

Secretary of Labor.

[FR Doc. 85–20447 Filed 8–26–85; 10:37 am]

BILLING CODE 4510–30–M

Notices

Federal Register
Vol. 50, No. 166
Tuesday, August 27, 1985

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement on the Activities of the Veterans Administration at Veterans Administration Medical Center, Wood, WI

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: This notice provides information about and invites comments on a proposed Programmatic Memorandum of Agreement that provides for the disposition of Buildings #38 and #47, and the development of a Preservation Plan for the identification, inventory, evaluation and treatment of historic, architectural and cultural properties at Veterans Administration Medical Center, Wood, Wisconsin.

Comments Due: Comments must be submitted on or before September 26, 1985.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue, NW., Room 809, Washington, DC 20004.

The Council proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of its regulations (36 CFR Part 800) with the Veterans Administration and the Wisconsin State Historic Preservation Officer. The proposed Agreement allows for the transfer or lease of Buildings #38 and #47 and establishes standards for a Preservation Plan at the Veterans Administration Medical Center which will coordinate the management of historic, architectural and cultural properties with the activities of the Veterans Administration at the Center. The Veterans Administration's responsibilities at the Center, pursuant to Section 106 of the National Historic Preservation Act, will be fulfilled by implementation of the proposed Agreement. Interested parties are encouraged to obtain a copy of the proposed Agreement from the Council and submit comments.

Dated: August 20, 1985.

Robert R. Garvey,

Executive Director.

[FR Doc. 85-20397 Filed 8-26-85; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Office of Grants and Program Systems; Policy Advisory Committee for the Science and Education Research Grants Program; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the U.S. Department of Agriculture announces the following meeting:

Name: Policy Advisory Committee for the Science and Education Research Grants Program.

Date: September 4, 1985.

Time: 9:00 a.m. to 3:30 p.m.

Place: U.S. Department of Agriculture, Room 023, Justin Smith Morrill Building, 15th and Independence Avenue, SW., Washington, D.C. 20251.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and the procecdures to be followed in implementing those programs of research grants to be awarded competitively.

Contact Person for Agenda and More Information:

Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112, Justin Smith Morrill Building, Washington, D.C. 20251; Telephone: 202-475-5022.

Done at Washington, D.C., this 21 day of August 1985.

Anne Holiday Schauer,

Executive Secretary, Policy Advisory Committee.

[FR Doc. 85-20446 Filed 8-26-85; 8:45 am]

BILLING CODE 3410-MT-M

Agricultural Marketing Service

Notice To Revise the Requirements Recommended for Adoption by State Regulatory Agencies Regarding Milk for Manufacturing Purposes and Its Production and Processing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document revises sections B2(l), C1, C2, C3, C3(a) C4, C11(a) and (d), and D1(b) and (c), and adds a new section C11(e) of the recommended manufacturing milk requirements for State adoption. The major revisions will:

1. Lower the maximum allowable bacterial estimate for manufacturing grade producer milk from 3 million bacteria to 1 million bacteria per milliliter.

2. Lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

4. Provide for use of the current USDA tuberculosis and brucellosis program requirements.

5. Add a requirement for the testing of producer milk for added water.

6. Make editorial changes in the sediment content classification.

These revisions have been developed in cooperation with the National Association of State Departments of Agriculture, State regulatory agencies and dairy trade associations and producer groups.

DATE: Effective July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Richard W. Webber, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, Washington, D.C. 20250, (202) 447-7473.

SUPPLEMENTARY INFORMATION: Since 1969 there has been a continuing effort by the U.S. Department of Agriculture to assist in providing uniform quality, production, and sanitation requirements for the production of manufacturing grade milk at the farm level. In 1972, USDA published the recommended requirements for manufacturing grade milk for State adoption. These recommendations are to promote, through State adoption and enforcement, uniformity in State dairy

laws and regulations as well as national uniformity in the sanitary manner in which manufacturing grade milk is produced and processed. USDA has continuously assisted the States in an advisory and interpretive capacity in order to promote the purpose and intent for which these requirements have been published.

In 1983 the National Association of State Departments of Agriculture passed a resolution recommending that the manufacturing grade producer milk quality requirements be tightened. After coordination with State regulatory agencies, and major dairy trade associations and producer groups, it was determined that these changes will accurately describe the minimum quality requirements for this grade of producer milk. The major revisions are described below.

1. Lower the maximum allowable bacterial estimate for producer milk from 3 million to 1 million bacteria per milliliter.

USDA has an ongoing surveillance program to evaluate sanitation and production practices and physical facilities of producers of manufacturing grade milk. Based on this surveillance program, it has been determined that sufficient progress has been made in the production of better quality milk so that a satisfactory producer would not have any difficulty in meeting the revisions.

2. Lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter.

The Department's policy has been that the requirements for abnormal milk should be applied equally to all grades of milk. The National Conference on Interstate Milk Shipments has lowered the somatic cell count for Grade A milk. Therefore, a similar change is being made for manufacturing grade milk.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

Goat milk is being produced and utilized for the manufacture of cheese, ice cream, evaporated milk and other products. The revision will recognize the production and use of goat milk, which will aid in its marketing.

4. Provide for the use of the current USDA tuberculosis and brucellosis requirements.

In 1982 the Department revised its Uniform Methods and Rules for these two programs. The manufacturing milk requirements cover herd health; therefore, the updated rules need to be referenced.

5. Add a requirement for the testing of producer milk for added water.

The state regulatory agencies have requested this requirement be added because it will assist in preventing the contamination and adulteration of milk by elimination of added water.

6. Make editorial changes in the sediment content classification.

The editorial changes will simplify the language concerning the requirement for sediment testing so that it will be clearer.

In addition to the major revisions outlined above, other revisions are being made for consistency. The basis for classification is being amended to clarify that producer milk shall be tested for somatic cell count and antibiotics. Updated test methods for somatic cell count are being included and the compliance procedures are changed to conform to current practices. Also, the requirement concerning the appearance of acceptable raw milk has been expanded to require that it be free of excessive coarse sediment when examined visually or by an acceptable test. Such a test as the Sani-Guide would be an acceptable test for determination of "free of excessive coarse sediment." When determining the somatic cell count of producer milk using the Wisconsin Mastitis Test as a screening test, a value of 19 mm is being established. Since the acceptable level for bacterial estimate of producer milk is being lowered, only those test methods that can accurately reflect this level are being specified.

The current milk quality requirements have been in effect since October 10, 1975. With these changes, they will continue to aid in the orderly marketing of quality manufacturing grade milk from the approximately 74,000 producers in 30 states.

The Department is revising parallel document "General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service." This document is utilized in the voluntary USDA program to approve plants for official grading service.

Public Comments

On February 27, 1985, the Department published a notice to revise the recommended requirements for state adoption (50 FR 7936–7938). The public comment period closed July 1, 1985. Fourteen comments were received. Seven comments supported the revisions, six supported the revisions with suggested changes, and one was against the revisions.

The suggested changes were:

1. One comment requested that the standard plate count for manufacturing grade milk approximate that for fluid grade milk.

Presently, the maximum bacterial limit for individual producer Grade A raw milk is 100,000 per milliliter. As provided herein, the maximum bacterial limit for individual producer manufacturing grade milk will be lowered from 3 million to 1 million per milliliter. At this time, there is no indication on the part of processors, marketers and consumers that a maximum limit approaching 100,000 per milliliter is needed for the production of good quality manufactured dairy products for today's marketplace. Therefore, the Department is retaining this revision as proposed.

2. Two comments requested various changes in the testing for abnormal milk.

(a) Delete the Modified Whiteside Test as an acceptable screening test.

In the current edition of *Standard Methods for the Examination of Dairy Products* (SMEDP), this test method is now designated as one that is being phased out and is being superseded by other methods that have been used extensively and have proven to be more reliable. The Department agrees with the suggestion to delete this method.

(b) Delete the California Mastitis Test as an acceptable screening test.

The current edition of SMEDP indicates that this is still an acceptable test for milk of individual producers or commingled supplies. It also categorizes the test as one that has been subjected to a thorough evaluation, has been widely used, and has thereby demonstrated its value by extensive application. Therefore, the Department is retaining this test as an acceptable screening test.

(c) Delete the Membrane Filter DNA Somatic Cell Count as an acceptable confirmatory test.

This method has been removed as a recognized method in the current edition of SMEDP. Also, the sole source of the reagents used in the test has discontinued production of the reagents. The Department agrees with the suggestion to delete this method.

(d) Adopt procedures to differentiate the non-cell particles in goat milk from cells when using electronic and optical cell counting procedures.

A similar request was considered by the 1985 National Conference on Interstate Milk Shipments. The voting delegates representing state regulatory agencies unanimously denied the request. Therefore, the Department believes it should not adopt such changes since the states have taken this action.

3. Two comments requested the addition of a requirement for the testing of producer milk for added water.

The Department agrees with the suggestion since it will assist in

preventing the contamination and adulteration of milk by elimination of added water.

4. Two comments were applicable only to the revisions in the companion document, "General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service," and are dealt with in that document.

The one comment received against the revisions was based on current costs of producing milk and religious beliefs. The Department's surveillance program for the state in which this producer is located has determined that producers in similar situations can satisfactorily meet the revised requirements.

In consideration of the foregoing, the Recommended Requirements for Manufacturing Milk is amended as follows:

1. In Section B2, paragraph (l) is revised to read as follows:

Sec. B2. Terms defined.

(l) *Milk.* The term "milk" shall include the following:

(1) Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows.

(2) Goat milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats. Goat milk shall only be used to manufacture dairy products that are legally provided for in 21 CFR or recognized as non-standardized traditional products normally manufactured from goat milk.

(3) The word "milk" used herein includes only milk and goat milk for manufacturing purposes.

2. Section C1 through C3(a) is revised to read as follows:

Sec. C1. *Basis.* The quality classification of raw milk for manufacturing purposes from all individual producers shall be based on the following: organoleptic examination (appearance and odor), quality control tests for sediment content, bacterial estimate, somatic cell count, and antibiotics.

Sec. C2. *Appearance and odor.* The appearance of acceptable raw milk shall be normal and free of excessive coarse sediment when examined visually or by an acceptable test procedure. The milk shall not show any abnormal condition (including, but not limited to curdled, ropy, bloody or mastitic condition), as indicated by sight or other test procedures. The odor shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that would adversely affect the finished product.

Sec. C3. *Sediment content classification.* Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in Sec. C2, as follows:

The USDA Sediment Standard

No. 1 (acceptable)—not to exceed 0.50 mg or equivalent.

No. 2 (acceptable)—not to exceed 1.50 mg. or equivalent.

No. 3 (probational, not over 10 days)—not to exceed 2.50 mg. or equivalent.

No. 4 (reject)—over 2.50 mg. or equivalent.

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products, 7 CFR Part 58, Subpart T, §§ 58.2728 through 58.2732.

3. Section C4 is revised to read as follows:

Sec. C4. *Bacterial estimate classification.* Milk shall be classified for bacterial estimate by one of the following methods:

Bacterial estimate classification	Direct Microscopic count, standard plate count or plate loop count
No. 1	Not over 500,000 per ml.
No. 2	Not over 1,000,000 per ml.
Undergrade	Over 1,000,000 per ml.

4. Section C11 (a) and (d) are revised, and a new subsection (e) is added, to read as follows:

Sec. C11. *Abnormal milk.*

(a) *Mastitic milk*

(1) A laboratory examination for the presence of somatic cells shall be made on all patrons' milk at least 4 times in each 6-month period at irregular intervals. Samples shall be analyzed at an official laboratory or at a laboratory approved by the State regulatory agency.

(2) A confirmatory test for somatic cells shall be done when a herd sample exceeds any of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1+).

(ii) Wisconsin Mastitis Test—WMT value of 19 mm.

(3) The conformatory test for somatic cells shall be performed by using one of the following procedures:

(i) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y—methyl green stain shall be used for goat milk.

(ii) Electronic Somatic Cell Count.

(iii) Optical Somatic Cell Count.

(4) The results of the confirmatory test for somatic cells shall be the official result.

(5) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

(i) The producer shall be notified with a warning of the excessive somatic cell count.

(ii) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml. the appropriate regulatory authority shall be notified and a written notice given to the producer. This notice shall be in effect so long as two of the last four consecutive samples exceed 1,000,000 per ml.

(6) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (a)(5)(ii) of this section. If this sample also indicates a high somatic cell count, the patron's milk shall be rejected until satisfactory compliance is obtained. A temporary permit may be approved by the regulatory agency whenever an additional sample of herd milk is tested and found satisfactory. The producer shall be fully reinstated when three out of four consecutive tests have counts of 1,000,000 or less somatic cells per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(d) *Pesticides and herbicides.* Composite milk samples should be tested for pesticides and herbicides at a frequency which the regulatory agency determines to be adequate to protect the consumer. The samples shall not exceed established Food and Drug Administration limits.

(e) *Added water.* Individual producer milk samples should be tested for added water from each producer at a frequency which the regulatory agency determines to be adequate to protect against the addition of water to the milk supply.

5. Section D 1 (b) and (c) are revised as follows:

Sec. D 1. *Health of herd.*

(b) *Tuberculin test.* The cows shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the U.S. Department of Agriculture. The goats shall be located in States meeting the current USDA Uniform Methods and Rules and for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. If the animals are not located in such areas, they shall be tested annually under the jurisdiction of the aforesaid program. All additions to the herd shall

be from an area or from herds meeting those same requirements.

(c) *Brucellosis test.* The cows shall be located in States meeting Class B status, or Certified-Free Herds, or shall be involved in a milk ring test program or blood testing program under the current USDA Brucellosis Eradication Uniform Methods and Rules. All additions to the herd shall be from a State or from herds meeting these same requirements.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, and 1090, as amended; 7 U.S.C. 1622, 1624)

Signed at Washington, D.C. on: August 22, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-20441 Filed 8-26-85; 8:45 am]

BILLING CODE 3410-02-M

Plant Variety Protection Advisory Board; Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Plant Variety Protection Advisory Board.

DATE: Tuesday, September 24, 1985, 8:30 a.m. to 4:00 p.m., open to the public.

ADDRESS: National Agricultural Library Building, Conference Room 1400, Beltsville, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth H. Evans, Executive Secretary, Plant Variety Protection Board, National Agricultural Library Building, Beltsville, Maryland 20705 (301/344-2518).

SUPPLEMENTARY INFORMATION: The agenda for the meeting will consist of: (1) Plant variety protection operations, (2) Plant variety protection costs, (3) Plant variety protection fees, (4) Grower's exemption, (5) Other.

Done at Washington, D.C.: August 22, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-20440 Filed 8-26-85; 8:45 am]

BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

Utah Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah Advisory Committee to the Commission will convene at 7:30 p.m. and adjourn at 9:30 p.m. on September 12, 1985, at the Downtown Holiday Inn, 230 W. 600 South, Beehive Room, Salt Lake City, UT. The purpose of the meeting is to discuss plans for for FY86 projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, John Florez, or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-2211, (TDD 303/844-3031).

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 21, 1985.

Bert Silver,

Assistant Staff Director for Regional Program.

[FR Doc. 85-20464 Filed 8-26-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 311]

Resolution and Order Approving the Application of the City and County of Denver, CO, for a Foreign-Trade Zone in Denver

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City and County of Denver, Colorado, filed with the Foreign Trade Zones Board (the Board) on November 1, 1984, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Denver, Colorado, within the Denver Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chiarman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Denver, Colorado

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City and County of Denver, Colorado (the Grantee) has made application (filed November 1, 1984, Docket No. 50-84, 49 FR 45201) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone in Denver, within the Denver Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 123 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout

the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 16th day of August 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-20423 Filed 8-26-85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-507]

Malleable Iron Pipe Fittings From Brazil; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether malleable iron pipe fittings from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before September 16, 1985, and we will make ours on or before January 7, 1986.

EFFECTIVE DATE: August 27, 1985.

FOR FURTHER INFORMATION CONTACT: Arthur Simonetti; Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4198.

SUPPLEMENTARY INFORMATION:

The Petition

On July 31, 1985, we received a petition in proper form filed by the Cast Iron Pipe Fittings Committee, an *ad hoc* organization of domestic manufacturers of malleable iron pipe fittings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subjects merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry. United States price was developed from sale offers by the Brazilian manufacturer's exclusive U.S. distributor. The price was determined by reference to a U.S. price list less discounts. Petitioner also made deductions for distributor markup, ocean freight and insurance, and U.S. inland freight. Petitioner selected prices for ½ inch black and ½ inch galavanized ell for margin calculations.

Foreign market value was derived by two methods. First, petitioner presented an April 3, 1983 price list for a Brazilian manufacturer which has been represented as a home market price list. The actual price is alleged to be discounted from the list price. The prices were adjusted by the ratio of ORTN indices (Obrigacoes Reajustaveis do Tesouro Nacional or National Treasury Readjustable Bonds) for April 1983 and November 1984. The prices were further reduced to reflect the internal value added tax. Although the petition states that the November exchange rate was used, the October 1, 1984 rate was actually used. We have adjusted petitioner's alleged dumping margins by using the November 15, 1984 exchange rate. The second method of establishing foreign market value was using a U.S. producer's cost of production with adjustments for cost differences in certain production inputs in Brazil. Petitioner added the statutory minimums of ten percent of the production cost for general expenses and eight percent for profit. Packing costs were also added and were based on actual expenses of a U.S. producer. Using these figures as modified above, petitioner found apparent dumping margins of 8.8 percent of 14.46 percent when foreign market value was based on adjusted production costs and dumping margins of 53.6 percent to 61.7 percent when home market prices were used for foreign market value.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on malleable iron pipe fittings from Brazil and have found that it meets the requirements of section 721(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether malleable iron pipe fittings form Brazil are being, or are likely to be, sold in the United States at less than fair value.

If our investigation proceeds normally, we will make our preliminary determination by January 7, 1986.

Scope of Investigation

The products covered by this investigation are certain malleable cast iron pipe fittings, advanced in condition by operations or processes subsequent to the casting process other than with grooves, or if not advanced, or cast iron other than alloy cast iron, as provided for in items 610.7000 and 610.7400 of the Tariff Schedules of the United States Annotated (TSUSA).

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivilege and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 16, 1985, whether there is a reasonable

indictation that imports of malleble iron pipe fittings from Brazil are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 20, 1985.

[FR Doc. 85-20392 Filed 8-26-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-507]

Malleable Iron Pipe Fittings From Korea; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether malleable iron pipe fittings from Korea are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make it preliminary determination on or before September 16, 1985, and we will make ours on or before January 7, 1986.

EFFECTIVE DATE: August 27, 1985.

FOR FUTHER INFORMATION CONTACT: Arthur Simonetti; Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-4198.

SUPPLEMENTARY INFORMATION:

The Petition

On July 31, 1985, we received a petition in proper form filed by the Cast Iron Pipe Fittings Committee, an *ad hoc* organization of domestic manufacturers of malleable iron pipe fittings. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry. United States price was derived from two sources, offers for sale by Korean manufacturers to U.S. manufacturers and offers for sale by U.S. distributors of Korean fittings. For the first source, petitioner used price quotes per ton of iron pipe fittings and converted this to a per piece price for ⅛ inch black ell and ½ inch galvanized ell. The per ton quote was assumed to be FOB. Also used were CIF price offers for ½ inch black ell and ⅛ inch galvanized ell with deductions for ocean freight and insurance. The second source was a U.S. price list for Korean fittings with discounts based on specific offers for sale. Petitioner also made deductions for distributor markup, freight and insurance, import duty, and U.S. inland freight.

Petitioner was unable to obtain home market or third country price data and therefore calculated foreign market value on the basis of costs of production as reported to the petitioner by a U.S. producer with adjustments for cost differences in certain production inputs in Korea. Petitioner added the statutory minimums of ten percent of the costs for general expenses and eight percent for profit. Packing costs were added and were based on actual expenses of a U.S. producer. Using these figures, petitioner alleges dumping margins ranging from 41.9 percent to 109 percent when offers by Korean manufacturers are the basis for U.S. price and dumping margins ranging from 51.2 percent to 123.3 percent when U.S. prices are derived from U.S. distributors of Korean fittings.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on malleable iron pipe fittings from Korea and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investgation to determine whether malleable iron pipe fittings from Korea are being, or are likely to be, sold in the United States at less than fair value.

If our investigation proceeds normally, we will make our preliminary determination by January 7, 1986.

Scope of Investigation

The products covered by this investigation are certain malleable cast iron pipe fittings, advanced in condition by operations or processes subsequent to the casting process other than with grooves, or if not advanced, of cast iron other than alloy cast iron, as provided for in items 610.7000 and 610.7400 of the Tariff Schedules of the United States Annotated (TSUSA).

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 16, 1985, whether there is a reasonable indication that imports of malleable iron pipe fittings from Korea are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 20, 1985.

[FR Doc. 85-20393 Filed 8-26-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-506, A-583-507]

Malleable and Nonmalleable Cast Iron Pipe Fittings From Taiwan; Initiation of Antidumping Duty Investigations

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of petitions filed in proper form with the United States Department of Commerce, we are initiating antidumping duty investigations to determine whether malleable and nonmalleable cast iron pipe fittings (pipe fittings) from Taiwan are being, or are likely to be, sold in the United States at less then fair value. The malleable pipe fittings petition also

contains an allegation of sales at less than the cost of production, as well as an allegation of critical circumstances. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are causing material injury, or threaten material injury, to a United States industry. If these investigations proceed normally, the ITC will make its preliminary determination on or before September 16, 1985, and we will make ours on or before January 7, 1986.

EFFECTIVE DATE: August 27, 1985.

FOR FURTHER INFORMATION CONTACT: Arthur J. Simonetti; Office of Investigations, Import Administration, International Trade Administration, U.S Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–4198.

SUPPLEMENTARY INFORMATION:

The Petitions

On July 31, 1985, we received petitions in proper form filed by the Cast Iron Pipe Fittings Committee. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions alleged that imports of the subject merchandise from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material unjury, to a United States industry. The malleable pipe fittings petition also alleges that sales of the subject merchandise are being made at less than the cost of production, and that critical circumstances exist.

In the case of malleable iron pipe fittings, the petitioner based the United States price on two types of information relating to the U.S. prices. The first is based on unsolicited direct sales offers by two Taiwanese producers. Deductions were made for list price discounts, U.S. Customs duties, ocean freight and insurance. The second type of information is based on the sales offers made by U.S. distributors of Taiwanese malleable pipe fittings. Deductions were made for list price discounts, distributor markup, U.S. inland freight, U.S. Customs duties, ocean freight and insurance. The petitioner based forgeign market value of malleble iron pipe fittings on home market prices in Taiwan which they adjusted for discounts. They also calculated foreign market value based on U.S. production and packing costs, adjusted for known differences in corresponding Taiwanese inputs, as well as the statutory minimums for general expenses and profit. The petitioner also alleges that sales of malleable iron pipe fittings in Taiwan are being made at less than the cost of production. This allegation is based on a comparison of information developed regarding the costs of producing malleable iron pipe fittings in Taiwan to net home market prices. The petitioner also alleges that critical circumstances exist.

Based on the comparison of these values, petitioner alleges dumping margins of between 39% and 217%. The petitioner based the United States price for nonmalleable iron pipe fittings on an offer made by a U.S. distributor of Taiwanese nonmalleable pipe fittings. Deductions were made for the distributor markup and for ocean freight and insurance. Foreign market value of nonmalleable iron pipe fittings is based upon U.S. production and packing costs, adjusted for known differences in Taiwanese costs, as well as the statutory minimums for general expenses and profit.

Based on the comparison of these values, petitioner alleges dumping margins of between 12% and 18.9%.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petitions on malleable and nonmalleable cast iron pipe fittings from Taiwan and have found that they meet the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating antidumping duty investigations to determine whether malleable and nonmalleable pipe fittings from Taiwan are being, or are likely to be, sold in the United States at less than fair value. In the case of malleable pipe fittings, we will also determine whether there are sales at less than the cost of production. If our investigations proceed normally we will make our preliminary determinations by January 7, 1986.

Scope of Investigations

The products covered by these investigations are certain malleable cast iron pipe fittings and certain nonmalleable cast iron pipe fittings. Malleable pipe fittings are advanced in condition by operations or processes subsequent to the casting process other than with grooves, or if not advanced, of cast iron other than alloy cast iron, as provided for in items 610.7000 and 610.7400 of the *Tariff Schedules of the United States Annotated* (TSUSA). Nonmalleable pipe fittings are certain cast iron pipe fittings, not malleable, not grooved, of cast iron other than alloy cast iron and other than for use with cast iron soil pipe, as provided for in items 610.6240 and 610.6500 of the TSUSA.

Allegation of Critical Circumstances

Petitioners allege that critical circumstances exist with respect to imports of malleable pipe fittings from Taiwan. We will determine whether critical circumstances exist with respect to these imports in our preliminary and final determinations.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information eitehr publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by September 16, 1985, whether there is a reasonable indication that imports of malleable and nonmalleable iron pipe fittings from Taiwan are causing material injury, or threaten material injury, to a United States industry. If its determinations are negative, the investigations will terminate; otherwise, they will proceed according to statutory procedures.

Gilbert B. Kaplan,

Acting Deput Assistant Secretary for Import Administrotion.

August 20, 1985.

[FR Doc. 85–20394 Filed 8–26–85; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Certain Carpet Nails; Request for Comments

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply

determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain small machine-quality carpet nails used in the manufacture of tackless stips for the installation of carpet.

EFFECTIVE DATE: Comments must be submitted no later than September 6, 1985.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave. NW, Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave. NW, Washington, DC 20230, Room 3709, (202) 377-1102.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. " . . . determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category . . ."

We have received a short supply request for the following types and sizes of nails:

(1) Pin Nails, bright finished, conforming to AISI standards C 1010 or C 1008, in the following dimensions: (a) 1 5/32 inch in length, 16½ gauge, with a head size of ⅛ inch; and (b) ½ inch length, 16½ gauge, with a head size of ⅛ inch.

(2) Ring Shank Nails, bright finished, conforming to AISI standards C 1010 or C 1008, in the following dimensions: ¾ inch in length 14½ gauge, with a head size of 7/16 inch.

(3) Temper Hardened Concrete Nails, bright finished, conforming to AISI standards C 1040 or C 1045, in the following dimensions: (a) 1 1/16 inch in length, 12 gauge, with a head size of 7/32 inch; and (b) 1 7/64 inch in length, 10 gauge, with a head size of ⅜ inch.

These products are used in the manufacture of tackless strips for the installation of carpet.

Parties interested in commenting on any of these products should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so lable the business proprietary portion of the submission and also include with it a submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Dated: August 20, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-20425 Filed 8-26-85; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Certain Stainless Steel Wire, Request for Comments

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain stainless steel wire in coil form used in the manufacture of tape guide pins for video tape cassettes.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Office of Agreements compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave. NW, Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave. NW, Washington, DC 20230, Room 3709, (202) 377-1102.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. " . . . determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category . . . "

We have received a short supply request for stainless steel wire in coil form, conforming to AISI standard 303, with diameters ranging from .0945 to .0955 inch and .1025 to .1035 inch.

These products are used in the manufacture of tape guide pins for video tape cassettes.

Parties interested in commenting on these products should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also include with it a submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Dated: August 20, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-20426 Filed 8-26-85; 8:45 am]

BILLING CODE 3510-05-M

National Oceanic and Atmospheric Administration

Gulf of Mexico and South Atlantic Fishery Management Councils, Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico and South Atlantic Fishery Management Councils will convene public meetings as follows:

Gulf of Mexico and South Atlantic Fishery Management Councils' Spiny Lobster Advisory Panel Members

The above councils will convene their Spiny Lobster Advisory Panel members, September 5, 1985, from 8 a.m. to 5 p.m., at the Marathon Inn, Mile Marker 54, U.S. Highway 1, Marathon, Fl., to: (1) Review Council activity on the Spiny Lobster Fishery Management Plan (FMP), (2) review the Florida Department of Natural Resource's research on alternative baits and escape gaps, (3) review limited entry options for the lobster fishery, and (4) review proposed changes in spiny lobster regulations.

Gulf of Mexico Fishery Management Council and its Committees

The above Council will convene to: Discuss the Gulf of Mexico butterfish fishery, (2) review the response to the Inspector General's report, (3) consider establishing a Council liaison office in Washington, D.C., (4) discuss NMFS/NOAA action on the Mackerel FMP amendment, and (5) discuss the status report on the Shrimp and Swordfish FMPs.

The Council meeting will convene at 8 a.m., September 11, 1985, and recess at approximately 5 p.m.; reconvene on September 12, at 8 a.m. and adjourn at approximately noon. The Council's Committee meetings will be held September 9–10, 1985. All public meetings will take place at the Le Pavillon Hotel, Poydras at Baronne, New Orleans, LA. For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL 33609; telephone (813) 228–2815.

Dated: August 21, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–20411 Filed 8–26–85; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council, Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee will convene a public meeting, August 27, 1985, at the Best Western Airport Inn, Philadelphia International Airport, Philadelphia, PA (telephone: 215–365–7000), to discuss the surf clam and ocean quahog fishery, formulation of a fisheries management primer, as well as other fishery management matters. For further information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: (302)–674–2331.

Dated: August 21, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–20412 Filed 8–26–85; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Calcol, Inc.

The National Technical Information Service, (NTIS), U.S. Department of Commerce, intends to grant to Calcol, Inc., having a place of business in Cleveland, Ohio, an exclusive license to manufacture, use and sell products embodied on the invention entitled "Synthesis of Methotrexate" U.S. Patent No. 4,080,325 and on the invention "Synthetic Vinblastine and Vincristine Derivatives" U.S. Patent No. 4,144,237; and a license to all of NTIS' rights in the patented invention entitled "Enzyme Resistant Opiate Pentapeptides," U.S. Patent No. 4,371,463. The patent rights in these inventions have been or will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR Part 404. The proposed licenses may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed licenses would not serve the public interest.

Inquiries, comments and other material relating to the proposed licenses must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, Department of Commerce, National Technical Information Service.

[FR Doc. 85–20406 Filed 8–26–85; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Amendments Relating to the Government National Mortgage Association–II Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has submitted a proposal to replace the current procedure for delivery of the underlying instrument with a cash settlement mechanism for the Government National Mortgage Association–II ("GNMA–II") futures contract. The Commodity Futures Trading Commission ("Commission") has determined that the proposed cash settlement mechanism is of major economic significance and that, accordingly, publication of that proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before September 26, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CBT GNMA–II contract.

SUPPLEMENTARY INFORMATION: The CBT is proposing to amend its GNMA–II futures contract. The CBT has proposed to replace the current physical delivery procedure for the GNMA–II contract with a cash settlement mechanism. The Exchange has also proposed to change the last trading day from the eighth business day prior to the last business day of the delivery month to two business days prior to the third Wednesday of the delivery month. Under the proposed amendments, the contract name would change from its current title to "Government National Mortgage Association (GNMA) futures contract." The Exchange submits that a cash settlement delivery system would ensure that the GNMA futures contract tracks current production GNMA certificates, which would enable cash market participants to hedge their interest-rate risks. Further, the CBT maintains that the proposed change to cash settlement would eliminate concerns about deliverable supply, providing an uncomplicated delivery mechanism which would be practical for all cash and futures market participants. In addition, the Exchange states that a cash settled contract would improve the liquidity of the GNMA contract throughout the delivery month.

In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the CBT concerning cash settlement procedures for its GNMA–II futures contract is of major economic significance because of the potential effect on the hedging utility and pricing of the contract. Accordingly, the principal amendments being proposed by the CBT, which would replace current contract specifications, are printed below:

* * * * *

2009.01 Last Day of Trading—The last day of trading GNMA futures contracts shall be the second business day preceding the third Wednesday of the delivery month. If the third Wednesday is not a Federal Reserve Bank of New York business day, the last day of trading shall be two business days preceding the first business day immediately preceding the third Wednesday of the month. Any contracts remaining open must be settled as provided in Regulation 2042.01 after trading in such contracts has ceased.

* * * * *

2036.01 Standards—

(1) The contract grade shall be a value equal to $1000.00 times the GNMA Survey Price on the last day of trading. Deliveries shall be settled through normal variation margin procedures on the basis of the Survey Price, which is the average price of GNMAs with the Designated Coupon and GNMAs with a coupon which is next lowest to the Designated Coupon divided by their respective conversion factors.

The "Designated Coupon" shall be a National Coupon determined in accordance with section (3) of this Regulation. "National Coupons" shall be coupons at which major GNMA productions occurs; National Coupons shall be at .5% intervals below 15% and at 1% intervals above 15%. (A list of National Coupons is contained in Appendix 20A.) The Board reserves the right to increase the number of coupons eligible to be National Coupons, should market conditions warrant.

The "Survey Price" shall be determined on the basis of a survey of dealers conducted in accordance with section (5) of this Regulation. The conversion factor for any GNMA coupon shall be the price at which it would have the equivalent yield of an 8% GNMA ($1 face value) when calculated at par (7.955%) according to GNMA yield tables prepared by the Financial Publishing Company of Boston, Massachusetts (rounded to four decimal places), assuming a 30 year mortgage prepaid in 12 years.

(2) The Association shall select at random 15 reference dealers from a list of no fewer than 20 participating GNMA dealers for each coupon survey and each price survey. If a surveyed dealer fails to provide price quotations or coupon information in a timely manner the Association shall replace that dealer with another dealer randomly selected from the list of reference dealers. Reference dealers shall be major GNMA dealers designated at the beginning of every year by the Board or Committee authorized by the Board.

(3) The Association shall conduct a survey of the reference dealers at 2:00 p.m. Chicago time on the first business day 30 calendar days prior to the last day of trading in the delivery months in the March quarterly cycle to determine the Designated Coupon. The GNMA Designated Coupon shall be that GNMA National Coupon which a majority of the 15 surveyed GNMA dealers specify as the highest GNMA coupon trading at or below 100 (par) on the bid side as determined by the survey conducted by the Board of Trade. The Designated Coupon in effect for any delivery month shall be the most recent Designated Coupon determined at least 30 days prior to settlement in such a survey.

The results of the survey which determines the Designated Coupon and the GNMA coupon which is next lowest to the Designated Coupon shall be released by the Board of Trade after 3:00 p.m. Chicago time on the day of the coupon survey.

(4) On the last day of trading the Association shall conduct a price survey at the close, 1:00 p.m. Chicago time. The Association shall randomly select 15 reference dealers and request a bid price quotation for the Designated Coupon and a bid price quotation for the GNMA with a National Coupon which is the next lowest to the Designated Coupon. From these quotations, the Association shall compute an average (rounded to the nearest 1/32) for both the Designated Coupon and the GNMA National Coupon which is next lowest to the Designated Coupon. The average price for each coupon shall include the middle nine quotations, and not include the three highest or the three lowest price quotations.

(5) The GNMA Survey Price shall be the average (rounded to the nearest 1/32 of the one point) of the converted average prices of the Designated Coupon GNMA and the GNMA coupon which is the next lowest National Coupon. The converted average price of each of the GNMA coupons divided by its respective conversion factor, rounded to the nearest 1/32 of one point. The final Survey Price shall be released as soon as practical the last day of trading.

(6) Requests for bid price quotations and coupon information shall be for GNMAs which have been originated no earlier than 12 months prior to the day the price is quoted. The price quotations shall be for good delivery of $1,000,000 of GNMAs, comprised of a maximum of three pools, with no pool in an amount less than $25,000.

Dealer bid side price quotations shall be for single-family, level-payment Mortgage-Backed certificates guaranteed for the timely payment of principal and interest by the Government National Mortgage Association as described in the Standard prospectus form HUD–1717, commonly known as Modified Pass-Through Certificates.

After two consecutive delivery months for which a survey of dealers shows GNMAs described in the standard prospectus form HUD–11717 (GNMA–II) to be at parity with GNMAs (HUD–1717), GNMA settlement may be based on the price of GNMA–IIs, at the discretion of the Board.

No bid price quotation shall be for GNMA securities including FHA–VA Builder Operative Loans (builder loans) issued as of April 18, 1980, nor shall any quotation include GNMA Buy-Down Mortgage Pools issued pursuant to HUD–1717.

2042.01 Deliveries on Futures Contracts—Delivery against the GNMA futures contract must be made through the Clearing House. Delivery under these regulations shall be on delivery day and shall be accomplished by cash settlement as hereinafter provided.

The Clearing House shall advise clearing members holding open positions in the GNMA futures contract deliverable in the current month of the final settlement price after the GNMA price survey is performed on the last day of trading. Clearing members shall then make payment to and receive payment through the Clearing House in accordance with normal variation settlement procedures on the last day of trading or as soon as practical thereafter, based on a settlement price equal to the GNMA Survey Price times $1,000.

2046.01 Date of Delivery—Settlement shall be the last day of trading.

* * * * *

The proposed amendments to the GNMA–II futures contract would become effective immediately after Commission approval for all contract months subsequently listed by the Exchange for trading, but would not be applicable to currently listed months.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7227.

Other materials submitted by the CBT in support of the proposed rules 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 (1984)), except to the extent that 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 arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by September 26, 1985.

Issued in Washington, D.C. on August 22, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-20435 Filed 8-26-85; 8:45 am]

BILLING CODE 6351-01-M

Exchange Proposal to Trade Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions for the application of the Coffee, Sugar and Cocoa Exchange, Inc. for trading commodity options on cocoa futures contracts.

SUMMARY: The Coffee, Sugar and Cocoa Exchange, Inc. ("CSCE") has submitted an application to trade options on cocoa futures contracts under the three-year pilot program adopted by the Commodity Futures Trading Commission ("Commission"). The Commission believes that public comment on the proposal is in the public interest and is consistent with its option regulations and with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before September 26, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CSCE cocoa option contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-7303.

SUPPLEMENTARY INFORMATION: The Commission has previously adopted regulations to govern a three-year pilot program under which options on certain commodity futures contracts are permitted to be traded on domestic boards of trade designated by the Commission as contract markets for option trading (46 FR 54500 (November 3, 1981)).[1] Initially, the pilot program provided that each board of trade would be approved for trading in no more than one futures option contract. These regulations were subsequently amended to permit domestic boards of trade to be designated as contract markets for up to five options on certain futures contracts (49 FR 33641 (August 24, 1984)).[2] The CSCE has been designated as a contract market in options on sugar No. 11 futures contracts.

CSCE has applied for contract market designation, pursuant to section 4c(c) of the Commodity Exchange Act, 7 U.S.C. 6c(c) (1982) ("Act"), and Commission Regulation 33.5, to trade options on cocoa futures contracts.

A copy of the terms and conditions of the proposed CSCE option on cocoa futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of these materials 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 CSCE in support of its 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 (1983)), 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 arguments on the terms and conditions of the proposed option contract, or with respect to other materials submitted by CSCE in support of its application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by September 26, 1985.

[1] The commodities which are eligible for the initial pilot program are commodities which are not enumerated in section 2(a)(1)(A) of the Commodity Exchange Act. The enumerated commodities are generally agricultural products which are produced in this country. Cocoa is not an enumerated commodity.

[2] In addition, the Commission has amended its regulations to permit each board of trade to be designated in up to two options on domestic agricultural futures contracts in addition to the five permissible option designations noted above (49 FR 2752 (January 23, 1984)).

Issued in Washington, D.C. on August 22, 1985.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-20436 Filed 8-26-85; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

KN Energy, Inc. v. Joe Gray et al.

[Docket No. GP85-33-000]

August 20, 1985.

KN Energy, Inc. (KN) is suing nine natural gas producers for charging it prices prior to January 1, 1985, allegedly in excess of those permitted under Title I of the Natural Gas Policy Act of 1978 (NGPA). KN purchased natural gas from these producers pursuant to 1977 and 1978 contracts which allowed the producers to charge the maximum prices permitted under the NGPA. However, these contracts also contained take-or-pay clauses requiring KN to pay for a certain quantity of gas each year even if KN failed to take that amount. The contracts permitted KN to take delivery of previously purchased gas at any time during the remainder of the contract. By the time the contract gas was deregulated on January 1, 1985, KN had made $3.2 million in unrecouped take-or-pay prepayments.

KN argues that, as a practical matter, it can recoup none of these prepayments. KN asserts that the prepayments therefore exceed the maximum lawful prices under the NGPA. KN contends that the NGPA provides for maximum lawful prices for *delivered* gas. According to KN, if a purchaser is required to prepay for gas which it will never be able to receive, then such prepayments constitute additional compensation to the producers for those volumes of gas which were both sold and delivered to KN. When this additional compensation is added to the prices KN paid for the delivered gas, the total exceeds the maximum lawful prices permitted under the NGPA. KN contents that such an overcharge constitutes a violation of NGPA section 504(a)(1).

Any person who desires to be heard or to make protest to the complaint should file, within 30 days after this notice is published in the Federal Register, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426, a motion to intervene or a protest in accordance with the requirements of

Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1985)). All protests filed will be considered but will not make the protestants parties to the proceeding. KN states that a copy of the complaint was served on each of the respondents; respondents answers to the complaint shall be due within 30 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20415 Filed 8-26-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI78-80-001, et al.]

Merger and Request for Redesignation of Rate Schedules; Pennzoil Producing Co. (Successor to Pennzoil Oil & Gas, Inc.)

August 20, 1985.

Take notice that on August 14, 1985, Pennzoil Producing Company (Pennzoil), of P. O. Box 2967, Houston, Texas 77252-2967, filed an application pursuant to § 154.92(d) of the Commission's Regulations, requesting authorization to continue the sales of natural gas in interstate commerce previously made by Pennzoil Oil & Gas, Inc. (POGI).

On and effective June 30, 1985, POGI was merged into Pennzoil pursuant to the terms of that certain Agreement and Plan of Merger of even date therewith by certification by the Secretary of State of Delaware authenticating such merger. Pennzoil and POGI are both affiliates of Pennzoil Company, a large producer of natural gas.

Pennzoil requests Commission authorization to continue the service previously rendered by POGI under the permanent certificates of public convenience and necessity granted in the docket numbers listed and described in Exhibit "B" attached hereto. As to the subject dockets, Pennzoil assumes all of the obligations of POGI, contractual or otherwise, and Pennzoil understands that these gas sales will be subject to the same terms and conditions applicable to the certificates previously issued to POGI.

Pennzoil respectfully requests that Commission authorization be granted effective as of June 30, 1985, the date of merger, thereby enabling Pennzoil to succeed to their interests of POGI. Pennzoil further requests that POGI's rate schedules be redesignated as those of Pennzoil. Accordingly, Pennzoil is filing contemporaneously herewith a summary in accordance with § 250.8 of the Commission's Regulations, as required by § 154.92(d), for each rate schedule involved in the merger listed in Exhibit "B" attached hereto.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 4, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT B

POGI's rate schedule No.	FERC docket No.	Purchaser	Location of sale (offshore block)
1	CI78-80	Sea Robin Pipline Company	Eugene Island 330.
2	CI78-81	do	Eugene Island 295.
3	CI78-82	do	East Cameron 270.
4	CI78-83	United Gas Pipe Line Company	West Cameron 587
5	CI78-84	do	Main Pass 140.
6	CI78-85	do	West Cameron 532.
7	CI78-87	do	West Cameron 533.
8	CI78-88	Sea Robin Pipeline Company	Do.
9	CI78-90	do	West Cameron 532.
10	CI78-86	United Gas Pipe Line Company	East Cameron 335.
11	CI78-89	Sea Robin Pipeline Company	Do.
12	CI78-91	do	East Cameron 334.
13	CI78-92	do	South March Island 128.
14	CI78-93 (CI84-126)	Southern Natural Gas Company	West Cameron 586.
15	CI78-93 (CI84-126)	United Gas Pipe Line Company	Do.
16	CI78-93 (CI84-126)	do	Do.
17	CI78-93 (CI84-126)	Southern Natural Gas Company	Vermilion 228.
18	CI78-93 (CI84-126)	United Gas Pipe Line Company	Do.
19	CI78-94	Sea Robin Pipeline Company	South Marsh Island 125.
20	CI78-95	do	South Marsh Island 127.
28	CI78-93 (CI84-126)	United Gas Pipe Line Company	Eugene Island 258.
29	CI78-93 (CI84-126)	Southern Natural Gas Company	Do.
31	CI79-273	United Gas Pipe Line Company	High Island 340.
32	CI79-275	do	High Island 327
33	CI79-278	do	High Island 332.
34	CI79-277	do	High Island 339.
35	CI79-429	United Gas Pipe Line Company and Southern Natural Gas Co	West Cameron 352.
38	CI79-536	United Gas Pipe Line Company	High Island 279.
39	CI79-567	do	High Island 474.
40	CI79-568	do	High Island 475.
41	CI79-569	do	High Island 489.
42	CI79-565	do	High Island 356.
43	CI79-566	do	High Island 273.
44	CI79-570	do	High Island 355.
45	CI79-583	do	Main Pass 72 & 74.
46	CI79-585	do	Main Pass 73.
47	CI79-589	do	Main Pass 72.
48	CI79-590	do	South Pass 78.
49	CI80-50	ANR Pipeline Company	High Island 273.
50	CI80-441	United Gas Pipe Line Company	High Island 325.
51	CI80-444	do	High Island 555.

EXHIBIT B—Continued

POGI's rate schedule No.	FERC docket No.	Purchaser	Location of sale (offshore block)
52	CI81-461	ANR Pipeline Company	High Island 325.
53	CI82-131	United Gas Pipe Line Company	South Pass 57
54	CI82-147	do	East Cameron 237
55	CI82-231	do	High Island 499.
56	CI82-226	do	High Island 570.
57	CI82-227	do	High Island 545, 546 547 and 548.
58	CI82-260	United Gas Pipe Line Company	High Island 563 and 564.
59	CI83-320	ANR Pipeline Company	High Island 351 and 368.
60	CI84-454	United Gas Pipe Line Company	High Island 356.
61	CI85-247	Texas Gas Transmission Corp.	Eugene Island 337
Awaiting designation [1]	CI77-702 *et al* (C178-96)	Sea Robin Pipeline Company	Eugene Island 261, 312, and 333; West Cameron 563, 609, and 617.
Do.	CI77-702 *et al* CI78-498 and CI78-500)	United Gas Pipe Line Company	High Island 520 and 323.

[1] Prior to Commission acceptance and approval of Stipulation and Agreement (Order issued January 28, 1983, in Docket No. CI77-702 *et al*), these were separate sales under Rate Schedule Nos. 21 through 27 (West Cameron 563, 609, and 617 and Eugene Island 261, 262, 312, and 333, respectively) and Rate Schedule Nos. 36 (High Island 520) and 37 (High Island 323). As part of the settlement of these proceedings, the originally filed contracts were replaced by two contracts; i.e., a single contract covering the above-listed West Cameron and Eugene Island blocks, excepting Eugene Island 262, which was deleted because no sales had occurred and the lease had been relinquished January 31, 1982, and a single contract covering High Island 520 and 323. The Commission has not yet issued new rate schedule numbers accurately reflecting the coverage of the contracts as certificated.

Note regarding Rate Schedule No. 30: Rate Schedule No. 30 does not appear in the above list because no certificate of public convenience and necessity was issued by the Commission. No gas sales occurred, and the lease was relinquished January 31, 1978.

[FR Doc. 85-20416 Filed 8-26-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP84-462-003, et al.]

Natural Gas Certificate Filings; ANR Pipeline Company, et al.

August 20, 1985.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP84-462-003]

Take notice that on July 19, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-462-003 a petition to amend the order issued of April 3, 1985, in Docket No. CP84-462-000 and CP84-462-001 issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for Bridgeline Gas Distribution Company (Bridgeline) to an additional delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is currently authorized to transport up to 20,000 Mcf of natural gas per day on a firm basis for Bridgeline to Columbia Gulf Transmission Company and Riverway Gas Pipeline Company redelivery points. Petitioner states that on January 17, 1985, it executed with Bridgeline the third amendment to the transportation agreement dated July 19, 1983. It is stated that the amendment provides for the addition of a delivery point at Petitioner's Patterson Station in St. Mary Parish, Louisiana, where petitioner would tender the gas to Texas Gas Transmission Corporation (Texas Gas) for Bridgeline's account. The amendment further provides that Petitioner would retain 2.9 percent of all gas received and transported for Bridgeline's account as compensation for its fuel use, it is stated.

Petitioner requests authority to implement changes in receipt and delivery points in providing the service on behalf of Bridgeline consistent with any future amendments to the July 19, 1983, Transportation Agreement. Any changes in receipt or delivery points would be reported annually by Petitioner in a tariff sheet filing in Petitioner's Rate Schedule X-149 on or before January 31 of the year following the change in service, it is stated.

Comment date: September 10, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Consolidated Gas Transmission Corporation

[Docket No CP85-756-000]

Take notice that on August 2, 1985, Consolidated Gas Transmission Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP85-756-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale to and transportation of natural gas in interstate commerce for Baltimore Gas and Electric Company (BG&E) and Washington Gas Light Company (WGL) and the construction and operation of minor delivery facilities necessary to render those services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to sell natural gas, on a firm basis, to BG&E and WGL, both non-customers of Applicant, of up to a maximum daily quantity (MDQ) of 60,000 dt equivalent of natural gas per day to each, subject to a fifty percent minimum annual commodity bill. Additionally, it is indicated that, on any day when BG&E and WGL purchase less than the MDQ, they could request Applicant to render firm transportation service up to the MDQ level, and receive corresponding minimum bill credits. Applicant states that the services requested are to commence April 1, 1987, and continue for a primary term of 20 years. Further, it is indicated that upon written notice to Applicant, not later than December 31, 1990, both BG&E and WGL could each elect to increase their firm service MDQ from 60,000 to 100,000 dt.

Applicant states that it has entered into a precedent agreement dated July 31, 1985, with BG&E and WGL to which is attached a *pro forma* copy of a natural gas service agreement. It is indicated that Applicant and each customer would enter into a separate natural gas service agreement in substantially similar form, upon the receipt of the necessary regulatory authorizations and the fulfillment of other conditions precedent stated therein.

For the requested firm sales, Applicant proposes to charge BG&E and WGL for rate set forth in Rate Schedule RQ (RQ rate) of its FERC Gas Tariff,

Original Volume No. 1. For the requested firm transportation services, Applicant proposes to charge BG&E and WGL the non-gas portion of the commodity component of its RQ rate, currently 12.91 cents per dt, plus a reimbursement for the fuel used in rendering the transportation service and the GRI surcharge. Also, it is indicated that the source of the gas to be sold to BG&E and WGL would be from Applicant's general system supply and would be used by BG&E and WGL as part of their general system supplies to meet the existing and future needs of their customers.

Applicant states that the proposed transportation service is designed to provide BG&E and WGL with the flexibility to purchase competitively-priced supplies of natural gas from diverse sources and have those supplies delivered to their market areas. For this reason, Applicant states that the firm transportation does not have fixed receipt points. Thus, Applicant requests blanket authorization to use existing interconnections between its system and the facilities of other companies to receive natural gas for the account of BG&E and WGL for firm transportation service, and to construct and operate new receipt points of interconnection in the future, if and as they are determined to be necessary.

Applicant proposes to deliver all gas sold and transported for BG&E and WGL at an interconnection to be established on Line No. PL-1 near the community of Dickerson in Montgomery County, Maryland. Applicant states that Consolidated System LNG Company currently owns Line No. PL-1, a 109.4-mile, 30-inch pipeline between Leesburg in Loudoun County, Virginia, and Perulack, in Juniata County, Pennsylvania. Applicant further states that an application would be filed in the near future seeking Commission authorization for Applicant to intergrate Line No. PL-1 into its transmission system. It is indicated that Line No. PL-1 is not directly conncected to Applicant's transmission system, but is indirectly linked by interconnection with Texas Eastern Transmission Corporation (TETCO). Applicant states that TETCO has agreed to render firm transportation service for Applicant from an existing interconnection of their facilities in southwestern Pennsylvania to Perulack and that TETCO would file in the near future for certificate authorization to rendor this service and to construct and operate the necessary pipeline looping facilities.

Applicant requests authorization to construct and operate the necessary tap, valves, measuring, and regulating facilities to enable it to interconnect Line No. PL-1 at a site near the community of Dickerson in Montgomery County, Maryland, with pipeline facilities to be constructed by BG&E and WGL. Applicant states that the estimated cost of the proposed facilities is $810,000, exclusive of filing fees, which would be financed from funds to be obtained from Applicant's parent, Consolidated Natural Gas Company, or from funds on hand. Applicant estimates that approximately eight weeks would be required to complete the proposed construction activities.

Applicant states that the proposed services are new market opportunities for Applicant which would benefit its existing customers. It is indicated that the proposed service would enable Applicant to increase through-put on its existing system and spread fixed costs over increased sales and transportation quantities.

Comment date: September 10, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Columbia Gas Transmission Corporation

[Docket No. CP85-757-000]

Take notice that on August 5, 1985, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP85-757-000 an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing natural gas service under a revised service agreement with the Suburban Fuel Gas, Inc. (Suburban), an existing wholesale customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it proposes to enter into a revised service agreement with Suburban effectuating an increase in its contract demand under Rate Schedule G of 420 dt equivalent of gas per day from 6,580 dt equivalent per day to 7,000 dt equivalent per day in Zone 4. The proposed effective date is November 1, 1985.

The revised service agreement requested by Suburban would be pursuant to the provisions of Applicant's FERC Gas Tariff, Original Volume No. 1. Applicant avers that the proposal would have no significant impact on either its gas supply or operations.

Comment date: September 10, 1985, in accordance with Standard Paragraph F at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP85-771-000]

Take notice that on August 9, 1985, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP85-771-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Hercules Incorporated (Shipper), which is being represented by the City of Covington, Georgia (Covington), as agent, under the certificate issued in Docket No. CP82-426-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco proposes to transport up to 1,100 dt equivalent of natural gas per day for Shipper until October 31, 1985. Shipper would purchase gas from Transco Energy Marketing Company. Transco would receive the gas at (1) the existing interconnection with GHR Transmission Corporation (GHR) in the Aqua Dulce Field, Nueces County, Texas, (2) the existing interconnection with GHR at Miranda Prospect, Duval County, Texas, (3) the existing interconnection with Valero Transmission Company (Valero) in La Salle County, Texas, and (4) the tailgate of the Katy Exxon Gas Plant in Waller County, Texas. Transco would transport and deliver an equivalent quantity, less gas retained for compressor fuel and line loss, to existing points of delivery to Covington, in Walton County, Georgia. In turn, Covington would redeliver the natural gas to Shipper's Oxford plant in Covington, Georgia, for use as boiler fuel. Transco states that it commenced this transportation service on June 4, 1985, under the automatic authorization of Section 157.209 of the Regulations and that existing facilities were utilized.

Transco indicates that it would charge Shipper 40.61 cents for each dt equivalent of natural gas delivered to Covington which is in accordance with Transco's Rate Schedule T-II. The proposed charge includes a Gas Research Institute surcharge, it is stated.

Transco also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Shipper. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Transco would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would

only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: October 4, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Equitable Gas Company, a division of Equitable Resources, Inc.

[Docket No. CP85-773-000]

Take notice that on August 9, 1985, Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP85-773-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Heinz, U.S.A., a division of H.J. Heinz Company (Heinz), under the authorization issued in Docket No. CP83-508-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Equitable proposes to transport on a peak day 2,500 dt equivalent, on an average day 2,500 dt equivalent, and on an annual basis 490,000 dt equivalent of natural gas for use as boiler fuel, the steam from which is a process use by Heinz, at its plant in Pittsburgh, Pennsylvania. The natural gas to be transported would be purchased from Kepco, Inc. (Kepco). Equitable would receive the gas at existing delivery points with Kepco in Ritchie, Doddridge and Tyler Counties, West Virginia, and would redeliver it into its distribution system at the outlet side of Equitable's Harston Compression Station near Finleyville, Washington County, Pennsylvania, for delivery to Heinz.

Equitable states that it would charge Heinz the transportation rate of 15.5 cents per Mcf, as provided in its Rate Schedule TS-1, FERC Gas Tariff, Second Revised Volume No. 1. Equitable further states that its allowance for transportation shrinkage would be 2 percent.

Equitable also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply. The Harston Compressor Station is the only delivery point that Equitable can make deliveries in the market area. Equitable will file a report providing certain information with regard to the addition or deletion of sources of gas as further detail in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: October 4, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the Procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20418 Filed 8-26-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-39-007, et al.]

Natural Gas Certificate Filings; Equitable Gas Company, et al.

Take notice that the following filings have been made with the Commission:

1. Equitable Gas Company, a division of Equitable Resources, Inc.

[Docket No. CP83-39-007]

August 14, 1985.

Take notice that on July 26, 1985, Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP83-39-007 pursuant to section 7 of the Natural Gas Act a petition to amend the Commission's orders issued November 30, 1982, and November 30, 1984, in Docket Nos. CP83-39-000 and CP83-39-002 so as to authorize Equitable to modify certain conditions of the transportation of natural gas agreement for Eastern American Energy Corporation (Eastern American), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Equitable states that a supplemental transportation agreement entered into between it and Eastern American revises the parties' currently effective transportation agreement as follows:

(1) Increase the amount of transportation capacity available to Eastern American by Equitable to a total of 8,000 Mcf of natural gas per day (Mcfd) on a firm basis and 4,000 Mcfd on a best-efforts basis. Equitable states that no new facilities would be necessary in order to transport the increased capacity proposed herein.

(2) All volumes delivered to Equitable by Eastern American for transportation would be redelivered in the same month or as soon as possible thereafter. It is stated that the currently effective transportation agreement provides for redelivery by Equitable in the second month after deliveries from Eastern American are received.

(3) Equitable proposes to retain the currently effective contract term for those transportation volumes previously certificated (5,000 Mcfd firm and 2,000

Mcfd best-efforts). For the additional volumes for which authorization is requested herein, the contract term would be three years from the date of initial deliveries and year to year thereafter.

(4) Interest payments in the amount of 1.5 percent per month would be provided for in the event Eastern American failed to pay for transportation service as provided in the contract.

(5) Balancing of over or underdeliveries by Eastern American after the termination of the contract would occur by Equitable purchasing overdeliveries by Eastern American or, in the event of underdeliveries, by Eastern American continuing deliveries until in balance with Equitable's redeliveries made during the term of the agreement.

(6) Increased flexibility in assignment of the agreement to successors in interest of either party would be provided herein.

Comment date: September 4, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP85-732-000]

August 15, 1985.

Take notice that on July 24, 1985, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-732-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Warner Gear, Div. of Borg-Warner Automotive, Inc. (Shipper), a qualified end-user, under the certificate issued in Docket No. CP83-83-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Applicant states that pursuant to a transportation agreement dated May 20, 1985, among Applicant, Shipper and Indiana Gas Company (Indiana Gas), it would receive a peak-day transportation quantity of up to 2,000 Mcf of natural gas on an interruptible basis at existing points of interconnection between Applicant and EnTrade Corporation's designee in Weld County, Colorado. Applicant proposes to transport and redeliver such gas, less a four percent reduction for fuel, to Indiana Gas in Grant County, Indiana. Indiana Gas in turn would make ultimate delivery to Shipper for boiler fuel and heat-treating steel at its facilities in Muncie, Indiana. Applicant would neither construct nor add to its existing facilities to provide this service.

Applicant would transport gas under its Rate Schedule OST at an initial rate of 42 cents per Mcf and a GRI surcharge of 1.24 cents per Mcf.

Applicant advises that the transportation service commenced on June 1, 1985, for a term of 120 days. The term of authorization herein sought is from the end of the 120-day period until the earlier of (1) eighteen months from the effective date of the agreement, (2) termination of authorization as provided by Subpart F of 18 CFR Part 157, or (3) termination of the agreement by either of the parties.

Applicant also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply not to delivery points in the market area. Applicant would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: September 30, 1985, in accordance with Standard Paragraph G at the end of the notice.

Equitable Gas Company, a division of Equitable Resources, Inc.

[Docket CP855-772-000]

August 16, 1985.

Take notice that on August 9, 1985, Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP85-772-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Koppers Company, Inc. (Koppers), under the authorization issued in Docket No. CP83-508-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Equitable proposes to transport on a peak day 1,500 dt equivalent, on an average day 1,500 dt equivalent, and on an annual basis 282,000 dt equivalent of natural gas for use as boiler fuel by Koppers in its facility at Bridgeville, Pennsylvania. The natural gas to be transported would be purchased from Kepco, Inc. (Kepco). Equitable would receive the gas at existing delivery points with Kepco in Ritchie, Doddridge and Tyler Counties, West Virginia, and would redeliver it into its distribution system at the outlet side of Equitable's Harston Compression Station near Finleyville, Washington County, Pennsylvania, for delivery to Koppers.

Equitable would charge Koppers the transportation rate of 15.5 cents per Mcf, as provided in its Rate Schedule TS-1, FERC Gas Tariff, Second Revised Volume No. 1. Equitable further states that its allowance for transportation shrinkage would be 2 percent.

Equitable also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply. The Harston Commpressor Station is the only delivery point that Equitable can make deliveries in the market area. Equitable will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: September 30, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. K N Energy, Inc.

[Docket No. CP84-605-001]

August 16, 1985.

Take notice that on July 19, 1985, K N Energy, Inc. (K N), Post Office Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP84-605-001 an amendment to the pending application for a certificate of public convenience and necessity filed on July 26, 1984, in Docket No. CP84-605-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

By the pending application in Docket No. CP84-605-000 authorization is requested for the off-system sale of 15,000 Mcf of natural gas per day to Western Gas Corporation (Western), for resale to Western's existing customers. It is stated that the gas would be sold to Western at the applicable rate under K N's Rate Schedule CD-1 of K N's FERC Gas Tariff, Third Revised Volume No. 1.

In Docket No. CP84-605-001, K N seeks authorization to make the proposed sale to Western under K N's newly-filed Rate Schedule SF-1 in lieu of its Rate Schedule CD-1 It is stated that Rate Schedule SF-1 applies to wholesale customers, such as Western,

which are not directly connected to K N's interstate pipeline system.

K N states that Western currently sells a portion of its intrastate gas supply to end-users for electric generation and boiler fuel purposes. It is also stated that under the proposed sale Western would purchase gas from K N to supplement its general system supply, and a portion of said gas would perhaps be resold and delivered by Western to boiler fuel and electric generation customers, along with Western's sale and delivery of other commingled gas from Western's intrastate gas supply sources. It is explained that in K N's FERC Gas Tariff General Terms and Conditions § 13.b (1) and (2) impose limitations on making new or additional sales for certain end users, including boiler fuel use. Section 13.b(2)(b) specifically prohibits new sales for electric generation purposes, except for certain high priority electric generation fuel standby service. K N requests that a waiver of Section 13.b(1) and (2) of its tariff be granted in order for K N to make the proposed sale to Western as proposed in Docket No. CP84-605-000.

Comment date: September 6, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP85-708-000 and CP83-350-001]

August 16, 1985.

Take notice that on July 16, 1985, Nothern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-708-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities in Refugio County, Texas, and in Docket No. CP83-350-001 a petition to amend the order issued October 31, 1983, in Docket No. CP83-350-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize an increase in the firm transportation quantity and two additional redelivery points from Northern to Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application and petition to amend which are on file with the Commission and open to public inspection.

In Docket No. CP85-708-000, Northern proposes to construct and operate approximately 2.5 miles of 24-inch pipeline with associated metering and appurtenances extending from an existing interconnection between the pipeline facilities of Northern and United Gas Pipe Line Company near McFadden, Refugio County, Texas, to a proposed interconnection with Natural's 26-inch pipeline located adjacent to State Highway 239 in the James Power-James Hewitson Survey, Refugio County, Texas. In Docket No. CP83-350-001 Northern proposes to utilize the proposed interconnection and an existing interconnection between the Matagorda Offshore Pipeline System and Florida Gas Transmission Company in Refugio County, Texas, as additional points of redelivery of transportation volumes to Natural. In addition, Northern proposes to increase the firm transportation quantity of service for Natural's account for its presently authorized level of 13,000 Mcf of gas per day to 21,000 Mcf per day.

The cost of the facilities proposed by Northern are estimated to be $1,875,000. For the amended transportation service Northern proposes to charge Natural a monthly transportation charge, based on the cost of service of the facilities, of $120,341 for the firm service and 18.84 cents per Mcf for volumes delivered in excess of the firm quality.

Comment date: September 6, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-730-000]

August 16, 1985.

Take notice that on July 23, 1985, Nothern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-708-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of an additional 200 Mcf of natural gas per day to Wisconsin Southern Gas Company (Wisconsin Southern), all as more fully set forth in the application which is on file with the Commssion and open to public inspection.

Northern proposes to sell an additional 200 Mcf of natural gas per day to Wisconsin Southern, an existing utility customer, under Northern's Rate Schedule SS-1. It is stated that the proposed increase is necessary to accommodate the addition of a firm industrial process load at the 3M Company plant located in Prairie du Chien, Wisconsin. It is further stated that no additional facilities are required to be constructed to accommodate the increased delivery of natural gas to Wisconsin Southern.

Comment date: September 6, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Northwest Central Pipeline Corporation

[Docket No. CP85-758-000]

August 20, 1985.

Take notice that on August 6, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85-758-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon in place approximately 300 feet of 2-inch lateral line and reclaim measuring and appurtenant facilties serving BAM Energy Thrall Pump Station in Greenwood County, Kansas, and to abandon the transportation of gas through said facilities under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest Central states that BAM Energy has requested that the facilities be reclaimed as BAM has converted to a new source of gas.

Comment date: October 4, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Southern Natural Gas Company

[Docket No. CP85-746-000]

August 16, 1985.

Take notice that on July 31, 1985, Southern Natural Gas Company (Applicant), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP85-746-000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Arco Oil and Gas Company, Division of Atlantic Richfield Corporation (Arco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to transport on an interruptible basis up to 3 billion Btu of gas per day. Applicant states that Arco would deliver the gas to be transported to Applicant at the existing interconnection between the facilities of Arco and Applicant located on the production platform owned and operated by Arco in South Pass Area Block 60, offshore Louisiana. Applicant would, by displacement, redeliver the gas, less reduction for shrinkage, fuel

loss, company-use and unaccounted-for gas, to Arco at the existing point of interconnection between the measurement facilities of Applicant and Arco located on Phillips Petroleum Company's Eloi Bay platform in Chandeleur Sound Area Block 49, offshore Louisiana.

It is stated that Arco would use the gas as a means to operate its enhanced oil recovery project thereby increasing domestic oil production.

Applicant also states that Arco would pay Applicant a transportation charge of 28.9 cents per million Btu.

It is indicated that the proposed service is for a primary term of 5 years.

Comment date: September 6, 1985, in accordance with Standard Paragraph F at the end of this notice.

9. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85-766-000]

August 16, 1985.

Take notice that on August 7, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-766-000 a request pursuant to § 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Graham Oil and Gas, Ltd. (Graham), under the certificate issued in Docket No. CP82-413-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee proposes to transport up to 2,000 Mcf of natural gas per day for Graham until October 31, 1985. Tennessee states that if purchases certain quantities of gas produced by Graham in Little Lake Field (Little Lake) in Jefferson Davis Parish, Louisiana, and in Atchafalaya Bay Field (Atchafalaya) in St. Mary Parish, Louisiana. Graham has requested Tennessee to release certain volumes of gas produced in Atchafalaya and to transport and deliver said released volumes to Little Lake for Graham's use in gas-lift operations, it is stated.

Tennessee states that it would charge Graham 7.02 cents per Mcf of gas delivered in accordance with Tennessee's Rate Schedule ITEU and would retain 0.9 percent of the gas received from Graham for system fuel and uses and lost and unaccounted-for volumes. Tennessee would also collect the Gas Research Institute surcharge of 1.25 cents per Mcf of gas delivered.

Tennessee also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Graham. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points to Graham. Tennessee would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

No new facilities are required to provide this transportation and no intermediaries are involved in the transportation between Graham and Tennessee, it is stated.

Comment date: September 30, 1985, in accordance with Standard Paragraph G at the end of this notice.

10. Transwestern Pipeline Company

[Docket No. CP85-441-001]

August 16, 1985.

Take notice that on July 29, 1985, Transwestern Pipeline Company 8(Transwestern), 1200 Travis, Houston, Texas 77002, filed in Docket No. CP85-441-001 an amendment to the application filed in Docket No. CP85-441-000 pursuant to section 7(c) of the Natural Gas Act to request authorization to commence service under Rate Schedule SG-1 To Wiley Reynolds & Sons and to acquire certain facilities, all as more fully set forth in the amendment to application which is on file with the Commission and open for public inspection.

In Docket No. CP85-441-000 Transwestern proposed to abandon service under Rate Schedule RW-1 to its customer, Great Plains Gas Company (Great Plains), and to continue serving the existing authorized irrigation and agricultural use customers of Great Plains under direct sales arrangements.

Transwestern now requests certificate authorization to install and operate a meter station, to operate an existing sales tap and to commence natural gas sales service to Wiley Reynolds & Sons under its Rate Schedule SG-1. Wiley Reynolds & Sons is an existing irrigation and agricultural use customer of Great Plains. It is asserted that through Wiley Reynolds & Sons, Great Plains has been providing natural gas service to a residential subdivision north of Pampa, Texas, in Gray County. It is further asserted that since Transwestern's Rate Schedule RW-1 does not permit such residential sales, and since Transwestern is requesting permission and approval for abandonment of service to Great Plains, Transwestern now proposes to sell gas to Wiley Reynolds & Sons to serve this residential subdivision pursuant to its Rate Schedule SG-1.

Transwestern further requests authorization to acquire existing facilities of Great Plains in those instances where such acquisition would facilitate or make more economic the continuation of service to the irrigation and agricultural use customers of Great Plains under direct sale arrangements, as proposed in Docket No. CP85-441-000.

Comment date: September 6, 1985, in accordance with the first subparagraph of Standard F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of

the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20419 Filed 8-26-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-477-001]

Order Accepting for Filing and Suspending Rates, Noting Interventions, Denying Motion for Rejection, Denying Request for Waiver, and Establishing Hearing and Price Squeeze Procedures; Southwestern Public Service Co.

Issued: August 20, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa and Charles G. Stalon.

On May 1, 1985, as completed on June 21, 1985, Southwestern Public Service Company (SPS) tendered for filing a proposed two-step increase in rates to eighteen full requirements customers and five partial requirements municipal customers.[1] By letter dated June 12, 1985, the Commission's Office of Electric Power Regulation (OEPR) advised SPS that its filing was deficient because it: (1) Included accumulated deferred income tax credits (ADITC) in the equity component of its capital structure; (2) used the investment tax credit (ITC) amortization as a revenue credit rather than a direct credit in the income tax allowance; (3) violated the fuel clause regulations by providing for full recovery of the cost of power purchased under a five year contract; and (4) included an automatic adjustment clause mechanism which flows through to the customers only 75% of the margin (sales revenue less fuel costs) for off-system sales and retains 25% for the stockholders. In response to OEPR's deficiency letter, SPS submitted for filing, on June 21, 1985, revised rates and cost of service statements reflecting OEPR's directives. The revised Phase I rates, identified as Phase I (A) rates, would increase jurisdictional revenues by approximately $1.6 million (1.0%) for the twelve month test period ending June 30, 1986. The revised Phase II rates, referred to as Phase II(A) rates, would further increase revenues by approximately $4.3 million, for a total increase of $5.9 million (3.15%). SPS requests waiver of the notice requirements to permit a July 1, 1985, effective date for the Phase I(A) rates and a July 2, 1985, effective date for the Phase II(A) rates. In the event that the Phase I(A) rates are suspended for five months, SPS requests that they be deemed withdrawn. In its June 21, 1985, revised filing SPS also submitted alternative Phase I and Phase II rates reflecting certain cost treatments and rate components which OEPR directed SPS to exclude; SPS seeks a ruling by the Commission as to these alternative rates.

Notice of SPS's filing was published in the **Federal Register**,[2] with comments due, after extension, on or before May 24, 1985. On May 24, 1985, Texas-New Mexico Power Company (TNP) filed a motion to intervene which raises no substantive issues. On July 19, 1985, TNP filed an answer to SPS's June 21, 1985, filing, asking that the Commission deny SPS's request for waiver of the notice requirements.

On May 24, 1985, the Municipals[3] filed a motion to intervene and motion to reject SPS's filing, or, in the alternative, to suspend the filing. The Municipals request that the filing be declared deficient because it fails to substantially comply with the Commission's regulations. In support of a maximum suspension, the Municipals raise a variety of cost of service issues, including: (1) Return on common equity; (2) inclusion of ADITC in capital structure; (3) alleged overstatement of the unfunded deferred tax liability; (4) cash working capital; (5) change in the production plant depreciation rate; and (6) the flowthrough of revenue credits to stockholders. The Municipals also object to: (1) An unexplained change in the billing demand provision in Schedule A of the partial requirements rate schedule; (2) a proposed tax adjustment clause which does not specify that implementation requires a filing with the Commission; and (3) a restriction on the use of power in SPS's current contract with the City of Lubbock.

On May 24, 1985, SPS's full requirements cooperative customers (Cooperatives) filed a motion to intervene, motion for summary disposition, request for maximum suspension, and motion to institute price squeeze procedures. The Cooperatives request that the Commission summarily order SPS to exclude ADITC from the common equity component of its capital structure and to normalize ITCs in accordance with Commission precedent. In support of a maximum suspension, the Cooperatives raise many of the same cost of service issues as the Municipals, as well as additional issues.[4] The Cooperatives also allege that the rate increase proposed by SPS will result in a price squeeze.

On June 10, 1985, SPS filed an answer to the motions of the Municipals and the Cooperatives. SPS requests that the Commission: (1) Grant the motions to intervene; (2) deny the Municipals' request for rejection; (3) deny the Cooperatives' request for summary disposition of the ADITC issue; and (4) deny the Cooperatives' request for the institution of price squeeze procedures. In support, SPS disputes the allegations raised in the Municipals' and Cooperatives' pleadings.

On August 5, 1985, the Cooperatives filed a motion in support of one of the Company's proposed alternative rate treatments. Specifically, the Cooperatives support SPS's request that the Commission waive its fuel clause regulations to permit the full recovery of costs associated with the purchase of power from Public Service Company of New Mexico (PNM) over a five year period. On August 9, 1985, the Municipals filed a response to the Cooperatives' motion in support of waiver, requesting that the Commission deny the Cooperatives' motion.

On August 6, 1985, the Municipals filed a response opposing SPS's request for waiver of the notice requirements. The Municipals also oppose the Company's alternative proposals as to the PNM power purchase and the margin for off-system sales.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make TNP,

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[1] *See* Attachment for effected customers and rate schedule attachments.

[2] 50 FR 19,227 (1985).

[3] The Cities of Lubbock, Brownfield, Floydada, and Tulia, Texas.

[4] The issues raised include: (1) The allegedly excessive increase in general plant; (2) inclusion of experimental slurry pipeline costs as a research, development, and demonstration expense; (3) administrative and general expenses; (4) regulatory expense; (5) use of the average of beginning and ending plant balances in calculating depreciation expenses; (6) use of an inflated negative salvage value for gas-fired and coal-fired production plants; and (7) allocation of SPS's off-system sales margin on the basis of energy usage.

the Municipals, and the Cooperatives parties to this proceeding.

We find that SPS's submittal, as completed on June 21, 1985,, substantially complies with the Commission's filing requirements. Therefore, we shall deny the Municipals' motion to reject.

As noted above, SPS has submitted alternative Phase I and Phase II rates which reflect cost treatments and rate components which OEPR's deficiency letter directed SPS to exclude. SPS requests a Commission ruling on these rates. For the reasons discussed below, we find SPS's proposed cost treatments and rate components improper. Consequently, we shall reject SPS's alternative rates.

ADITC

SPS proposes to retain ADITC in the equity component of its capital structure. The issue of SPS's treatment of ADITC for ratemaking purposes was resolved by the Commission in *Southwestern Public Service Co.*, Opinion No. 162, 22 FERC ¶ 61,341 (1983).[5] In that decision, we directed SPS to exclude the ADITC associated with both wholesale and retail service from the common equity component of its capital structure. In a subsequent rate case (Docket No. ER84–604–000), the Commission summarily decided the ADITC issue and directed SPS to file revised rates excluding ADITC from its capital structure. 29 FERC ¶ 61,056; *reh'g denied* 29 FERC ¶ 61,279 (1984); *clarified*, 31 FERC ¶ 61,247; *reh'g of clarification denied*, 32 FERC ¶ 61,082 (1985).[6] The Commission's policy on this issue is clear, and SPS's proposed treatment of ADITC in its alternative rates is improper.

ITC Amortization

SPS proposed to reflect the test year ITC amortization as a revenue credit rather than as a direct credit to the income tax allowance. In Opinion No. 162, the Commission directed SPS to use the normalization method to reflect ITC in its wholesale cost of service. As explained in that opinion, under the normalization method, the ITC is credited to the cost of service over the life of the facility that generated the ITC by means of a credit against the utility's Federal income tax allowance. In compliance with Opinion No. 162, SPS properly reflected the test year ITC amortization as a direct reduction to income taxes. SPS alleges that this method reduces the cost of service more than ratably, and that the Commission has never addressed this issue.

SPS's argument is devoid of merit. To understand this issue, it is only necessary to consider the effect of income taxes on the revenue requirement. Assuming a 50% tax rate for simplicity, it is readily apparent that, in order to achieve $1 of earnings, one must generate $2 in revenues. Of the $2 in revenues, $1 goes to taxes and $1 remains for the investor. Conversely, for every $1 in tax savings, there is a $2 reduction in the revenue requirement. The normalization method adopted by the Commission properly reduces the revenue requirement by $2 for every $1 in tax savings. SPS effectively challenges this equation, alleging that the revenue requirement should only be reduced by the $1 in tax savings.

Notwithstanding SPS' assertion that no other utility has raised this argument before the Commission, we are hard pressed to accept SPS' suggestion that the matter is somehow novel or unanswered, particularly in view of the facts that (1) SPS has addressed this precise computational issue on appeal to the Tenth Circuit of the Commission's suspension order in Docket No. ER84–604–000,[7] and (2) SPS, in its compliance filing following Opinion No. 162, reflected the specific tax calculations we are herein prescribing. Further, it should not be surprising that the issue has not been discussed at length in prior orders since the normalization method not only has been consistently required by the Commission, but also has been consistently *implemented* by utilities, including SPS.

We note that we have recently advised SPS in our July 19, 1985 order in Docket Nos. ER84–604–005 and ER84–604–006, that the company's course of conduct regarding the investment tax credit issue came "perilously close to an abuse of the Commission's processes." We further stated that, in the event SPS submitted rates which did not reflect our precedent on this issue, the company's submittals may be rejected as patently deficient. We repeat these observations with regard to SPS's present filing.[8]

The PNM Purchase

SPS proposes to recover in full through the fuel adjustment clause the cost of energy (energy charge and reservation charge) purchased from PNM under a five year agreement. Section 35.14 of the Commission's regulations permits recovery through the fuel clause the full cost of energy for all economy purchases of one year or less. However, SPS has agreed to purchase energy from PNM over a five year period. SPS requests waiver of the regulation on the grounds that a similar proposal is included in the pending settlement in Docket ER84–604–000 and will probably be reflected in any settlement in the present docket.[9] SPS states that failure to grant waiver will result in administrative costs for billing during the interim period between settlements. We do not believe that potential settlement positions or limited stipulations in prior dockets constitute good cause for waiver of our fuel clause regulations particularly in light of one customer's objections to such a waiver. Consequently, we shall deny SPS's request for waiver.

Revenue Credit Adjustment Clause

SPS proposes to flow through to its customers 75% of the margin for off-system sales and to retain 25% for the stockholders. SPS has styled its request as one for waiver of the fuel clause regulations. In fact, SPS is requesting waive of the notice and review provisions of section 205 of the Federal Power Act to implement an automatic adjustment clause that reflects a single component of its cost of service, *viz.*, revenue credits. Such clauses are generally permitted by the Commission only in limited situations, none of which is present in this docket.[10] While a similar revenue credit adjustment mechanism was approved in *Public Service Co. of New Mexico*, Opinion No. 203, 25 FERC ¶ 61,469 (1983), it is part of a novel and limited experimental program. We note that the question of how the benefits of these transactions should be allocated between ratepayers and shareholders is under consideration in a better forum in a recently-initiated Notice of Inquiry. *See Regulation of Electricity Sales-for-Resale and Transmission Services (Phase I)*, 50 FR

[5] *Appeal pending sub nom., Southwestern Public Service Co.* v. *FERC*, No. 83–1759 (10th Cir., filed June 22, 1983).

[6] *Appeal pending sub nom., Southwestern Public Service Co.* v. *FERC*, No. 84–1421 (10th Cir., filed Jan. 15, 1985).

[7] *See* section 313(b), Federal Power Act, 16 U.S.C. 8251(b), which provides that no objection can be considered by a reviewing court without first having been urged before the Commission.

[8] The Cooperatives, as noted, requested summary disposition with respect to the inclusion of ADITC in common equity and the normalization of ITC. The Cooperative's notion is mooted by SPS's revised filing.

[9] No settlement agreement has been filed in Docket No. ER84–604–000 at this time. However, the parties to the proceeding have stipulated on the record that they will agree to SPS's treatment of the PNM purchase. This stipulation is expressly limited to the locked-in period covered by Docket No. ER84–604–000.

[10] *See Sierra Pacific Power Co.*, 31 FERC ¶ 61,244 (1985).

23445 (June 4, 1985). Accordingly, we shall reject this aspect of SPS's proposed alternative rates as well.

Our preliminary review of SPS's filing indicates that the proposed Phase I(A) and Phase II (A) rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall accept SPS's submittal for filing and suspend the rates as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary review indicates that proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, we would generally impose a maximum suspension. Here, our preliminary examination indicates that both the Phase I(A) and Phase II(A) rates may be substantially excessive.

As noted above, SPS requests waiver of the notice requirement to permit July 1 and July 2, 1985, effective dates for the Phase I and Phase II rates. These are the dates proposed in the original filing. SPS states that the initial filing gave timely notice to all customers of a rate increase. However, a new filing date was assigned when the filing was completed on June 21, 1985. The Commission's regulations require a sixty day notice to all parties of the rate that is finally proposed, not a deficient rate. We find that SPS has not shown good cause for waiver of the notice requirements and shall deny SPS's request. Accordingly, we shall suspend the Phase II(A) rates for five months, to become effective, five months from sixty days after filing, on January 21, 1986, subject to refund. We shall deem withdrawn the proposed Phase I(A) rates, as requested by SPS.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Co.*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by the Cooperatives.

Finally, we note that SPS has included a tax adjustment clause as part of its revised rate schedules. Implementation of this clause constitutes a change in rates and requires a timely filing pursuant to Part 35 of the Commission's regulations.

The Commission Orders:

(A) The Municipals' motion to reject SPS' filing is hereby denied.

(B) SPS's request for waiver of the notice requirements is hereby denied.

(C) The Commission hereby rejects the four alternative rate proposals submitted by SPS in its June 21, 1985, filing.

(D) SPS's Phase II(A) rates are accepted for filing and suspended for five months from 60 days after completion of filing, to become effective on January 21, 1986, subject to refund. The Phase I(A) rates are deemed withdrawn.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of SPS's rates.

(F) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(I) Docket No. ER85-477-001 is hereby terminated and the evidentiary proceeding ordered herein is designated as Docket No. ER85-477-002.

(J) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

SOUTHWESTERN PUBLIC SERVICE COMPANY, DOCKET NO. E85-477-000

(Rate Schedule Designations)

Supplement No.	Rate schedule FERC No.	Supersedes supplement No.	Other party
Phase II(A) Full Requirement			
5	86	4	Bailey County Electric Cooperative, Inc.
5	87	4	Central Valley Electric Cooperative, Inc.
5	88	4	Deaf Smith Electric Cooperative, Inc.
5	89	4	Farmers Electric Cooperative, Inc.
5	90	4	Greenbelt Electric Cooperative, Inc.
5	91	4	Lamb County Electric Cooperative, Inc.
5	103	4	Lea County Electric Cooperative, Inc.
5	92	4	Lighthouse Electric Cooperative, Inc.
5	93	4	Lyntegar Electric Cooperative, Inc.
5	105	4	Midwest Electric Cooperative, Inc.
5	99	4	North Plains Electric Cooperative, Inc.
5	94	4	Nortolk Electric Cooperative, Inc.
5	98	4	Rita Blanca Electric Cooperative, Inc.
5	95	4	Roosevelt County Electric Cooperative, Inc.
5	96	4	South Plains Electric Cooperative, Inc.
5	97	4	Swisher Electric Cooperative, Inc.
11	75	10	Texas-New Mexico Power Company
5	100	4	Tri-County Electric Cooperative, Inc.
Partial Requirements			
10	81	9	Brownfield, Texas.
10	83	9	Floydada, Texas.
8	85	7	Lubbock Power and Light Company.
8	101	7	Tulia, Texas.
5	107	4	Texas-New Mexico Power Company.

[FR Doc. 85-20417 Filed 8-26-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85-634-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; J.A. Trent Associates, Inc., et al.

August 19, 1985.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. J.A. Trent & Associates, Inc.

[Docket No. QF85-634-000]

On August 1, 1985, J.A. Trent Associates, Inc. (Applicant), of 1014 Broadway, Suite A, El Cajon, California 92021 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located at 10501 Wilshire Boulevard, Los Angeles, California 90025 and consists, in part, of a Waukesha 2476-GU reciprocating engine, a Kato generator, and heat recovery equipment. The electric power production capacity of the facility is 200 kW. The primary source of energy is natural gas.

2. The Episcopal Home

[Docket No. QF85-629-000]

On August 1, 1985, The Episcopal Home (Applicant), of 1428 South Marengo Avenue, Alhambra, California 91803, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located at 1428 South Marengo Avenue, Alhambra, California 91803 and consists, in part, of a Waukesha 2776-GU reciprocating Engine, a Kato generator and heat recovery equipment. The electric power production capacity of the facility is 200 kW. The primary source of energy is natural gas.

3. Bonneville-West Corporation

[Docket No. QF85-635-000]

On August 1, 1985, Bonneville-West Corporation (Applicant), of 200 East South Temple, Suite 300, Salt Lake City, Utah 84111, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located at 2035 West Adams Boulevard, Los Angeles, California 90018 and consists, in part, of a Waukesha 2476-GU reciprocating engine, a Kato generator, and heat recovery equipment. The electric production capacity is 200 kW. The primary source of energy is natural gas.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-20420 Filed 8-26-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Applications for Exception; Cases Filed; Week of August 2 Through August 9, 1985

During the Week of August 2 through August 9, 1985, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals, of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 19, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 2 through August 9, 1985]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 5, 1985	Canal Refining Company, Washington, DC	HRD-0290, HRH-0290	Motion for discovery & request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Canal Refining Company in response to the Proposed Remedial Order (Case No. HRO-0290) issued to the firm.
Do	Eastern Oil Company, Washington, DC	HEA-0013	Appeal of an order for disposition. If granted: The July 22, 1985, Order for Disposition of Refunds issued to eastern Oil Company by the Economic Regulatory Administration would be rescinded.
Do	Economic Regulatory Administration, Washington, DC	HRR-0110	Request for modification/rescission. If granted: The February 20, 1980 Decision and Order (Case No. BRW-0003 *et al.*) finalizing Remedial Orders issued to five gasoline retailers would be modified.
Do	Murphy Oil Corporation, Washington, DC	HRZ-0266	Interlocutory order. If granted: The March 20, 1985 Economic Regulatory Administration Motion to Dismiss Delay Defenses (Case No. HRZ-0265) would be stricken from the record in the Murphy Oil Corporation Proposed Order of Disallowance proceeding (Case No. BRO-0984).
Aug. 6, 1985	Larco/U.S. Oil Company, Washington, DC	HFD-0266	Motion for discovery. If granted: Discovery would be granted to U.S. Oil Company in connection with the Little America Refining Company Subpart V refund proceeding (Case No. HFF-0215).
Do	Shell Oil Company, Washington, DC	HRD-268	Motion for discovery. If granted: Discovery would be granted to Shell Oil Company in connection with the Statement of Objections submitted in response to the February 15, 1985, Proposed Remedial Order (Case No. HRO-0278) issued to the firm.
Aug. 8, 1985	Economic Regulatory Administration, Washington, DC	HRR-0111	Request for modification/rescission. If granted: The July 25, 1985 Remedial Order issued to Doma Corporation (Case No. HRO-0209) would be modified in certain respects.
Aug. 9, 1985	John H. Hnatio, Mr. Airy, MD	HFA-0304	Appeal of an information request denial. If granted: The July 16, 1985, Freedom of Information Request Denial issued by the Freedom of Information & Privacy Acts Activities Branch would be rescinded and John H. Hnatio would receive information within the DOE regarding himself.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of August 2 through August 9, 1985]

Date:	Name and location of applicant	Case No.	Type of submission
Do	Peter Almquist, Cambridge, MA	HFA-0303	Appeal of an information request denial. If granted: The Freedom of Information Request Denial issued by the Office of Classification would be rescinded and Peter Almquist would receive access to material regarding Soviet defense management.

REFUND APPLICATION RECEIVED

[Week of August 2 to August 9, 1985]

Date received	Name of refund proceeding/name of refund applicant	Case No.
Feb. 12, 1985	Union Texas/Reed Distributing Co.	RF140-28.
May 2, 1985	Union Texas/Campbell Oil Company.	RF140-27.
May 3, 1985	Union Texas//Fuller Oil Company.	RF140-29.
May 6, 1985	Union Texas/Empire, Inc.	RF140-31.
July 22, 1985	Ideal Gas/Economy Gas Co., Inc.	RF186-1.
July 29, 1985	Union Texas/Graf Petroleum.	RF140-31.
July 30, 1985	Amoco/Nat'l Helium, Perry Gas, Pennzoil/Indiana.	RQ-21-221, RQ3-222, RQ183-223, RQ10-224.
Do	Palo Pinto/Indiana	RM5-8.
Aug. 5, 1985	Field/Farr Better Service	RF173-4.
Do	F.O. Fletcher/Armstrong Fuel.	RF172-8.
Do	St. James/Hopedale Coal & Ice Co.	RF180-14.
Do	Neilson/Downing Oil Company.	RF141-13.
Do	Aminoil/Poe's Rural & City Gas Co. Inc.	RF139-79.
Do	Armour/E-Z Serve, Inc.	RF167-2.
Do	Gulf/Beacon Automatic Healing Service.	RF40-3040.
Do	Cibro/Vijax Fuel Corporation.	RF184-1.
Do	Thompson/Bridge's Shell	RF185-1.
Aug. 6, 1985	Aminoil/Knudsen Oil & Feed.	RF139-60.
Aug. 7, 1985	Armour/Southland Corporation.	RF167-3.
Do	Aminoil/Kyger, Inc.	RF139-61.
Aug. 8, 1985	St. James/Atlantic Coal & Oil Co.	RF180-15.
Do	Boswell/Andy Suchko Oil Company.	RF179-3.
Do	Aminoil/Charlie's Gas Service, Inc..	RF138-64.
Do	Aminoil/National Gas Distributors.	RF139-63.
Do	Aminoil/Commonwealth Petroleum Co.	RF139-62.
Do	Aminoil/Price Brothers Gas Co., Inc.	RF139-65.
Aug. 9, 1985	Arkla Chemical/Saunders Leasing Systems.	RF153-18.
Do	F.O. Fletcher/Gene Peters	RF172-9.
Do	APCO/Wood Oil Company	RF83-140.
Do	F.O. Fletcher/Jackson Oil, Inc.	RF172-10.
Do	Champlain/Clarence Kennedy.	RF187-1.

[FR Doc. 85-20465 Filed 8-26-85; 8:45]

BILLING CODE 6450-01-M

Objections to Proposed Remedial Orders Filed; Week of August 5 Through August 9, 1985

During the week of August 5 through August 9, 1985, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 16, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Oklahoma Refining Company, Oklahoma City, OK; HRO-0302, Crude oil

On August 6, 1985, Oklahoma Refining Company, P.O. Box 26386, Oklahoma City, Oklahoma 73126 filed a Notice of Objection to a Proposed Remedial Order which the DOE Washington, D.C. Office of Enforcement issued to the firm on June 25, 1985. In the PRO the Office of Enforcement found that during February through December 1980, the firm failed to fully satisfy its Entitlements purchase obligations, in violation of 10 CFR 211.67.

According to the PRO the Entitlements violations resulted in $12,360,914 of overcharges plus interest.

Tonkawa Refining Company, Oklahoma City, OK; HRO-0301

On August 5, 1985, Tonkawa Refining Company P.O. Box 26490, Oklahoma City, Oklahoma 73126 filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to the firm on May 31, 1985.

In the PRO the Dallas District found that during the period January to December 1980, Tonkawa failed to fully satisfy its Entitlements purchased obligations, in violation of 10 CFR 211.67.

According to the PRO the Entitlements violations resulted in $18,634,038 of overcharges plus interest.

[FR Doc. 85-20466 Filed 8-26-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $38,000 obtained as a result of a consent order which the DOE entered into with Midway Oil Company, a reseller-retailer of petroleum products located in Rock Island, Illinois. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 30585. All comments should conspicuously display a reference to case number HEF-0129.

FOR FURTHER INFORMATION CONTACT: Douglas Friedman, Office of Hearings and Appeals, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $38,000 plus accrued interest obtained by the DOE under the terms of a consent order entered into with Midway Oil Company. The funds were provided to the DOE by Midway to

settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period November 1, 1973, through October 31, 1974.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to 10 first purchasers who may have been overcharged. In order to obtain a refund, each claimant will be required either to submit a schedule of its monthly purchases from Midway or to submit a statement verifying that it purchases motor gasoline from Midway and is willing to rely on the date in the audit files. Certain firms will also be required to make specific demonstrations of injury. In addition, applications for refund will be accepted from purchasers not identified by the DOE audit. These purchasers will be required to provide specific documentation concerning the date, place, price, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in these proceedings will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW, Washington, DC 20585.

Dated: August 15, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

August 15, 1985.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Midway Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0129.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Midway Oil Company (Midway).

I. Background

Midway is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Rock Island, Illinois. Based on an audit of Midway's records, ERA issued a Proposed Remedial Order (PRO) to the firm which charged that Midway had violated the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. The PRO alleged that between November 1, 1973, and October 31, 1974, Midway committed pricing violations amounting to $108,294.32 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Midway and the DOE regarding the firm's sales of motor gasoline during the period covered by the PRO, Midway and the DOE entered into a consent order on August 31, 1981. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Midway does not admit that it violated the regulations.

The consent order required Midway to deposit $38,000 into an interest-bearing escrow account for ultimate distribution by the DOE. Midway remitted this sum on June 23, 1981, in advance of the effective date of the consent order.[1] This decision concerns the distribution of the funds in the escrow account, including accrued interest.

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will attempt to provide refunds to identifiable purchasers of motor gasoline who may have been injured by Midway's pricing practices between November 1, 1973 and October 31, 1974. If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A Refunds to Identified Purchasers

The basic purpose of a special refund proceeding is to recompense parties who were injured as a result of alleged or actual violations of the DOE regulations. In order to effect restitution in this proceeding, we have decided to rely in part on the information contained in the DOE's audit files. Our experience with similar cases supports the use of this approach in Subpart V cases where many of the purchasers of a firm's products are identified in the audit file. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). Under these circumstances, a reasonably precise determination can be made regarding the identity of the allegedly overcharged parties and the amount of alleged overcharges each party suffered.

During the DOE's audit of Midway, 10 first purchasers were identified as having allegedly been overcharged. ERA also alleged overcharges to customers who were not identified. We recognize that the DOE audit files do not necessarily provide conclusive evidence regarding the identity of all possible refund recipients or the appropriate refund for a particular firm. However, the information contained in those audit files may reasonably be used for guidance. *See Armstrong and Associates/ City of San Antonio*, 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion*, we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution

[1] As of July 31, 1985, the escrow account contained $58,327.28 inclusing accrued interest.

plan based solely on a volumetric approach." 12 DOE at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the customers identified by the audit, other customers who can show injury, and downstream customers of either type of firm. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984); *Richards Oil Company*, 12 DOE ¶ 85,150 (1984). The first purchasers identified by the audit, with the share of the settlement allotted to each by ERA, are listed in the Appendix.

Identification of first purchasers is only the first step in the distribution process. We must also determine whether the first purchasers were injured or were able to pass through the alleged overcharges. Besides considering the information which the audit file provides, we also propose the adoption of presumptions to be used in determining the level of a purchaser's injury. We propose to use these two methods to distribute the funds in the escrow account. Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Therefore, as in previous special refund proceedings, we intend to adopt a presumption that claimants seeking relatively small refunds were injured by the pricing practices of the company from which they purchased products. In addition, we are making a proposed finding that end users suffered injury. Also, we plan to use a volumetric presumption for certain claimants.

There are a variety of reasons for adopting the presumption that claimants seeking small refunds were injured. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed the expected refund. Failure to allow simplified procedures could therefore deprive injured parties of the opportunity to receive a refund. This presumption eliminates the need for a claimant to submit and OHA to analyze detailed proof of what happened downstream of the initial impact.

Under the small claims presumption, a claimant who is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Other refund decisions have expressed this threshold in terms of either purchase volumes or refund dollar amounts. In *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. This case merits the same approach.

Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, where the refund amount is fairly low and the early months of the consent order period is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.; Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein. The record indicates that nine of the identified firms are eligible for small refunds. The one firm whose potential refund falls above the threshold purchased 20 percent more fuel than the second-largest firm and over twice as much fuel as any other identified purchaser.

A reseller or retailer which claims a refund in excess of $5,000 will be required to provide detailed documentation of its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate that it maintained "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and to show that market conditions would not permit it to pass through those increased costs.[2]

As noted above, we are making a proposed finding that end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. Because of this, an analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) *(PVM); see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We therefore propose that end users of motor gasoline sold by Midway be required to document only their purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.

In addition, we propose that firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement not be required to demonstrate that they absorbed the alleged overcharges. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of Midway's alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we propose adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,539 (1982) (*Tenneco*), and *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should provide with their applications a full

[2] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,125 (1982) (Ada).

explanation of the manner in which refunds would be passed through to their customers and of how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 plus interest will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

On the basis of the information in the record at this time, we propose to distribute a portion of the escrow funds to those firms listed in the Appendix.[3] Refunds will be authorized for those firms in the amounts indicated, plus accrued interest to the date they receive refunds, provided they make any necessary showing of injury.[4] However, no addresses are available for four of those firms and we therefore are unable to contact these firms directly. In an attempt to locate these firms, we will provide Midway and various petroleum dealers associations with copies of this Proposed Decision and will publish a notice in the **Federal Register.** Information regarding the identity and location of each of these firms will be accepted for a period of 90 days following the date of publication of notice in the **Federal Register** of a final Decision and Order in this proceeding.[5]

B. Refunds to Other Purchasers

There were also some first purchasers who were not identified by the ERA audit. These firms, and downstream purchasers, may have been injured as a result of Midway's pricing practices. If so, they would be entitled to a portion of the consent order funds provided by Midway. To help potential claimants not identified by ERA decide whether to apply for a refund, we propose to use a volumetric presumption. Under this procedure, a successful claimant's refund is determined by multiplying a factor, known as the volumetric refund amount, by the number of gallons of fuel purchased by the claimant.[6] The volumetric refund amount is the average per gallon refund, and in this case equals .001866 per gallon.[7] Potential applicants who were not identified by the ERA audit may use this figure to estimate the refunds to which they may be entitled. The volumetric presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Standard Oil Co. (Indiana)/Army & Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). The presumption and finding noted in Section A above apply also to applications submitted by claimants not identified by ERA. If valid claims exceed the funds available in the escrow account, all refunds will be reduced by a pro rata amount. Actual refunds will be determined after analyzing all appropriate claims.

C. Applications for Refund

In order to receive a refund, each claimant identified by ERA will be required to submit either a schedule of its monthly purchases of motor gasoline from Midway or a statement verifying that it purchased motor gasoline from Midway and is willing to rely on the data in the audit file. A claimant must also indicate whether it has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audits underlying these proceedings. Purchasers not identified by the ERA audit will be required to provide schedules of their monthly purchases of motor gasoline from Midway. If they claim injury at a level greater than the volumetric level, they must document this injury. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private, section 210, actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

D. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any funds remaining in the escrow account until the initial stage of the refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Midway Oil Company pursuant to the consent order executed on August 31, 1981, will be distributed in accordance with the foregoing decision.

APPENDIX—MIDWAY OIL COMPANY

First purchaser	Share of settlement[1]
Mr. Doyle Rinehard, Credit Island Zephyr, 2060 West River Drive, Davenport, Iowa 52802	$1,255.57
Mr. Don Giammetta, Fred's 66 Wrecker Service, 7627 NW Boulevard, Davenport, Iowa 52804	843.56
Hamer Alignment, 6 E. Benton Street, Iowa City, Iowa 52240	261.71
Jim's 67, 1131 Feno Drive, Bettendorf, Iowa 52722	743.56
Jim's Zephyr	1,270.57
John's Service	3,890.71
Mr. Howard Manary, Manary's North Star, 213 Brude Avenue, Milan, Illinois 61264	6,560.02
Mr. Charles Sonneville, Sonneville Service, 1419 Lincoln Road, Bettendorf, Iowa 52722	452.46
Washam's Zephyr	828.90
Young's 44th Street Zephyr	622.75

[1] Not including accrued interest.

[FR Doc. 85-20467 Filed 8-26-85; 8:45 am]

BILLING CODE 6450-01-M

[3] Purchasers identified in the ERA audit as having allegedly been overcharged may submit information to show that they should receive refunds larger than those indicated.

[4] The share of the Midway escrow fund allocated to each firm listed in the Appendix represents 35 percent of the amount each was allegedly overcharged. This allocation is consistent with the terms of the consent order, which settled for 35 percent of the total amount of alleged overcharges.

[5] If we are unable to locate a particular firm listed in the Appendix, we will reserve any funds allocated to that firm for distribution in a subsequent proceeding.

[6] A volumetric approach is particularly appropriate in special refund proceedings in which the DOE is unable to identify readily persons who may be eligible to receive refunds. It has proved to be an administratively efficient method for determining what portion of the available settlement funds should be awarded to each successful claimant. It also serves as a useful approximation of injury for those claimants who are unable to quantify their injury.

[7] This figure is obtained by dividing the $21,240.19 not allotted to identified purchasers by the 11,383,163 gallons of motor gasoline sold to purchasers not identified by ERA.

Western Area Power Administration

Colorado River Storage Project Power Resources; Availability of Report to Congress

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of Availability of Report to Congress on Colorado River Storage Project Power Resources and the Financial Support of Authorized Projects in the Upper Colorado River Basin States.

SUMMARY: Title I, section 108 of the Hoover Power Plant of 1984 (Pub. L. 98–381) requires within one year of enactment of the act, the Secretary of Energy, acting through the Western Area Power Administration (Western), report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, on all Colorado River Storage Project (CRSP) power resources which may be used to financially support the development of authorized projects in the States of the Upper Division of the Colorado River: Colorado, New Mexico, Utah, and Wyoming.

Accordingly, a report was transmitted to the Committees by the Secretary of Energy on August 14, 1985. The report, which contains information gathered by Western in cooperation with the Bureau of Reclamation, identifies the available Colorado River Storage Project power resources and authorized projects, explores methods for developing additional revenues, and identifies methods of obtaining capital for construction of authorized projects.

The report is available upon request. Interested parties may contact Mr. Gordon Freeny, Director, Division of Power Resources, at the address shown below.

ADDRESS: Inquiries shall be directed to: Mr. Gordon B. Freeny, Code A6300, Director, Division of Power Resources, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1606.

Issued in Washington, DC, August 20, 1985.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaision.

[FR Doc. 85–20472 Filed 8–26–85; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection Activities Under OMB Review

August 21, 1985.

The following information collection requirements have been approved by the Office of Management and Budget. For further information contact Doris Peacock, FCC, (202) 632–7513.

OMB No.: 3060–0020
Title: Application for Ground Station Authorization in the Aviation Services
Form No.: FCC 406

The approval on FCC 406 has been extended through 8/31/88. The May 1984 edition with an OMB expiration date of 9/30/85 will remain in use until updated forms are available.

OMB No.: 3060–0054
Title: Application for Exemption from Ship Radio Station Requirements
Form No.: FCC 820

The approval on FCC 820 has been extended through 8–31–88. The October 1982 edition with an OMB expiration date of 9/30/85 will remain in use until updated forms are available.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–20383 Filed 8–26–85; 8:45 am]

BILLING CODE 6712–01–M

Bott Broadcasting Co., et al.; Hearing Designation Order

In the matter of applications of: Joanna Glinter, Smithville, Missouri, Req: 760 kHz, 0.5 kW, D, MM Docket No. 85–246, File No. BP–841023AB; Bott Broadcasting Company, Overland Park, Kansas, Req: 760 kHz, 1 kW, DA–D, File No. BP–841231AJ; Nadine Marie Bohan, Smithville, Missouri, Req: 760 kHz, 0.5 kW, D, File No. BP–841231AL. For Construction Permit.

Adopted: August 9, 1985.
Released: August 19, 1985.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new AM broadcast stations.

2. *The Joanna Glinter proposal.* The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by Ms. Glinter. Hence, an appropriate issue will be specified.

3. Additionally, the environmental narrative statement submitted by Mr. Glinter, as required by § 1.1311 of the Commission's Rules, fails to state the zoning classification of the proposed site or whether the proposal is a source of local controversy on environemental grounds in the community.

4. Consequently, the applicant will be required to file within 30 days of the release of this Order an amended environemntal narrative statement with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Accordingly, § 1.1317 of the Rules is waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979), *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980).

5. *The Bott Broadcasting Company proposal.* To avoid violation of our multiple ownership rule (§ 73.3555), the applicant has agreed to divest ownership of station KCCV, Independence, Missouri, should the instant application be granted. An appropriate condition will be specified.

6. *The Nadine Marie Bohan proposal.* The applicant indicates that photographs of the proposed transmitter site will be furnished. We have no evidence that this amendment has been filed, however. To remedy this deficiency, Ms. Bohan will be required to file an appropriate amendment with the presiding Administrative Law Judge.

7. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As one of the proposals is for a different community, we will specify an issue to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal would best provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

8. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the

height and location of the antenna tower proposed by Joanna Glinter.

2. If a final environmental impact statement is issued with respect to Joanna Glinter which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine:

(a) Whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules, and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

3. To determine: (a) the areas and populations which would receive primary aural service from the proposals and the availability of other primary service to such areas and populations, and (b) in light thereof and pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio services.

4. To determine, in the event it be concluded that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would on a comparative basis best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

10. It is further ordered, that § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within 30 days of the release of this Order, Joanna Glinter shall submit the amended environmental narrative required by § 1.1311 of the Rules to the presiding Administrative Law Judge, with a copy to the Chief, Audio Services Division.

11. It is further ordered, that in the event of a grant of the Bott Broadcasting Company application, the construction permit shall be conditioned as follows:

Prior to commencement of operation of the station authorized herein, permittee shall certify to the Commission that it has divested all interests in station KCCV, Independence, Missouri.

12. It is further ordered, that Nadine Marie Bohan file photographs of the proposed transmitter site with the presiding Administrative Law Judge within 30 days of the release of this Order.

13. It is further ordered, that in addition to the copy served on the Chief, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, NW, Washington, DC 20554.

14. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

15. It is further ordered, that pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85–20384 Filed 8–26–85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank of Virginia Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) or the board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 16, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Bank of Virginia Company,* Richmond, Virginia; to acquire 100 percent of the voting shares of Union Trust Bancorp, Baltimore, Maryland.

Bank of Virginia Company has also applied to acquire Landmark Financial Services, Inc., Silver Spring, Maryland, thereby engaging in the activity of making installment loans to individuals for personal, family or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; acting as agent or underwriter in the sale of credit life and credit accident and health insurance directly related to its making mortgage loans secured in whole or in part by mortgages or other liens on real estate; and acting as agent in the sale of insruance limited to assuring repayment of the outstanding balance on an extension of credit by a finance company in the event of loss or damage to any property used as collateral for such extension of credit, and provided such extension of credit does not exceed the limits set forth in section 4(c)(8)(B) of the Act.

Board of Governors of the Federal Reserve System. August 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–20387 Filed 8–26–85; 8:45 am]

BILLING CODE 6210-01-M

Citicorp, et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have 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 throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 19, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage *de novo* directly or indirectly through any of its existing subsidiaries or any subsidiaries yet to be formed, in the provision to others of data processing and data transmission services; facilities (including data processing and data transmission hardware, software, documentation or operating personnel); data bases; or access to such services, facilities; or data bases by any technological means.

2. *Citicorp*, New York, New York; to engage *de novo* directly or indirectly through any of its existing subsidiaries or any subsidiaries yet to be formed, in the provision of management consulting advice to nonaffiliated bank and nonbank depository institutions including commercial banks, savings and loan associations, mutual savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks and industrial loan companies.

Board of Governors of the Federal Reserve System, August 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-20388 Filed 8-26-85; 8:45 am]

BILLING CODE 6210-01-M

MCorp and MCorp Financial, Inc.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 85-16571), published at page 28472 of the issue for Friday, July 12, 1985. MCorp, Dallas, Texas and MCorp Financial, Inc., Wilmington, Delaware propose to acquire the network consultants component of The General Electric Information Services Company Division of General Electric Company.

Board of Governors of the Federal Reserve System, August 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-20389 Filed 8-26-85; 8:45 am]

BILLING CODE 6210-01-M

New Bedford Community Bancorp, 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 September 18, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *New Bedfore Community Bancorp*, New Bedford, Massachusetts; to become a bank holding company by acquiring at least 62.8 percent of the voting shares of Luzo Bank and Trust Company, New Bedford, Massachusetts. Comments on this application must be received not later than September 15, 1985.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Commercial Bancshares, Inc.*, Jersey City, New Jersey; to acquire 100 percent of the voting shares of Edgewater National Bank, Englewood Cliffs, New Jersey. Comments on this application must be received not later than September 15, 1985.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South Lasalle Stree, Chicago, Illinois 60690:

1. *HCB Financial Corp.*, Hastings, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of the Hastings City Bank, Hastings, Michigan.

2. *First Geneva Banqueshares, Inc.*, Geneva, Illinois; to become a bank holding company by acquiring at least 66.66 percent of the voting shares of the First National Bank of Geneva, Geneva, Illinois.

3. *Windsor Bancshares, Inc.*, Windsor, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Windsor State Bank, Windsor, Illinois.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Kennett Bancshares, Inc.*, Kennett, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Kennett National Bank, Kennett, Missouri.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Bancorp of Edmond, Inc.*, Edmond, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of American Bank and Trust, Edmond, Oklahoma.

Comments on this application must be received not later than September 19, 1985.

2. *Commercial Landmark Corporation*, Muskogee, Oklahoma; to acquire 89.1 percent of the voting shares of Sequoyah State Bank of Muldrow, Inc., Muldrow, Oklahoma. Comments on this application must be received not later than September 19, 1985.

3. *Firstbank Holding Company of Colorado*, Denver, Colorado; to acquire 100 percent of the voting shares of Firstbank at 88th/Wadsworth, N.A., Westminster, Colorado (in organization), and Firstbank of Cherry Creek, N.A., Denver, Colorado (in organization). Comments on this application must be received not later than September 19, 1985.

F. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Liberty Bay Financial Corporation*, Poulsbo, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of North Sound Bank, Poulsbo, Washington (formerly Bank of Poulsbo).

Board of Governors of the Federal Reserve System, August 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30390 Filed 8-26-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunications Standards; Coding and Modulation Requirements for 4,800 Bit/second Modems; Proposed Revision

AGENCY: Office of Information Resources Managment, General Services Administration.

ACTION: Notice for comment on proposed standard.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies, industry, the public, and State and local governments on a Federal Telecommunications Standard (FED-STD) proposed for revision. FED-STD 1006, "Telecommunications: Coding and Modulation Requirements for 4,800 Bit/second Modems" will carry the new designation FED-STD 1006A upon approval of the revision.

DATE: Comments are due November 25, 1985.

ADDRESS: Send comments to National Communications System, Office of Technology and Standards, Washington, DC 20305-2010.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Fenichel, National Communications System, telephone (202) 692-2124.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration (GSA) is responsible under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of General Services designated the National Communications System (NCS) as the responsible agent for the development of Federal telecommunications standards for NCS interoperability and the computercommunication interface.

2. Prior to the adoption of proposed Federal standards, it is important that proper consideration be given to the needs and views of Federal agencies, industry, the public, and State and local governments.

3. Request for copies of the December 21, 1984 draft of FED-STD 1006A should be directed to the National Communications System, Office of Technology and Standards, Washington, DC 20305-2010.

Dated: August 1, 1985.

Francis A. McDonough,

Acting Assistant Administrator, Office of Information Resources Management.

[FR Doc. 85-20400 Filed 8-26-85; 8:45 am]

BILLING CODE 6820-25-M

Agency Information Collection Under Review by the Office of Management and Budget; Termination Liability Schedule—GSAR PT 549

AGENCY: Office of Policy and Management Systems, GSA.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to review an existing collection in use without a control number.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of Acquisition Policy (202-523-4754).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* The inclusion of a termination liability provision in telecommunications contracts helps to ensure better rates and lowers Government costs.

b. *Annual reporting burden.* Respondents and responses 120, hours 300.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3013, GS Building, Washington, DC 20405 (202-566-0666).

Dated: August 20, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-20450 Filed 8-26-85; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I) announcement is made of the following national advisory bodies scheduled to assemble during the month of September 1985.

National Advisory Mental Health Council

September 9-10; 9:30 a.m.
Parklawn Building
Conference Rooms G & H
5600 Fishers Lane
Rockville, Maryland 20857
Open—September 9; 9:30 a.m.-12 noon.
September 10; 9:30 a.m.-2:30 p.m.
Closed—Otherwise
Contact: Helen W. Garrett
Parklawn Building, Room 17C-26
Rockville, Maryland 20857, (301) 443-4333

Purpose: The Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Agenda: From 9:30 a.m.-12:00 noon, September 9, the meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments.

On September 10, the meeting will be open for a discussion of research on schizophrenia. Attendance by the public for the open session will be limited to space available. Otherwise, the Council will conduct a final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Mental Health Small Grant Review Committee

September 12-14; 1:30 p.m.
The Canterbury Hotel
1733 N Street, NW.
Washington, D.C. 20036
Open—September 12; 1:30-2:00 p.m.,
September 14; 9:30-10:30 a.m.
Closed—Otherwise
Contact: Barbara McCracken
Parklawn Building, Room 9-95
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443-4843

Purpose: The Committee is charged with the initial review of applications for research in all disciplines pertaining to alcohol, drug abuse, and mental health for support of research in the areas of psychology, psychiatry, and the behavioral and biological sciences, with recommendations to the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Council on Drug Abuse.

Agenda: From 1:30-2:00 p.m., September 12, and from 9:30-10:30 a.m., September 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

National Advisory Council on Drug Abuse

September 17-18; 9:00 a.m.
National Institutes of Health
9000 Rockville Pike
Building 31C, Conference Room 8
Bethesda, Maryland 20205
Open—September 17; 9:00 a.m.-12 noon.
September 18; 9:00 a.m.-5:00 p.m.
Closed—Otherwise
Contact: Sheila Gardner
Parklawn Building, Room 10A-37
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443-6720

Purpose: The Council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the effectient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

Agenda: From 9:00 a.m-12 noon, September 17, and from 9:00 a.m.-5:00 p.m., September 18, the meeting will be open for discussion of administrative announcements, program development and policy issues. Otherwise, the Council will be performing final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Apendix I).

National Advisory Council on Alcohol Abuse and Alcoholism

September 19-20; 10:30 a.m.
North Auditorum
Health and Human Services Building
330 Independence Avenue, SW.
Washington, D.C. 20201
Open—September 19; 10:30-3:30 p.m.
Closed—Otherwise
Contact: James Vaughan
Parklawn Building, Room 16C-20
5600 Fishers Lane
Rockville, Maryland 20857, (301) 443-4375

Purpose: The Council advises the Secretary, Department of Health and Human Services, regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: On September 19, 10:30 a.m.-3:30 p.m., the open session will be devoted to general business of the Council and a discussion of current budget, legislative and program activities. From 3:30 p.m.-adjournment, the closed session will be devoted to a discussion of the Board of Scientific Counselors' report on the intramural research program. On September 20, from 9:00 a.m.-adjournment, the session will be closed and the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(6), and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contract listed above. Summaries of the meetings and roster of committee members may be obtained as follows: NIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C-20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4375, NIDA: Ms. Sheila Gradner, Executive Secretary, National Advisory Council on Drug Abuse, Room 10A-37, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6720; NIMH: Ms. Helen Garrett, Committee Management Officer, Room 17C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: August 21, 1985.

Robin I. Kawazoe,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 85-20424 Filed 8-26-85; 8:45 am]
BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 78P-0419 et al.]

Availability of Approved Variances for Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Carter for Devices and Radiological Health (CDRH) for 10 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide entertainment of general audiences.

DATES: The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information."

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm.

4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Summers, Center Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the 10 organizations listed in the table below a variance from the requirements of the performance standard for laser products (21 CFR 1040.11(c)).

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer, which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical design, by warnings in the user manual and on the products, and by procedures for personnel who will operate the products. Therefore, on the effective dats specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each product shall bear on the certification lable required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number appearing in the table below, and the effective date of the variance also appearing in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date, termination date
79P-0419 (Amendment)	Blue Lightning Laser Light Show, 2300 St. Francis Drive, Palo Alto, CA 94303.	Laser light shows assembled and produced by Blue Lightning Laser Light Show incorporating Blue Lightning laser projectors Models HS-1, SPF-1, CH-1, S.S. 4000, S.S. 4001, and/or S.S. 4000a.	May 30, 1985 to Dec. 19, 1986.
79P-0055 (Amendment)	Audio-Visual Imagineering, Inc., 7953 Twist Lane, Springfield, VA 22153.	Audio-Visual Imagineering AVI Laser Projection System Model Series S or B and shows produced, assembled, and operated by Audio-Visual Imagineering which incorporate these laser projection systems.	May 20, 1985 to May 19, 1987.
80P-0076 (Amendment and extension).	Lazarus Productions, 2821 Ninth Street, Berkeley, CA 94710.	Laser light show incorporating the Macron Beam I Laser Projector assembled and produced by Lazarus Productions.	June 12, 1985 to Mar. 17, 1987.
84V-0159	Ad Laser, Inc., 310 Via Vera Cruz, San Marcos, CA 92069.	Model ALS-5100 Graphic Work Station incorporating Class IIIb helium-neon or argon lasers.	May 20, 1985 to May 20, 1987.
85V-0003	Rockne Krebs, P.O. Box 658, 1428 U Street NW., Washington, DC 20009.	"Suites of Light—Laser Dance" laser light show and the incorporated Class IV laser projector assembled and produced by Rockne Krebs in collaboration with other artists.	June 4, 1985 to June 4, 1987.
85V-0079	Noble Planetarium, Fort Worth Museum of Science and History, 1501 Montgomery Street, Fort Worth, TX 76107.	Fort Worth Museum of Science and History "Laser Magic" laser light show using the Projected Imagery Model MC-3 laser light show projector.	May 9, 1985 to May 9, 1986.
85V-0169	Computer Graphics, 1331 East McDowell Road, Phoenix, AZ 85006.	Laser light shows and projection systems assembled and produced by Computer Graphics incorporating Laser Media's Stingray projector or Laser Systems Development Corporation's X-Y scanners.	June 24, 1985 to June 24, 1987.
85V-0239	Laser Dreams, 7667 Bodega Avenue, Sebastopol, CA 95472.	Laser Dreams laser light shows incorporating the Laser Dream Machine Model 1 laser projector with argon, helium-neon, and/or helium-cadmium lasers.	May 30, 1985 to May 30, 1987.
85V-0284	Starlasers, 5021 Balfour Lane, Woodland Hills, CA 91364.	Class IV Starlight Series One laser projectors and laser light shows assembled and produced by Starlasers incorporating these projectors.	June 20, 1985 to June 20, 1987.
85V-0287	CENTRAK Corp., Park Place, Suite 319, Hudson, OH 44236.	Laser light shows and the incorporated Class IIIb or Class IV argon, krypton, and/or helium-neon laser projectors manufactured, assembled, and produced by CENTRAK Corp.	June 14, 1985 to June 14, 1987.

In accordance with §1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: August 20, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85–20377 Filed 8–26–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 80P–0137 et al.]

Availability of Approved Variances for Sunlamp Products

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for sunlamp products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for certain specified sunlamps and sunlamp products manufactured or imported by six organizations. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

DATES: The effective dates and termination dates of the variances are listed in the table below under "Supplementary Information."

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Summers, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), CDRH has granted each of the six organizations listed in the table below a variance from certain requirements of the performance standard for sunlamp products (21 CFR 1040.20). Approval has been granted for the listed products to vary as specified from that portion of

§ 1040.20(c)(2)(ii) requiring the maximum timer interval for a sunlamp product to be 10 minutes or less. All other provisions of § 1040.20 remain applicable to the listed sunlamp products and ultraviolet lamps.

Each of the variances for the nominally ultraviolet-A (UVA) sunlamp products permits the listed manufacturer or importer to introduce into commerce sunlamp products that have less than 5 percent of their ultraviolet radiation at wavelengths shorter than 320 nanometers. CDRH's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturer does not result in severe, acute skin burns or corneal injury. Therefore, the time interval requirement of § 1040.20(c)(2)(ii) is not appropriate for these UVA products. Even though the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk of harm to chemically sensitized lenses, of cornea damage, and of long-term development of lens opacities.

CDRH has determined that suitable or alternate means of radiation protection are provided by (1) constraints on the physical and optical design of the products and (2) warnings in the user manual and on the products. Therefore, on the effective dates specified in the table below, CDRH approved the requested variances by a letter to each manufacturer or importer from the Deputy Director of CDRH.

So that the product may show evidence of the variance approved for the manufacturer or importer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Sunlamp product	Effective date, termination date
80P-0137 (Amendment)	Sun Industries, Inc., 5700 Krueger Drive, P.O. Box 2026, Jonesboro, AR 72402.	UVA sunlamp products manufactured or imported by Sun Industries, Inc.	May 8, 1985 to Mar. 17, 1986.
85V-0190	Oakport International, Inc., 1990 Creekside Lane, P.O. Box 5372, Boise, ID 83705.	UVA sunlamp products manufactured by Van Esch Van Metaal BV and imported by Oakport International, Inc.	June 20, 1985 to June 20, 1990.
85V-0143	Trade Services International, Inc., 1155 West 4720 South, Salt Lake City, UT 84104.	UVA sunlamp products manufactured by Trade Services International, Inc.	June 11, 1985 to June 11, 1990.
85V-0203	Interlab (Electromechanical), 24 Helenslea Avenue, London, NW11 8 ND, England.	UVA sunlamp products manufactured by Portasun Limited	June 21, 1985 to June 21, 1990.
85V-0229	Electrolux—Kern GmbH, c/o Domestic Sales Corp., 2320 Industrial Parkway, P.O. Box 490, Elkhart, IN 46515.	UVA sunlamp products manufactured by Electrolux—Kern GmbH	June 26, 1985 to June 26, 1990.
85V-0251	North American Electronics, Inc., 5475 Crestview, Memphis, Tennessee 38134.	UVA sunlamp products manufactured by North American Electronics, Inc.	June 21, 1985 to June 21, 1990.

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: August 20, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85–20373 Filed 8–26–85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85C-0327]

Ethicon, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ethicon, Inc., has filed a petition proposing that the color additive regulations be amended by increasing the organic chlorine content specification for the color additive [phthalocyaninato(2–)] copper used to color sutures and contact lenses.

FOR FURTHER INFORMATION CONTACT: Lester Borodinsky, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402–403 (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 5C0192) has been filed by Ethicon, Inc., Somerville, NJ 08876–0151, proposing that § 74.3045 *[Phthalocyaninato(2–)] copper* (21 CFR 74.3045) be amended by increasing the organic chlorine content specification for the color additive [phthalocyaninato (2–)] copper used to color sutures and contact lenses.

The agency has determined under 21 CFR 25.24(a)(9) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assesment nor an environmental impact statement is required.

Dated: August 20, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–20375 Filed 8–26–85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85G-0335]

Kyowa Hakko Kogyo Co., Ltd.; Filing of Petition for Affirmation for GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition (GRASP 5G0301) has been filed on behalf of Kyowa Hakko Kogyo Co., Ltd., Tokyo, Japan, proposing that enzyme-modified lecithin is generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by October 28, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348 (b)(5))) and the regulations for affirmation of GRAS status in §170.35 (21 CFR 170.35), notice is given that a petition (GRASP 5G0301) has been filed on behalf of Kyowa Hakko Kogyo Co., Ltd., Tokyo, Japan, proposing that enzyme-modified lecithin is GRAS as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the format requirements outlined in §170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Interested persons may, on or before October 28, 1985, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether this substance is or is not GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-20372 Filed 8-26-85; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Detroit District Office, chaired by Alan L. Hoeting, District Director. The topic to be discussed is Food Quackery.

Date: Wednesday, September 4, 1985, 9:30 a.m.

Address: George Potter Larrick Bldg., Conference Room, 1506 East Jefferson St., Detroit, MI 48207.

For further information contact: Evelyn DeNike, Consumer Affairs Officer, Food and Drug Administration, 1506 East Jefferson St., Detroit, MI 48207, 313-226-6260.

St. Louis Station, chaired by Raymond K. Hedblad, Station Chief. The topic to be discussed is Sulfites.

Date: Thursday, September 19, 1985, 1:30 p.m. to 3:30 p.m.

Address: FDA Conference Room, 808 North Collins St., Laclede's Landing, St. Louis, MO 63102.

For further information contact: Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, 808 North Collins St., St. Louis, MO 63102, 314-425-5021.

Los Angeles District Office, chaired by Abraham I. Kleks, District Director. The topics to be discussed are: Health Fraud, An Update; and In Vitro Diagnostics.

Date: Thursday, September 26, 1985, 10 a.m. to 12 m.

Address: Food and Drug Administration, District Office, 1521 West Pico Blvd., Los Angeles, CA 90015.

For further information contact: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-894-4395.

SUPPLEMENTARY INFORMATION: The purpose of these meetings 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: August 20, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-20378 Filed 8-26-85; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 47 FR 34643, August 10, 1982) is amended to place the Food and Drug Administration's (FDA) public education activities in a separate organization and to increase the visibility of the component performing public affairs functions. FDA proposes to establish an Office of Public Affairs (OPA). This Office will be created by transferring functions from the current Office of Legislation and Information (OLI) to the New OPA and retitling OLI as the Office of Legislative Affairs with the remaining OLI functions.

Section HF-B, Organization and Functions is amended as follows:

1. Delete paragraph (d), *Office of Legislation and Information (HFAD)* and insert new paragraph (d), *Office of Legislative Affairs (HFAD)* reading as follows:

(d) *Office of Legislative Affairs (HFAD).* Advises and assists the Commissioner and other key officials concerning legislative needs and pending legislation and oversight activities which affect FDA.

Serves as the focal point for overall legislative liaison activities within FDA and between FDA, the Department, PHS, and other agencies; and analyzes the legislative needs of FDA and drafts or develops legislative proposals, position papers, and Departmental reports on proposed legislation for approval by the Commissioner.

Advises and assists Members of Congress and congressional committees and staffs, in consultation with the Office of the Secretary, on Agency actions, policies, and issues related to legislation which may affect FDA.

2. Insert a new paragraph (e), *Office of Public Affairs (HFAJ)* reading as follows:

(e) *Office of Public Affairs (HFAJ).* Advises and assists the Commissioner and other key officials on all public information programs; acts as the focal point for disseminating news on FDA activities and as a liaison with PHS and the Department on pubic information programs.

Plans, develops, implements, and monitors policy and programs on Agency media relations and consumer information and education programs conducted through the media, FDA's consumer affairs officers, and other communications sources.

Plans, develops, produces, and publishes Agency publications and graphic arts materials.

Coordinates Agency implementation of the Freedom of Information (FOI) Act and the Privacy Act. Processes requests for information under FOI. Executes FOI denial authority for the Agency.

Dated: August 20, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 85-20431 Filed 8-26-85; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Sections SK.00, SK.10, and SK.20 of the SSA statement as most recently published in the Federal Register on August 14, 1981 (46 FR 41215–17), describes the mission, organization and functions of the Office of Refugee Resettlement (ORR). Notice is given that Part S is being amended to reflect the following changes in the organization and functions of ORR. First, the Office of Public Affairs is being abolished. Second, the Division of Resettlement is being abolished. Third, the Division of Special Operations is being abolished. Fourth, the Florida Office, as an outstationed component of headquarters, is being established. This Office will exercise, for the State of Florida, those duties and responsibilities normally exercised by regional offices (ROs) of ORR. It will also provide informational and referral services to refugees, service providers and State agencies in the State of Florida. Fifth, some changes are being made in the functions of the Division of Financial Management and Administration, as indicated in the revised functional statement. Sixth, some changes are being made in the functions of the Division of Operations, as indicated in the revised functional statement. Lastly, some changes are being made in both the organization and functions of the ROs of ORR. The ten standard ROs will be reduced to seven, with the Region I Office assuming all functions of the Region II Office; the Region VIII Office assuming all functions of the Region VII Office; and the Region IV Office assuming all functions of the Region III Office. A single representative will remain in each abolished RO to perform, as an outstationed employee of the consolidated office, certain contact and coordinating responsibilities for the State in which the representative is stationed. Changes in the functions of the ROs are reflected in the revised functional statement.

The amendments are as follows:

Sec. SK.10 *Office of Refugee Resettlement*—(Organization)

Delete: *Office of Public Affairs* ( )

Delete: *Division of Resettlement* ( )

Delete: *Division of Special Operations* ( )

Add: *Florida Office* ( )

Sec. SK.20 *Office of Refugee Resettlement*—(Function)

Delete: 2. Office of Public Affairs ( )

Redesignate: 3. as 2. and revised to read:

2. *Division of Financial Management and Administration* ( ):

Formulates estimates for refugee and entrant program and administrative budgets. Supervises the preparation of budget briefing materials for budget presentation. Performs budget execution responsibilities which include: reviewing the budget approved by the Congress; recommending a financial plan for its execution; making funds and personnel allocations to ORR headquarters and regional offices (ROs) within guidelines of the approved financial plan; maintaining budgetary controls to ensure observance of established ceiling on both funds and personnel and monitoring compliance therewith and preparing requests for apportionment of appropriated funds.

Is responsible for control of funds for grants to States and other participating organizations and control of the Federal refugee and entrant program administrative budgets. Provides administrative support and services to ORR headquarters. Coordinates ORR's RO reviews of grantee financial management under the State-administered refugee and entrant programs and trains regional staff to meet their financial monitoring responsibilities. Provides advice and assistance on grant and financial management issues to the ROs and State agencies.

Provides centralized management and administration of ORR categorical grant programs. Ensures that the solicitation, review, award and administration of categorical grants conforms with applicable statutes, regulations and policies in financial and administrative areas. Serves as the only official ORR receipt point for all categorical grant applications, as well as categorical and State-administered financial status submissions and program progress reports.

Redesignate: 4. as 3. and revise to read:

3. *Division of Operations* ( ): Provides direction for the operation and implementation of the ORR refugee and entrant domestic assistance programs. Has overall technical assistance and monitoring responsibility for the State-administered domestic assistance programs and develops guidance and procedures for the implementation of these responsibilities. Designs strategies for providing technical assistance to State and local agencies, refugee/entrant self-help groups and voluntary agencies. Recommends, to the Director, service priorities to be initiated as demonstration or pilot projects designed to promote the self-sufficiency and social/economic integration of refugees/entrants. Oversees the progammatic implementation of grants and contracts associated with national and regional discretionary activity.

Has responsibility for implementing and monitoring other domestic assistance and service initiatives undertaken by ORR, such as the voluntary agency program, targeted assistance, alternative resettlement strategies and other activities as specified by the Director or required by Congressional mandate.

Plans and guides an ongoiong monitoring program carried out through ORR's field operations, trains regional and field staff to carry out their monitoring responsibilities and reviews and assesses performance of field operations in carrying out monitoring requirements. Provides direction to the field in reviewing and approving State plans, and monitors State systems to ensure compliance with ORR policies with respect to cash and medical assistance and social services programs. Has overall management responsibility for field operations, including regional and Florida Offices.

Redesignate: 5. as 4.

4. *Division of Policy and Analysis* ( )

Delete: 6. *Division of Resettlement* ( )

Delete: 7. *Division of Special Operations* ( )

Redesignate: 8. as 5. and revise to read:

5. *Regional Office of Refugee Resettlement* ( ): (Located at seven geographical locations throughout the United States.) Provide supervision and technical direction for the refugee and entrant programs carried out by State agencies responsible for refugee/entrant domestic assistance programs; and in accordance with direction and guidance provided by the national office, establish regional program priorities, supply oversight and guidance to regional operations staff and coordinate State and, where necessary, local resettlement activity to ensure compliance with national resettlement policy. Participate in meetings with public and private agencies involved with refugee resettlement and facilitate communication and information exchange among key actions in State and local resettlement programs. Act as primary contact with State and local governments, voluntary resettlement agencies and refugee self-help groups in the region.

Periodically, assess quality of State and local resettlement services and advise headquarters of State and local resettlement problems and appropriate corrective action. Serve as focal point for information and advice to headquarters in the formulation and implementation of national resettlement policy. Assist States in the development of State plans and review same to ensure that national policy requirements are observed and that domestic assistance resources are being effectively deployed to serve refugees. In carrying out this function: (a) Provide technical assistance to State social service agencies and monitor State agency service delivery systems to assure compliance with Federal policy and effective use of social services in meeting the needs of refugees and entrants in the region; (b) periodically review State program operations to ensure that Federal funds are being used effectively; (c) facilitate coordination between refugee specific services and other Federal programs which are relevant to refugee/entrant needs; (d) perform financial reviews of State-administered program and recommend to headquarters any corrective action required and (e) exercise overall financial management responsibility for ORR in the region in accordance with nationally prescribed policies and procedures. Assist national office with policy formulation and program implementation and carry out oversight for such special national initiatives as targeted assistance, placement policy and quarterly consultations. Generally, act on behalf of the Director of ORR on all matters and issues requiring ORR leadership and direction in the field.

Add: 6. *Florida Office* ( )

6. *Florida Office* ( ): As an outstationed headquarters component, provides information and referral services, consistent with available resources, to refugees/entrants, service providers and State agencies in the State of Florida. In addition, carries out those ORR duties and responsibilities outlined above under Regional Office of Refugee Resettlement with respect to the State of Florida.

Dated: August 13, 1985.

Nelson Sabatini,

Acting Deputy Commissioner for Management and Assessment.

[FR Doc. 85-20422 Filed 8-26-85; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-85-802; FR-2145]

Redelegation of Authority for the Housing Development Grant Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Notice of Redelegation of Authority.

SUMMARY: Assistant Secretary for Housing—Federal Housing Commissioner is redelegating to the Deputy Assistant Secretary for Multifamily Housing Programs specific responsibility and authority with respect to the Housing Development Grant Program, authorized under section 17 of the U.S. Housing Act of 1937, (42 U.S.C. 1437o).

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Housing Development Grant Divisions, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-6142 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 301 of the Housing and Urban Rural Recovery Act of 1983 amended the U.S. Housing Act of 1937 by adding section 17 which, among other matters, provides the Secretary of Housing and Urban Development with the authority to make development grants for the new construction or substantial rehabilitation of residential rental housing in accordance with the requirements set forth in that section. Grants are to be made to eligible grantees on the basis of applications submitted to and approved by the Secretary in accordance with statutory criteria and regulations prescribed by the Secretary. On December 6, 1984 (49 FR 47656), the Secretary delegated all his authority under section 17 to the Assistant Secretary for Housing—Federal Housing Commissioner. That delegation also authorized the Assistant Secretary to redelegate the authority granted, except the authority to issue rules and regulations, to other employees of the Department. The Assistant Secretary for Housing—Federal Housing Commissioner is exercising the authority to redelegate specific authority under section 17 to the Deputy Assistant Secretary for Multifamily Housing Programs as follows:

Section A. Authority Redelegated

The Deputy Assistant Secretary for Multifamily Housing Programs shall exercise all the power and authority of the Assistant Secretary for Housing—Federal Housing Commissioner with respect to the Housing Development Grant Program, pursuant to section 17 of the U.S. Housing Act of 1937, except for the authority to issue rules and regulations, to make program and project funding decisions, to make project termination or cancellation decisions and to waive program requirements. This authority shall include but not be limited to execution of project grant agreements.

Section B. Authority to Redelegate

The Deputy Assistant Secretary for Multifamily Housing Programs may designate the Director for the Office of Elderly and Assisted Housing to exercise, in the absence of the Deputy Assistant Secretary for Multifamily Housing Programs, the power and authority delegated by Section A, including execution of project-specific grant agreements.

Authority: Sec. 17, U.S. Housing Act of 1937, (42 U.S.C. 1437o); section 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

Dated: August 22, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-20414 Filed 8-26-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Ordinance Providing for the Introduction, Use and Distribution of Alcoholic Beverages; Sault Ste. Marie Tribe of Chippewa Indians

August 12, 1985.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. 4-15-85 was duly adopted by the Sault Ste. Marie Board of Directors on April 15, 1985. Resolution No. 4-15-85 provides for the introduction, use and distribution of alcoholic beverages within the areas of Indian country under the jurisdiction

of the Sault Ste. Marie Tribe of Chippewa Indians.

The ordinance reads as follows:

James S. Bregman,

Acting Deputy Assistant Secretary—Indian Affairs.

Resolution 4–15–85

Liquor Control Ordinance

Whereas, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized tribe organized under section 16 of the Reorganization Act [sic] of June 18, 1934, (25 U.S.C. 461) et seq.; and

Whereas, the Tribe is authorized under tribal and Federal law to regulate the possession and sale of liquor and alcoholic beverages within its reservation.

Whereas, the Tribe wishes to provide for the licensing and regulation of the liquor by means of the attached Tribe Liquor Control Ordinance. Now Therefore, Be It Resolved that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians hereby adopt the attached Sault Ste. Marie Tribe of Chippewa Indians Liquor Control Ordinance and submit the same to Michigan Agency, Bureau of Indian Affairs for appropriate federal approval.

Certification

We, the udersigned, as Chairman and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom 9 members, constituting a quorum were present at a meeting thereof duly called, noticed, convened and held on the 15th day of April, 1985, affirmative vote of 8 members for, and 0 against, and 1 abstaining; and that said resolution has not been recinded [sic] or amended in any way.

Joseph K. Lumsden,

Chairman, The Sault Ste. Marie Tribe of Chippewa Indians.

Barbara Pine,

Secretary, The Sault Ste. Marie Tribe of Chippewa Indians.

The Sault Ste. Marie Tribal Liquor Control Ordinance

Be it ordained by the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians:

1.1 *Title*—This Ordinance shall be known as the Saute Ste. Marie Tribal Liquor Control Ordinance.

1.2 *Authority*—This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83–277, 67 Stat. 588 [sic, 586], 18 U.S.C. 1161) which provides that federal Indian liquor laws shall be inapplicable to any act or transaction within any area of Indian country provided such act or transaction [sic, is in conformity both with the laws of the State in which such act or transaction] occurs and with an ordinance duly adopted by the Tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior and published in the **Federal Register.**

1.3 *Purpose*—The purpose of this Ordinance is to regulate and control the possession and sale of liquor on the Sault Ste. Marie Tribe of Chippewa Indians Reservation. The enactment of tribal ordinance governing liquor possession and sales on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and at same time will provide an important source of revenue for the continued operation and strengthing of a tribal government and the delivery of tribal government services.

1.4 *Effective Date*—This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register.**

1.5 *Abrogation and Greater Restrictions*—Where the ordinance imposes greater restrictions than those contained in other tribal ordinances controlling the possession and sale of liquor, the provisions of this ordinance shall govern.

1.6 *Interpretation*—In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the tribe and shall not be deemed a limitation or repeal of any other tribal power or authority.

1.7 *Severability and Non-Liability*—If any section, provision or portion of this ordinance is adjudged unconstitional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe assets there is no liability on the part of the Sault Ste. Marie Tribe of Chippewa Indians, its agencies or employees for damages that may occur as a result of reliance upon, and conformance with this ordinance.

1.8 All other ordinances or parts of ordinances of the Tribe inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

1.9 *Relation to Other Laws*—All acts and transactions under this ordinance shall be in conformity with this ordinance and in conformity with the laws of the State of Michigan as that term is used in 18 U.S.C. 1161.

1.10 *Violation*—The introduction, purchase sale or dealing in liquor, other than when done pursuant to license under this ordinance, is prohibited and is a violation of tribal law. The federal Indian liquor laws are intended to remain applicable to any act or transaction which is not authorized by this ordinance. Violations of this ordinance by any person shall be subject to federal prosecution as well as to legal action in accordance with tribal law.

1.11 This ordinance is adopted pursuant to the authority contained in Article VII, section 1(g) of the Tribal Constitution.

Section 2.0—Definitions

2.10 *General Definitions*—For the purposes of this ordinance, the following definitions shall be used. Words used in the present tense include the future; The singular includes the plural; and the plural includes the singular. The word "shall" is mandatory and the word "may" is permissive.

2.20 *Specific Words and Phrases*

2.21 *"Intoxicating Liquors."*—All ardent, spirituous, distilled, or vinous liquids, or compounds, whether medicated, proprietary, patented or not and by whatever name called containing one-half percent or more alcohol by volume, which are fit for use for beverage purposes, but shall not include beer or wine.

2.22(a) *"Beer"*—Means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract hops and pure barley malt or other wholesome grain or cereal in pure water included ale, stourt [sic, stout], and porter.

2.22(b) *"Wine"—Means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, to which any saccarine substances may have been added before, during, or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines spirits, such as port, sherry, muscatel, and angelica, not exceeding seventeen percent of alcohol by weight.*

2.23 *"Sale" and "Sell"*—Include the exchange, barter, traffic, donation, with or without consideration in addition to the selling, supplying or distributing, by any means whatsoever, or [sic, of] intoxicating liquors or beer or wine by any person to any person or corporation; and, also includes a sale or selling within an area or tribal jurisdiction to a foreign consignee or his agent.

2.24 *"Class A Retailer License"*—Shall mean the granting of authority to sell beer or wine only to be consumed on the premises where sold.

2.25 *"Class B Retailers License"*—Shall mean the granting of authority to sell beer or wine only to be consumed away from the premises where sold.

2.26 *"Class A Retail Intoxicating Liquor License"*—Shall mean granting authority to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

2.27 *"Class B Retail Intoxicating Liquor License"*—Shall mean the granting of authority to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and not in the original package or container.

2.28 *"Temporary License"*—Shall mean a license for a term of no more than 7 days of any of the types defined in 2.24, 2.25, and 2.27.

2.29 *"Package"*—Means the original container or receptacle used for holding intoxicating liquor or fermented malt beverages.

2.30 *"Council"*—Means the Sault Ste. Marie Chippewa Tribal Board of Directors.

2.31 *"Reservation"*—Means the Sault Ste. Marie Tribe of Chippewa Indians.

3.0 Sovereign Immunity

3.10 Nothing in this ordinance is intended nor shall be construed as a waiver of the sovereign immunity of the Chippewa Indians. No employee or agent of the Tribe shall be authorized nor shall he and [sic] she attempt to waive the immunity of the Tribe.

4.0 Liquor Licenses and Fees

4.10 The Tribal Council may issue to an applicant any one or combination of the following licenses: Class A Retailers License; Class B Retailers License; Class A Retail Intoxicating Liquor License; Class Be [sic, B] Retail Intoxicating Liquor License, and a temporary license of any of the above types. The fee for any of the above license[s] with the exception of the temporary license shall be—— for one license and —— for two or more licenses. The fee for a temporary license shall be ——.

5.0 Liquor Licenses

Issuance, Refusal, Suspension, Cancellation, Condtions and Restrictions.

5.10 Issuance

5.11 The Tribal Council shall, in its discretion, determine how many liquor licenses it shall issue or have outstanding in any one year.

5.12 Application for all licenses shall be submitted in the prescribed form to the Tribal Council or its authorized employees. The Tribal Council shall designate a committee to review and recommended to the Tribal Council whether the license shall be issued.

5.13 At a minimum, the application for any liquor license authorized by this ordinance must be in writing, setting forth the following information: applicant's name, address, age and tribal affiliation (if any); type(s) of license(s) desired; a legal action description of the land where the licensed activity will take place; prior liquor licenses held; prior felony convictions; owner of land and premise where the licensed activity will take place.

5.14 An application for a liquor license must be accompanied by a nonreturnable application fee of $25.00. There shall be no application fee for a temporary license.

5.15 The Tribal Council has complete discretion in the granting or denial of all licenses.

5.16 All new license requests will be acted upon by the Tribal Council within 45 days from the time when the application and fee were submitted to the Tribal Council.

5.17 For the purposes of considering an application for a license under this ordinance, the Tribal Council may cause an inspection of the premises to be made, and may require [sic] into all matters in connection with the construction and operation of the premises.

5.18 Every license shall be issued in the name of the applicant and no license shall be transferable, no shall the holder thereof allow any other person to use the license or permit.

5.19 Every licensee shall post and keep its license in a conspicuous place on the premises.

5.20 Inspection

5.21 All licensed premises used in the storage or sale of intoxicating liquor or fermented malt beverages, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business shall at all times be open to inspection by any tribal or federal inspector or tribal or federal police officer.

5.22 Every person, being on any such premises and having charge thereof, who refuses or fails to admit a tribal or federal inspector or tribal or federal police officer demanding to enter therein in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such inspector or officer, shall therey be deemed to have violated this ordinance.

5.30 Suspension and Cancellation

5.31 The Tribal Council may, for violation of this ordinance, issue a suspension or cancellation order of any license issued pursuant to this ordinance and all rights of the licensee to keep or sell thereunder shall be suspended or terminated as the case may be..

5.32 Procedure—At least ten (10) days prior to the effective date of the order to cancel or suspend, the Tribal Council shall provide written notice of such cancellation or suspension by certified mail, return receipt requested to the licensee at the address shown on the application. A licensee who receives a written notice of suspension or cancellation shall have the right prior to the suspension or cancellation date to request a hearing by the Tribal Council by sending written notice by certified mail with return receipt to the Tribal Chairperson at the Sault Ste. Marie Tribe Office at 206 Greenough Street, Sault Ste. Marie, Michigan 49783 within the ten (10) day period between notice of the cancellation or suspension order. Upon receipt of the request for hearing, the Tribal Council shall not suspend or cancel the license pending the completion of the hearing. The Tribal Chairperson shall set a date for said hearing which shall be held within thirty (30) days of receipt of the licensee's request for a hearing. The council may affirm or revise in whole or part its decision to cancel or suspend said license or permit after said hearing and its decision shall be final.

5.33 Upon suspension or cancellation of a license, the licensee shall forthwith deliver the license to the Tribal Council and cease all activities formerly conducted pursuant to the terms of the license. Where the license has been suspended, the Tribal Council shall return the license to the licensee at the expiration or termination of the period of suspension.

5.34 Licenses may be suspended by the Tribal Council for a period not to exceed 60 days.

5.35 The Tribal Council may reject any application for license renewal for any violation of this ordinance resulting in a suspension or revocation of said permit.

5.40 *Expiration of Licenses*

5.41 Unless sooner cancelled, every license issued by the Tribal Council shall expire at midnight on the 31st day of December.

5.50 Renewal

5.51 Applications for license renewals for the next calendar year must be submitted to the Tribal Council on or before November 15 of the preceding year. Applications for renewals shall contain the same information required for new licenses. The Tribal Council will act on all

renewal applications on or before December 15.

5.52 The Tribal Council shall not be liable for any losses incurred by the licensee resulting from cancellation, suspension or non-renewal of a license.

6.0 Illegal Activities

6.10 State laws relative to the hours to which sales are permitted shall apply to all establishments licensed under this ordinance.

6.20 All sales shall be prohibited to any person known or believed to be intoxicated.

6.30 All sales shall be prohibited to any person under the age of twenty-one (21). All sales shall be prohibited to individuals known or believed to be purchasing on behalf of any person under the age of twenty-one (21). Any person may be required to present Michigan identification card which shows correct age and bears the holder's signature.

6.40 Where a liquor license is required by this ordinance, all sales of intoxicating liquor and fermented malt beverages within the exterior boundaries of the Sault Ste. Marie Indian Reservation without a license issued pursuant to this ordinance are illegal.

7.0 Contraband-seizure and Forfeiture

7.10 All intoxicating liquor and fermented malt beverages within the Indian Reservation held, owned, or possessed by a person who is operating in violation of any provision(s) of this ordinance is hereby declared to be contraband. The Tribal Council may issue a request to proper federal authorities requesting the enforcement of Federal Liquor Laws including seizure of contraband liquor and fermented malt beverages.

8.0 Violations-remedies

8.10 Any person found to have violated this ordinance or any lawful rule or regulation made pursuant thereto shall be liable for a civil remedial fine not exceed [sic] five hundred dollars ($500.00).

8.20 Consistent with *United States* v. *Wheeler*, 435 U.S. 313 (1978), nothing shall prevent both federal and tribal jurisdiction to enforce this ordinance.

8.30 Nothing in this ordinance shall be construed to exercise tribal jurisdiction over non-Indians to an extent inconsistant [sic] with the decision in *Oliphant* v. *Suquamish* 435 U.S. 191 (1978).

9.0 Regulations

9.10 The Tribal Council shall have the authority to adopt and enforce rules and regulations to implement this ordinance and further the purposes thereof. This section grants the Tribal Council the authority to revise license fees when necessary.

10.0 Amendment

10.10 This ordinance may be amended by a majority vote of the Tribal Council and approved by the Secretary of the Interior.

[FR Doc. 85-20401 filed 8-26-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Motor Vehicles; Emergency Limitation of Off-Road Travel Within Wilderness Study Areas (WSA) in Hidalgo, Grant and Luna Counties, NM

AGENCY: Bureau of Land Management (BLM), Las Cruces District, New Mexico, Interior.

ACTION: Off-Road Vehicles on WSAs.

DATE: August 4, 1985.

ADDRESS: Bureau of Land Management, 1800 Marquess Street, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, Bureau of Land Management, 1800 Marquess Street, Las Cruces, New Mexico 88005, (505) 525-8228.

Notice is hereby given that effective immediately all vehicles are limited to travel only on existing roads and ways within the following WSAs: Cowboy Spring, NM-030-007; Gila Lower Box, NM-030-023; Blue Creek, NM-030-026; Cooke's Range, NM-030-031; Florida Mountains, NM-030-034; Big Hatchet Mountains, NM-030-035; Alamo Hueco Mountains, NM-030-038; and Cedar Mountains; NM-030-042.

The purpose of this designation is to prevent impairment of the existing wilderness values within these WSAs which will be caused by off-road travel.

The authority for this closure is 43 CFR 8341.2. This designation will remain in effect until Congress releases these areas from wilderness consideration.

H. James Fox,

District Manger.

[FR Doc. 85-20405 Filed 8-26-85; 8:45 am]

BILLING CODE 4310-FB-M

Wyoming; Worland District Advisory Council Meeting

AGENCY: Bureau of Land Management, Worland District Office, Worland, Wyoming, Interior.

ACTION: Meeting of the Worland District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 91-463, 94-579, and 95-514, and 43 CFR Part 1780, that a meeting of the Worland District Advisory Council will be held on September 24, 1985.

The topic of the meeting is the Washakie Resource Management Plan (RMP). The entire meeting will be devoted to a tour of a portion of the Washakie Resource Area. The purpose of the tour is to visit areas on the West Slope of the Bighorn Mountains where there are representative examples of conflicts discussed in the Washakie RMP.

The tour will leave from the office of the District Ranger, U.S. Forest Service, Paint Rock Ranger District, 1220 North 8th, Greybull, Wyoming, at 7:30 a.m., on Tuesday, September 24, 1985. The tour will return to Greybull at about 5:30 p.m. In case of inclement weather, the tour will be rescheduled for Thursday, September 26, 1985. All other arrangements will remain unchanged.

The meeting is open to the public. Persons attending the meeting must provide their own transportation and lunch. Because travel will be on unimproved roads, a four-wheel drive or high clearance two-wheel drive vehicle will be needed.

DATE: Tuesday, September 24, 1985, 7:30 a.m. (Alternate date: Thursday, September 26, 1985, 7:30 a.m.).

Location: Meet at the Office of the District Ranger, U.S. Forest Service, Paint Rock Ranger District, 1220 North 8th, Greybull, Wyoming.

FOR FURTHER INFORMATION CONTACT: David Stout, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, Telephone: (307) 347-9871.

Chester E. Conard,

District Manager.

[FR Doc. 85-20454 Filed 8-26-85; 8:45 am]

BILLING CODE 4310-22-M

[AA-8448-A, AA-8448-B]

Alaska Native Claims Selection; Leisnoi, Inc.

In accordance with the Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Leisnoi, Inc. for approximately 3,647.88 acres. The lands

involved are within the vicinity of Woody Island, Alaska.

Seward Meridian, Alaska

T. 27 S., R. 18 W.
T. 28 S., R. 18 W.
T. 27 S., R. 19 W.
T. 28 S., R. 19 W.
T. 29 S., R. 21 W.

A notice of the decision will be published once a week for four (4) consecutive weeks in the Kodiak Daily Mirror. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 26, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–20428 Filed 8–26–85; 8:45 am]

BILLING CODE 4310–JA–M

[AA–8448–B]

Alaska Native Claims Selection; Leisnoi, Inc.

In accordance with the Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Leisnoi, Inc. for approximately 42,175.11 acres. The lands involved are within the vicinity of Woody Island, Alaska.

Seward Meridian, Alaska

T. 29 S., R. 18 W.
T. 30 S., R. 19 W.
T. 29 S., R. 19 W.
T. 30 S., R. 19 W.
T. 29 S., R. 20 W.
T. 30 S., R. 20 W.
T. 29 S., R. 21 W.
T. 30 S., R. 21 W.

A notice of the decision will be published once a week for four (4) consecutive weeks in the Kodiak Daily Mirror. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 26, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–20429 Filed 8–26–85; 8:45 am]

BILLING CODE 4310–JA–M

Minerals Management Service

Alaska Outer Continental Shelf; Availability of the Environmental Assessment for the Modification of the Aleutian Island Deferral Alternative, Oil and Gas Lease Sale 89, St. George Basin, AK

The regulations, 40 CFR 1502.9(c)(1), for implementing the National Environmental Policy Act, as amended, require that a Federal agency "shall prepare supplements to either the draft or final environmental impact statements (EIS's) if: (i) The Agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts."

The alternative selected for the Proposed Notice of Sale for proposed Sale 89, St. George Basin, was not specifically identified in the final environmental impact statement (EIS) for this sale. This alternative (Alternative VII) would defer the offering of 984 blocks. This includes all but 49 blocks in the Aleutian Island alternative VI. An environmental assessment (EA) has been prepared which analyzes the effects of Alternative VII in comparison with the proposal, Alternative I.

The Minerals Management Services has reviewed the information in the EA and the information in the final EIS for this proposed sale and determined that a supplemental EIS is not required. Copies of the EA may be obtained by written request to Minerals Management Service, Ofshore Environmental Assessment Division, Room 2528, MS–644, 18th and C Streets, NW., Washington, D.C. 20240, or by telephone request to Richard Miller, Minerals Management Service, Environmental Evaluation Branch, (202) 343–6264.

Dated: August 22, 1985.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 85–20427 Filed 8–26–85; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Alabama, et al.; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 17, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 11, 1985.

Patrick Andrus,

Acting Chief of Registration, National Register.

ALABAMA

Houston County

Ashford, *Alabama Midland Railway Depot,* Midland St.

Montgomery County

Montgomery, *Cloverdale Historic District,* Roughly bounded by Norman Bridge & Cloverdale Rd., Fairview & Felder Aves. and Boultier St.

Randolph County

Roanoke, *Roanoke Downtown Historic District,* Roughly bounded by White, Main, West Point, La Monte, Chestnut & Louina Sts.

ARIZONA

Maricopa County

Phoenix, *Security Building,* 234 N. Central

ARKANSAS

Garland County

Couchwood (The Arkansas Sculptures of Dionicio Rodriguez TR)
Little Switzerland (The Arkansas Sculptures of Dionicio Rodriguez TR)

Pulaski County

Crestview Park (The Arkansas Sculptures of Dionicio Rodriguez TR)

Lakewood Park (The Arkansas Sculptures of Dionicio Rodriguez TR)
Pugh, T. R., Memorial Park (The Arkansas Sculptures of Dionicio Rodriguez TR)

Stone County

Big Springs, *Anderson, George, House (Stone County MRA)*, W of Big Springs
Big Springs, *Avey, John, Barn (Stone County MRA)*, Off AR 66
Big Springs, *Gammill, Orvall, Barn (Stone County MRA)*, NW of Big Springs
Eact Richwoods, *Mabry, H. S., Barn (Stone County MRA)*, Near Johnson Creek
Marcella vicinity, *Taylor-Stokes House (Stone County MRA)*, Off AR 14
Marcella, *Abernathy, Jessie, House (Stone County MRA)*, Off AR 14
Marcella, *Doughtery, H. J., House (Stone County MRA)*, AR 14
Marcella, *Hess, Binks, House and Barn (Stone County MRA)*, Off AR 14
Marcella, *Hess, Thomas M., House (Stone County MRA)*, Off AR 14
Marcella, *Marcella Church & School (Stone County MRA)*, AR 14
Marcella, *Martin, Owen, House (Stone County MRA)*, AR 14
Melrose, *Gray, Walter, House (Stone County MRA)*, Off AR 14
Mountain View vicinity, *Clark-King House (Stone County MRA)*, NE of Mountain View
Mountain View vicinity, *McCarn, Noah, House (Stone County MRA)*, AR 5
Mountain View, *Brewer's Mill (Stone County MRA)*, AR 66
Mountain View, *Brewer, A. B., Building (Stone County MRA)*, AR 66
Mountain View, *Brewer, John F., House (Stone County MRA)*, AR 9
Mountain View, *Case, C. B., Motor Co. Building (Stone County MRA)*, AR 66
Mountain View, *Commercial Hotel (Stone County MRA)*, Off AR 66
Mountain View, *Dew Drop Inn (Stone County MRA)*, Off AR 66
Mountain View, *Farmers and Merchants Bank (Stone County MRA)*, AR 66
Mountain View, *Lackey General Merchandise and Warehouse (Stone County MRA)*, AR 66
Mountain View, *Lancaster, John L., House (Stone County MRA)*, Off AR 66
Mountain View, *Smith, C. L., & Son General Store (Stone County MRA)*, AR 66
Mountain, View, *Stegall General Store (Stone County MRA)*, AR 66
Mountain View, *Stone County Recorder Building (Stone County MRA)*, Off AR 66
Newnata, Anderson, *Clarence, Barn (Stone County MRA)*, AR 66
Old Lexington, *Guffey Joe, House (Stone County MRA)*, AR 110
Onia vicinity, *Bluff Springs Church and School (Stone County MRA)*, 3.5 miles W of Onia
Onia vicinity, *Roosting Ear Church and School (Stone County MRA)*, NE of Onia
Optimus vicinity, *Jeffery, Miles, Barn (Stone County MRA)*, Off AR 5
Pleasant Grove vicinity, *Davis Barn (Stone County MRA)*, W of Pleasant Grove
Pleasant Grove vicinity, *Ford, Zachariah, House (Stone County MRA)*, Near White River
Pleasant Grove, *Bettis, John, House (Stone County MRA)*, AR 14
Pleasant Grove, *Copeland, Henry, House (Stone County MRA)*, AR 14
Round Bottom, *Dillard, William, Homestead (Stone County MRA)*, Near White River
Round Bottom, *Lancaster, Fred, Barn (Stone County MRA)*, Near White River
St. James, Pruitt, *Pinkey, Barn (Stone County MRA)*, AR 14
Timbo vicinity, *Copeland, Wesley, House (Stone County MRA)*, SE of Timbo
Timbo, *Morris, Jim, Barn (Stone County MRA)*, AR 66
Turkey Creek, *Turkey Creek School (Stone County MRA)*, AR 9
West Richwoods, *Brown, Samuel, House (Stone County MRA)*, Off AR 9
West Richwoods, *West Richwoods Church & School (Stone County MRA)*, AR 9

CALIFORNIA

Alameda County

Pleasanton, *Kottinger, John W., Adobe Barn*, 200 Ray St.

Los Angeles County

Los Angeles, *Angelus Mesa Branch (Los Angeles Branch Library System TR)*, 2700 W. Fifty-second St.
Los Angeles, *Cahuenga Branch (Los Angeles Branch Library System TR)*, 4591 W. Santa Monica Blvd.
Los Angeles, *Dana, Richard Henry, Branch (Los Angeles Branch Library System TR)*, 3320 Pepper St.
Los Angeles, *De Neve, Felipe, Branch (Los Angeles Branch Library System TR)*, 2820 W. Sixth St.
Los Angeles, *Eagle Rock Branch Library (Los Angeles Branch Library System TR)*, 2224 Colorado Blvd.
Los Angeles, *Fremont, John C., Branch (Los Angeles Branch Library System TR)*, 6121 Melrose Ave.
Los Angeles, *Irving, Washington, Branch (Los Angeles Branch Library System TR)*, 1803 S. Arlington Ave.
Los Angeles, *Jackson, Helen Hunt, Branch (Los Angeles Branch Library System TR)*, 2330 Naomi St.
Los Angeles, *Jefferson Branch (Los Angeles Branch Library System TR)*, *2211* W. Jefferson Blvd.
Los Angeles, *Lincoln Heights Branch (Los Angeles Branch Library System TR)*, 2530 Workman St.
Los Angeles, *Malabar Branch (Los Angeles Branch Library System TR)*, 2801 Wabash Ave.
Los Angeles, *Memorial Branch (Los Angeles Branch Library System TR)*, 4645 W. Olympic Blvd.
Los Angeles, *Moneta Branch (Los Angeles Branch Library System TR)*, 4255 S. Olive St.
Los Angeles, *Muir, John, Branch (Los Angeles Branch Library System TR)*, 1005 W. Sixty-Fourth St.
Los Angeles, *North Hollywood Branch (Los Angeles Branch Library System TR)*, 5211 N. Tujunga Ave.
Los Angeles, *Stevenson, Robert Louis, Branch (Los Angeles Branch Library System TR)*, 803 Spence St.
Los Angeles, *Van Nuys Branch (Los Angeles Branch Library System TR)*, 14553 Sylvan Way
Los Angeles, *Venice Branch (Los Angeles Branch Library System TR)*, 610 California Ave.
Los Angeles, *Vermont Square Branch (Los Angeles Branch Library System TR)*, 1201 W. Forty-eighth St.
Los Angeles, *Wilmington Branch (Los Angeles Branch Library System TR)*, 309 W. Opp St.
Los Angeles, *Wilshire Branch (Los Angeles Branch Library System TR)*, 149 N. St. Andrews Pl.
Pasadena, *Culbertson, Cordelia A., House*, 1188 Hillcrest Ave.

Marin County

Sausalito, *Griswold House*, 639 Main St.

Monterey County

Big Sur vicinity, *Post, Joseph W., House*, CA 1.

Napa County

Napa, *Gordon Building*, 1130 First St.

Nevada County

Nevada City, *Nevada Brewery*, 107 Sacrameto St.
Nevada City, *Nevada City Downtown Historic District*, Roughly bounded by Spring, Bridge, Commercial, York, Washington, Coyote, and Main Sts.

Orange County

Irvine, *Irvine Bean and Growers Association Building*, 14972 Sand Canyon Ave.

San Francisco County

San Francisco, *House at 584 Page Street*, 584 Page St.

COLORADO

Denver County

Denver, *Country Club Historic District (Boundary Increase)*, Between Downing & University, E. 4th Ave. and N. of Alameda Ave.

CONNECTICUT

Fairfield County

Ridgefield, *Hugh Cain Fulling Mill and Elias Glover Woolen Mill Archaeological Site*, US 7

New Haven County

New Haven, *Hillhouse Avenue Historic District*, Bounded by Sachem, Temple, Trumbull, and Prospect Sts., Whitney and Hillhouse Aves. & RR tracks
New Haven, *Howard Avenue Historic District*, Properties along Howard Ave. between Interstate 95 and Cassius St.
New Haven, *Orange Street Historic District*, Roughly bounded by Whitney Ave., State, Eagle & Trumbull Sts.
New Haven, *Pinto, William, House*, 275 Orange St.
New Haven, *Trowbridge Square Historic District*, Roughly bounded by Columbus & Howard Aves., Loop Rd., Liberty St. & RR tracks

Windham County

Willimantic, *Willimantic Armory*, Pleasant St.

FLORIDA

Hillsborough County

Tampa, *Tampania House*, 4611 N. A St.

Sarasota County

Sarasota, *Whitfield, J. G., Estate*, 2704 Bayshore Dr.

GEORGIA

Banks County

Commerce vicinity, *Hebron Church, Cemetery, and Academy*, CR 3
Maysville, *Maysville Historic District*, Along E. Main, W. Main and Homer Sts.

Jackson County

Maysville, *Maysville Historic District*, Along E. Main, W. Main, and Homer Sts.

IDAHO

Bannock County

Pocatello, *Rice-Packard House*, 454 N. Hayes Ave.

Blaine County

Hailey, *Werthheimer Building*, 101 S Main St.

Custer County

Stanley vicinity, *Day, Ivan W., House*, Boise Meridian

Gooding County

Gooding, *Kelly's Hotel*, 112 Main

Kootenai County

Athol vicinity, *Cedar Mountain School (Kootanai County Rurals Schools TR)*, Parks & Lewellyn Creek Rd.
Bayview, *Bayview School II (Kootanai County Rural Schools TR)*, Careywood Rd.
Camb Mivoden vicinity, *East Hayden Lake School II (Kootanai County Rural Schools TR)*, Hayden Lake Rd.
Coeur D'Alene vicinity, *Prairie School II (Kootanai, County Rural Schools TR)*, Prairie Ave.
Hayden Lake vicinity, *Thunborg, Jacob and Cristina, House*, Chicken Point
Lane, *Lane School II (Kootanai County Rural Schools TR)*, Lanz Rd.
McGuire, *McGuires School (Kootanai County Rural Schools TR)*, Corbin Rd. & Old HW 10
Medimont vicinity, *Cave Lake School (Kooanai County Rural Schools TR)*, ID 3
Medimont vicinity, *Indian Springs School II (Kootanai County Rural Schools TR)*, ID 3
Pleasant View vicinity, *Pleasant View School II (Kootanai County Rural Schools TR)*, Pleasant View Rd.
Post Falls, vicinity, *Cougar Gulch School III (Kootanai County Rural Schools TR)*, Cougar Gulch Rd.
Rockford Bay vicinity, *Bellgrove School II (Kootanai County Rural Schools TR)*, Hamaker Rd.
Rose Lake, *Rose Lake School II (Kootanai County Rural Schools TR)*, Queen St. & ID 3
Silver Sands Beach vicinity, *Upper Twin Lakes School (Kootanai County Rural Schools TR)*, Twin Lakes Rd.

Owyhee County

Camas and Pole Creeks Archaeological District,

Twin Falls County

Buhl, *Hotel Buhl*, 1004 Main St.

Valley County

Thunder City vicinity, *Braddock Gold Mining and Milling Company Log Building and Forge Ruins*, Off Pack Trail near Suicide Rock

INDIANA

Gibson County

Weber Village Archaeological Site (12 Gi 13),

Marion County

Indianapolis, *Edwards-Aufderheide House*, 157 E. 71st St.

Montgomery County

Crawfordsville vicinity, *McClelland-Layne House*, 602 Cherry St.

Orange County

Paoli, *Lindley, Thomas Elwood, House*, Willow Creek Rd.

Posey County

Ashworth Archaelological Site (12 Po 7), Hovey Lake Archaeological District,
Mt. Vernon, *I.O.O.F. and Barker Buildings*, 402—406 Main St.

Putnam County

Greencastle vicinity, *Stoner, Lycurgus, House*, Manhattan Rd.

White County

Monticello, *South Grade School Building*, 565 S. Main St.

KENTUCKY

Franklin County

Archeological Site 15 FR 368,

MAINE

Androscroggin County

Mechanic Falls, *Seaverns, George, House*, 8 High St.

Cumberland County

Cundy's Harbor vicinity, *Union Hotel*, Cundy's Harbor Rd.

Penobscot County

Crono, *Old Fire Engine House*, N. Main St.

MARYLAND

Anne Arundel County

Millersville vicinity, *Rising Sun Farm*, 1090 Generals' HW

Baltimore (Independent city)

Fifth Regiment Armor (Maryland National Guard Armories TR), 219–247 W. Hoffman St.
Schuler, Hans, Studio and Residence, 5 E. Lafayette Ave.
Schwartze Mansion, 4206 Euclid Ave.

Baltimore County

Catonsville vicinity, *The Wilderness*, 2 Thistle Rd.
Monkton vicinity, *Corbett Historic District*, 1615—1827 Corbett Rd. & 16200—16225 Corbett Village Ln.
Pikesville, *Pikesville Armory (Maryland National Guard Armories TR)*, 610 Reisterstown Rd.
Towson, *Towson Academy (Maryland National Guard Armories TR)*, Washington St. & Chesapeake Ave.

Caraline County

Denton, *Denton Armory (Maryland National Guard Armories TR)*, *Maple Ave. & Randolph St.*

Carroll County

Sykesville, *Sykesville Historic District*, Main St., Springfield, Norwood & Mellor Aves.
Uniontown, *Uniontown Historic District*, Uniontown & Trevanion Rd.

Cecil County

Elkton, *Elkton Armory (Maryland National Guard Armories TR)*, Railroad Ave. & Bow St.

Frederick County

Frederick vicinity, *Widrick, George, House*, Ballenger Creek Pk.
Frederick, *Frederick Armory (Maryland National Guard Armories TR)*, Bentz & Second Sts.

Harford County

Bel Air, *Bel Air Armory (Maryland National Guard Armories TR)*, N. Main St.

Kent County

Chestertown, *Chestertown Armory (Maryland National Guard Armories TR)*, Quaker Neck Rd.

Queen Anne's County

Centreville, *Centreville Armory (Maryland National Guard Armories TR)*, S. Commerce St.
Church Hill vicinity, *Bishopton*, Pinder Hill Rd.

Somerset County

Crisfield vicinity, *Nelson Homestead*, Cash Corner & Hopewell-Bedsworth Rds.
Crisfield, *Crisfield Armory (Maryland National Guard Armories TR)*, Main St. Extended
Manokin vicinity, *Maddox, George, Farm*, River Rd.

Washington County

Hagerstown, *Hagerstown Armory (Maryland National Guard Armories TR)*, 328 N. Potomac St.

MASSACHUSETTS

Essex County

Peabody, *Washington Street Historic District*, Washington, Main Holton and Sewall Sts.

Middlesex County

Cambridge, *Reversible Collar Company Building (Cambridge MRA)*, 25–27 Mt. Auburn & 10–12 Arrow Sts.

MICHIGAN

Alger County

Munising vicinity, *Grand Island North Light Station*, Grand Island

Berrien County

Niles, *Old U.S. Post Office*, 322 E. Main St.

Cass County

Edwardsburg, *Mason District Number 6 Schoolhouse*, 17049 US 12

Gratiot County

Conservation Part Site (20GR33)
Holiday Park Site (20GR91)

Kalamazoo County

Kalamazoo, *Portage Street Fire Station*, 1249 Portage St.

Kent County

Grand Rapids, *Paddock, Augustus, House*, 1033 Lake Dr. SE

Livingston County

Brighton vicinity, *Westphal, August, Farmstead*, 6430 Brighton Rd.

Oakland County

Birmingtham, *Grand Trunk Western Railroad Birmingham Depot*, 245 S. Eton St.

St. Joseph County

Constantine, *Constantine Historic Commercial District*, Washington St. between Second and Water & Water St. between White Pigeon and 125 W. Water

Wayne County

Detroit, *River Place Complex*, Bounded by Joseph Campau Ave., Wight St., and McDougal Ave.

MONTANA

Cascade County

Great Falls, *Roberts Building*, 520–26 Central Ave.

Missoula County

Missoula, *Herzog, J.M. House*, 1210 Toole Ave.
Missoula, *Prescott, Clarence R., House*, University of Montana

NEBRASKA

Custer County

Broken Bow, *Arrow Hotel*, 509 S. Ninth Ave.

Dawes County

Crawford, *Co-operative Block Building*, 435–445 Second

Dodge County

Fremont, *Builock, Samuel, House*, 508 W. Military Ave.

Hall County

Grand Island, *Glade—Donald House*, 1004 W. Divison

Hamilton County

Aurora, *Royal Highlanders Building*, 1235 M St.

Jefferson County

Fairbury, *Fairbury Public-Carnegie Library*, 601 Seventh St.

Kearney County

Minden, *Thorne, W.T., Building*, Fifth St.

Lancaster County

Lincoln, *St. Charles Apartments*, 4717 Baldwin Ave.

Platte County

Hill-Rupp Site

Red Willow County

McCook, *McCook Public-Carnegie Library*, 423 Norris Ave.

Saline County

Friend, *Kiddle, Richard R., House*, 819 Eighth St.

NEVADA

Carson City (Independent City)
Smaill, David, House, 313 W. Ann St.

NEW HAMPSHIRE

Belknap County

Belmont, *Belmont Public Library*, Main St.
Laconia, *Evangelical Baptist Church*, Veterans Sq.
Laconia, *Gale Memorial Library*, 695 Main St.

Carroll County

Effingham, *Lord's Hill Historic District*, NH 153, Plantation & Hobbs Rds.

Coos County

Crawford House Artist's Studio

Grafton County

Lebanon, *Colburn Park Historic District*, N, S, E & W. Park Sts., Campbell School & Bank Sts. and Lebanon Mall
Lebanon, *Stone Arch Underpass*, Glen Rd.

Hillsborough County

Manchester, *St. George's School and Convent*, 12 Orange St.

Merrimack County

Hill vicinity, *Hill Center Church*, Hill Center Rd.
New London, *Whipple, Dr. Solomon M., House*, Main St.
Pembroke, *Pembroke Mill*, 100 Main St.

Rockingham County

Exeter, *Moses-Kent House*, 1 Pine St.

NEW JERSEY

Bergen County

Oradell, *Cooper, Thunise & Richard, House*, 606–610 Brookside Ave.

Hudson County

Hoboken, *Keuffel and Esser Manufacturing Complex*, 3rd, Grand & Adams Sts.

NEW MEXICO

San Miguel County

Las Vegas, *AT & SF Roundhouse (Las Vegas New Mexico MRA)*, NE of Grand Ave.
Las Vegas, *Acequia Madre (Las Vegas New Mexico MRA)*, Roughly from Gallinas River to intersection of S. Pacific & US 85
Las Vegas, *Angel, Arturo, House (Las Vegas New Mexico MRA)*, 926 S. Pacific
Las Vegas, *Arthur, Charles and Lewis, E. N., House (Las Vegas New Mexico MRA)*, Douglas Ave.
Las Vegas, *Baca-Korte House (Las Vegas New Mexico MRA)*, 615 S. Pacific
Las Vegas, *Blattman, Henry, House (Las Vegas New Mexico MRA)*, 1710 8th
Las Vegas, *Building at 1202 9th Street (Las Vegas New Mexico MRA)*, 1202 9th St.
Las Vegas, *Building at 1214 Bridge (Las Vegas New Mexico MRA)*, 1214 Bridge
Las Vegas, *Building at 1406 Romero (Las Vegas New Mexico MRA)*, 1406 Romero
Las Vegas, *Building at 2005 Montezuma (Las Vegas New Mexico MRA)*, 2005 Montezuma
Las Vegas, *Clevenger, Lowery, House (Las Vegas New Mexico MRA)*, 1013 2nd
Las Vegas, *Cook, James, House (Las Vegas New Mexico MRA)*, 1017 11th
Las Vegas, *Eldorado Hotel (Las Vegas New Mexico MRA)*, 514 Grand
Las Vegas, *First Baptist Church (Las Vegas New Mexico MRA)*, 700 University
Las Vegas, *Gatignole, Eugenio, House (Las Vegas New Mexico MRA)*, 1114 S. Gonzales
Las Vegas, *Herrero, Esperansa, House (Las Vegas New Mexico MRA)*, 2231 Church
Las Vegas, *House at 1007 11th Street (Las Vegas New Mexico MRA)*, 1007 11th St.
Las Vegas, *House at 1025 Railroad (Las Vegas New Mexico MRA)*, 1025 Railroad
Las Vegas, *House at 1114 10th (Las Vegas New Mexico MRA)*, 1114 10th
Las Vegas, *House at 1116 Columbia (Las Vegas New Mexico MRA)*, 1116 Columbia
Las Vegas, *House at 119 Railroad (Las Vegas New Mexico MRA)*, 119 Railroad
Las Vegas, *House at 12 Grand (Las Vegas New Mexico MRA)*, 12 Grand
Las Vegas, *House at 1221 San Francisco (Las Vegas New Mexico MRA)*, 1221 San Francisco
Las Vegas, *House at 1513 8th (Las Vegas New Mexico MRA)*, 1513 8th
Las Vegas, *House at 16 Grand (Las Vegas New Mexico MRA)*, 16 Grand
Las Vegas, *House at 1616 8th (Las Vegas New Mexico MRA)*, 1616 8th
Las Vegas, *House at 1717 8th (Las Vegas New Mexico MRA)*, 1717 8th
Las Vegas, *House at 2203 New Mexico (Las Vegas New Mexico MRA)*, 2203 New Mexico
Las Vegas, *House at 2501 Taos Alley (Las Vegas New Mexico MRA)*, 2501 Taos Alley
Las Vegas, *House at 309 Railroad (Las Vegas New Mexico MRA)*, 309 Railroad
Las Vegas, *House at 312 Tecolote (Las Vegas New Mexico MRA)*, 312 Tecolote
Las Vegas, *House at 508 University (Las Vegas New Mexico MRA)*, 508 University
Las Vegas, *House at 514 University (Las Vegas New Mexico MRA)*, 514 University
Las Vegas, *House at 521 S. Pacific (Las Vegas New Mexico MRA)*, 521 S. Pacific
Las Vegas, *House at 613 Mora (Las Vegas New Mexico MRA)*, 613 Mora
Las Vegas, *House at 618 Mora (Las Vegas New Mexico MRA)*, 618 Mora
Las Vegas, *House at 733 Railroad (Las Vegas New Mexico MRA)*, 733 Railroad

Las Vegas, *House at 800 Pecos (Las Vegas New Mexico MRA)*, 800 Pecos
Las Vegas, *House at 810 Douglas (Las Vegas New Mexico MRA)*, 810 Douglas
Las Vegas, *House at 812 Douglas (Las Vegas New Mexico MRA)*, 812 Douglas
Las Vegas, *House at 814 Douglas (Las Vegas New Mexico MRA)*, 814 Douglas
Las Vegas, *House at 818 Douglas (Las Vegas New Mexico MRA)*, 818 Douglas
Las Vegas, *House at 821 12th (Las Vegas New Mexico MRA)*, 821 12th
Las Vegas, *House at 822 Douglas (Las Vegas New Mexico MRA)*, 822 Douglas
Las Vegas, *House at 913 2nd (Las Vegas New Mexico MRA)*, 913 2nd
Las Vegas, *House at 915 2nd (Las Vegas New Mexico MRA)*, 915 2nd
Las Vegas, *House at 919 2nd (Las Vegas New Mexico MRA)*, 919 2nd
Las Vegas, *House at 919 Railroad (Las Vegas New Mexico MRA)*, 919 Railroad
Las Vegas, *House at 921 Chavez (Las Vegas New Mexico MRA)*, 921 Chavez
Las Vegas, *House at 921 S. Pacific (Las Vegas New Mexico MRA)*, 921 S. Pacific
Las Vegas, *House at 931 Prince (Las Vegas New Mexico MRA)*, 931 Prince
Las Vegas, *House at 933 12th (Las Vegas New Mexico MRA)*, 933 12th
Las Vegas, *Ilfeld, Charles, Memorial Chapel & Masonic Cemetery (Las Vegas New Mexico MRA)*, Colonias & Romero
Las Vegas, *Johnsen House (Las Vegas New Mexico MRA)*, 1523 8th
Las Vegas, *Johnsen Mortuary (Las Vegas New Mexico MRA)*, 801 Douglas
Las Vegas, *Las Vegas Iron Works (Las Vegas New Mexico MRA)*, Off NM 65/104
Las Vegas, *Las Vegas Railroad and Power Company Building (Las Vegas New Mexico MRA)*, 12th and San Francisco
Las Vegas, *Lincoln Park Historic District (Boundary Increase) (Las Vegas New Mexico MRA)*, Roughly bounded by Douglas & Grand Aves. and Gallinas & 12th Sts.
Las Vegas, *Martinez, Jose Orlando, House (Las Vegas New Mexico MRA)*, 1041 5th St.
Las Vegas, *Nolan House (Las Vegas New Mexico MRA)*, 110 10th St.
Las Vegas, *Old Las Vegas Post Office (Las Vegas New Mexico MRA)*, 901 Douglas
Las Vegas, *Pinter O'Neil Rooming House (Las Vegas New Mexico MRA)*, 313 Railroad
Las Vegas, *Romero, Canuto, House (Las Vegas New Mexico MRA)*, SW of Mills Ave.
Las Vegas, *Salazar, Vidal and Elisa, House (Las Vegas New Mexico MRA)*, 824 Railroad
Las Vegas, *Schmitt-Laemmle House (Las Vegas New Mexico MRA)*, 1106 Columbia
Las Vegas, *Serna-Blanchard House (Las Vegas New Mexico MRA)*, 2203 N. Gonzalez
Las Vegas, *Shawn-Guerin House (Las Vegas New Mexico MRA)*, 140 Delgado
Las Vegas, *St. Anthony's Hospital Annex (Las Vegas New Mexico MRA)*, 700 Friedman
Las Vegas, *Sundt, M. M., House (Las Vegas New Mexico MRA)*, 1607 8th
Las Vegas, *Taichert Building (Las Vegas New Mexico MRA)*, 1201 National
Las Vegas, *Taichert Warehouse (Las Vegas New Mexico MRA)*, 623 12th
Las Vegas, *Truder Park (Las Vegas New Mexico MRA)*, Roughly bounded by 2nd, Washington & Grand
Las Vegas, *Trujillo-Gonzales House (Las Vegas New Mexico MRA)*, 935 New Mexico
Las Vegas, *Ward, C. W. G., House (Las Vegas New Mexico MRA)*, 1301 8th

NEW YORK

Allegany County

Alfred, *Chapel Hall*, Alfred University

Chenango County

Oxford, *Oxford Village Historic District*, Roughly Washington Ave., State St., Chenango River, Merchant & Green Sts., Washington Park, Albany & Pleasant Sts.

Columbia County

Linlithgo, *Livingston Memorial Church and Burial Ground*, CR 10 & Wire Rd.
New Concord, *Knollcroft*, CR 9

Fulton County

Gloversville, *Downtown Gloversville Historic District*, Roughly bounded by Spring, Prospect, E. Fulton, S & M Main & Elm Sts.

Jefferson County

Cape Vincent, *Anthony, Levi, Building (Cape Vincent Town and Village MRA)*, Broadway
Cape Vincent, *Aubertine Building (Cape Vincent Town and Village MRA)*, Broadway
Cape Vincent, *Borland, John, House (Cape Vincent Town and Village MRA)*, Market St.
Cape Vincent, *Broadway Historic District (Cape Vincent Town and Village MRA)*, St. Lawrence River, W. edge of Village of Cape Vincent, on Broadway & Tibbets Point
Cape Vincent, *Buckley, James, House (Cape Vincent Town and Village MRA)*, Joseph St.
Cape Vincent, *Burnham, E. K., House (Cape Vincent Town and Village MRA)*, 565 Broadway
Cape Vincent, *Chevalier, Xavier, House (Cape Vincent Town and Village MRA)*, Gosier Rd.
Cape Vincent, *Cocaigne, Nicholas, House (Cape Vincent Town and Village MRA)*, Favret Rd.
Cape Vincent, *Dezengremel, Remy, House (Cape Vincent Town and Village MRA)*, Rosiere Rd.
Cape Vincent, *Docteur, Joseph, House (Cape Vincent Town and Village MRA)*, Rosiere Rd.
Cape Vincent, *Duvillard Mill (Cape Vincent Town and Village MRA)*, Broadway
Cape Vincent, *Dyer, Reuter, House (Cape Vincent Town and Village MRA)*, Rosiere Rd.
Cape Vincent, *Galband du Fort, Jean Philippe, House (Cape Vincent Town and Village MRA)*, James St.
Cape Vincent, *General Sacket House (Cape Vincent Town and Village MRA)*, 4407 James St.
Cape Vincent, *Glen Building (Cape Vincent Town and Village MRA)*, Broadway
Cape Vincent, *Johnson House (Cape Vincent Town and Village MRA)*, Tibbetts Point Rd
Cape Vincent, *Lewis House (Cape Vincent Town and Village MRA)*, Market St.
Cape Vincent, *Peugnet, Captain Louis, House (Cape Vincent Town and Village MRA)*, Tibbetts Point Rd.
Cape Vincent, Renolds, George, House (Cape Vincent Town and Village MRA), River Rd.
Cape Vincent, *Roxy Hotel (Cape Vincent Town and Village MRA)*, 310 Broadway
Cape Vincent, *Sacket, Cornelius, House (Cape Vincent Town and Village MRA)*, 571 Broadway
Cape Vincent, *St. John's Episcopal Church (Cape Vincent Town and Village MRA)*, Market St.
Cape Vincent, *St. Vincent of Paul Catholic Church (Cape Vincent Town and Village MRA)*, Kanady St.
Cape Vincent, *Starkey, Otis, House (Cape Vincent Town and Village MRA)*, Point St.
Cape Vincent, *Union Meeting House (Cape Vincent Town and Village MRA)*, Millens Bay Rd.
Cape Vincent, *Vautrin, Claude, House (Cape Vincent Town and Village MRA)*, Mason Rd.
Cape Vincent, *Wilson, Warren, House (Cape Vincent Town and Village MRA)*, Favret Rd.
Clayton, *Cloyton Historic District*, 203—215 & 200—326 James St., 500—544 & 507—537 Riverside Dr.

Kings County

Brooklyn, *Lefferts-Laidlaw House*, 136 Clinton Ave.
Brooklyn, *Public Bath No. 7*, 227—231 Fourth Ave.

Madison County

Morrisville, *First National Bank of Morrisville, Main St.*

Monroe County

Rochester, *House at 235—237 Reynolds Street*, 235—237 Reynolds St.
Rochester, *O'Kane Market and O'Kane Building*, 104—106 Bartlett St. & 239—255 Reynolds St.
Sibleyville, *Sibley, Hiram, Homestead*, 29 Sibley Rd.

New York County

New York, *Buildings*, 336, 338 & 340 W. 23rd St.
New York, *Minton's Playhouse*, 206—210 W. One Hundred Eighteenth St.
New York, *Sutton Place Historic District*, 1—21 Sutton Pl. & 4—16 Sutton Sq.

Oneida County

Utica, *New Century Club*, 253 Genesee St.

Onondaga County

Syracuse, *North Salina Street Historic District*, 517—519 to 947—951 & 522—524 to 850—854 N. Salina St., 1121 N. Townsend St. & 504—516 Prospect Ave.

Orange County

Newburgh, *East Inc Historic District*, Roughly bounded by Robinson Ave., LeRoy Pl., Water St., Bay View Terr., Monument & Renwick Sts.

Saratoga County

Saratoga Springs, *Saratoga Spa State Park District*, US 9 & NY 50.

Schenectady County

Schenectady, *Hotel Van Curler, 78 Washington Ave.*

Suffolk County

Huntington, *Bay Crest Historic District (Huntington Town MRA)*, Beech Ave., Valley Rd., Woodside & Valley Drs.
Huntington, *Baylis, M., House (Huntington Town MRA)*, 530 Sweet Hollow Rd.
Huntington, *Beaux Arts Park Historic District (Huntington Town MRA)*, Locust Ln., Upper & Lower Drs.
Huntington, *Bethel AME Church and Manse (Huntington Town MRA)*, 291, Park Ave.
Huntington, *Bowes House (Huntington Town MRA)*, 15 Harbor Hill Dr.
Huntington, *Brown, George McKesson, Estate—Coindre Hall (Huntington Town MRA)*, Brown's Rd.
Huntington, *Brush, George No. House (Huntington Town MRA)*, 311 Greenlawn Rd.
Huntington, *Brush Farmstead (Huntington Town MRA)*, 344 Greenlawn Rd.
Huntington, *Buffett, Eliphas, House (Huntington Town MRA)*, 159 W. Roques Path
Huntington, *Buffett, Joseph, House (Huntington Town MRA)*, 169 W. Rogues Path
Huntington, *Bumpstead, John, House (Huntington Town MRA)*, 473 Woodbury Rd.
Huntington, *Burr, Carll S., Mansion (Huntington Town MRA)*, 304 Burr Rd.
Huntington, *Burr, Carll, Jr., House (Huntington Town MRA)*, 293 Burr Rd.
Huntington, *Carll House (Huntington Town MRA)*, 380 Deer Park Rd.
Huntington, *Carll House (Huntington Town MRA)*, 79 Wall St.
Huntington, *Carll, Ezra, Homestead (Huntington Town MRA)*, 49 Milville Rd.
Huntington, *Chichester's Inn (Huntington Town MRA)*, 97 Chichester Rd.
Huntington, *Cold Spring Harbor Library (Huntington Town MRA)*, 1 Shore Rd.
Huntington, *Commack Methodist Church and Cemetery (Huntington Town MRA)*, 486 Townline Rd.
Huntington, *Conklin, David, House (Huntington Town MRA)*, 2 High St.
Huntington, *Delameter—Bevin Mansion (Huntington Town MRA)*, Bevin Ln.
Huntington, *Donnell, Harry E., House (Huntington Town MRA)*, 71 Locust Ln.
Huntington, *Dowden Tannery (Huntington Town MRA)*, 210 W. Roques Path
Huntington, *East Shore Road Historic District (Huntington Town MRA)*, East Shore Rd.
Huntington, *Everit, John, House (Huntington Town MRA)*, 130 Old Country Rd.
Huntington, *Felix, N.J., House (Huntington Town MRA)*, 235 Asharoken Ave.
Huntington, *Geoghagen, Charles, House (Huntington Town MRA)*, 9 Harbor Hill Dr.
Huntington, *Gilsey Mansion (Huntington Town MRA)*, 36 Browns Rd.
Huntington, *Goose Hill Road Historic District (Huntington Town MRA)*, Goose Hill Rd.
Huntington, *Green, John, House (Huntington Town MRA)*, 167 E. Shore Rd.
Huntington, *Halsey Estate—Tallwood (Huntington Town MRA)*, Sweet Hollow Rd.
Huntington, *Harbor Road Historic District (Huntington Town MRA)*, Harbor Rd.
Huntington, *Harned, John, House (Huntington Town MRA)*, 26 Little Neck Rd.
Huntington, *Harrison, Wallace K., Estate (Huntington Town MRA)*, 140 Round Swamp Rd.
Huntington, *Heckscher Park (Huntington Town MRA)*, Bounded by Madison St., Sabbath Day Path, Main St. & Prince Ave.
Huntington, *Hewlett House (Huntington Town MRA)*, 559 Woodbury Rd.
Huntington, *House (Huntington Town MRA)*, 244 Park Ave.
Huntington, *House (Huntington Town MRA)*, 200 Bay Ave.
Huntington, *Hubbs—Burr House (Huntington Town MRA)*, 303 Burr Rd.
Huntington, *Ireland—Gardiner Farm (Huntington Town MRA)*, 863 Lake Rd.
Huntington, *Jarvis—Fleet House (Huntington Town MRA)*, 138 Cove Rd.
Huntington, *Kane, John P., Mansion (Huntington Town MRA)*, 37 Kanes Ln.
Huntington, *Kennan, A. P. W., House (Huntington Town MRA)*, Sydney Rd.
Huntington, *Ketchum, B., House (Huntington Town MRA)*, 237 Middleville Rd.
Huntington, *Lewis, E. G., House (Huntington Town MRA)*, Waterside Rd.
Huntington, *Losee, Isaac, House (Huntington Town MRA)*, 269 Park Ave.
Huntington, *Main Street Historic District (Huntington Town MRA)*, Main St.
Huntington, *O'Donohue, C. A., House (Huntington Town MRA)*, 158 Shore Rd.
Huntington, *Oakley, John, House (Huntington Town MRA)*, Sweet Hollow Rd.
Huntington, *Old First Church (Huntington Town MRA)*, 126 Main St.
Huntington, *Old Town Green Historic District (Huntington Town MRA)*, Park Ave.
Huntington, *Old Town Hall Historic District (Huntington Town MRA)*, Main St. & Nassau Rd.
Huntington, *Potter— Williams House (Huntington Town MRA)*, 165 Wall St.
Huntington, *Prime House (Huntington Town MRA)*, 35 Prime Ave.
Huntington, *Prime—Octagon House (Huntington Town MRA)*, 41 Prime Ave.
Huntington, *Remp, Michael, (Huntington Town MRA)*, 42 Godfrey Ln.
Huntington, *Robb, J. T., House # 1 (Huntington Town MRA)*, Sydney Rd.
Huntington, *Robb, J. T., House # 2 (Huntington Town MRA)*, 23 Sydney Rd.
Huntington, *Robinson House (Huntington Town MRA)*, 347 Greenlawn Rd.
Huntington, *Rogers House (Huntington Town MRA)*, 136 Spring Rd.
Huntington, *Rogers, John, House (Huntington Town MRA)*, 627 Half Hollow Rd.
Huntington, *Sommis, Silas, House (Huntington Town MRA)*, 302 W. Neck Rd.
Huntington, *Seaman Farm (Huntington Town MRA)*, 1378 Carlls Straight Path.
Huntington, *Shore Road Historic District (Huntington Town MRA)*, Shore Rd.
Huntington, *Skidmore House (Huntington Town MRA)*, Woodhull Rd.
Huntington, *Smith, Daniel, House (Huntington Town MRA)*, 117 W. Shore Rd.
Huntington, *Smith, Henry, Farmstead (Huntington Town MRA)*, 900 Park Ave.
Huntington, *Smith, Jacob, House (Huntington Town MRA)*, High Hold Dr.
Huntington, *Sweet Hollow Presbyterian Church Parsonage (Huntington Town MRA)*, 152 Old Country Rd.
Huntington, *Titus—Bunce House (Huntington Town MRA)*, 7 Goose Hill Rd.
Huntington, *Townsend, Henry, House (Huntington Town MRA)*, 231 W. Neck Rd.
Huntington, *Valentine, Philip, House (Huntington Town MRA)*, 195 Pidgeon Hill Rd.
Huntington, *Van Iderstine, Charles, Mansion (Huntington Town MRA)*, Idle Day Dr.
Huntington, *Vanderbilt, William K., (Huntington Town MRA)*, Little Neck Rd.
Huntington, *Velzer, N., House and Caretaker's cottage (Huntington Town MRA)*, 22 Fort Salonga Rd.
Huntington, *Weeks, Charles M., House (Huntington Town MRA)*, 76 Mill Ln.
Huntington, *West Neck Road Historic District (Huntington Town MRA)*, West Neck Rd.
Huntington, *Whitman, Joseph, House (Huntington Town MRA)*, 365 W. Hills Rd.
Huntington, *Whitman, Walt, House (Huntington Town MRA)*, 246 Walt Whitman.
Huntington, *Whitman—Place House (Huntington Town MRA)*, 89 Chichester Rd.
Huntington, *Wiggins—Rolph House (Huntington Town MRA)*, 518 Park Ave.
Huntington, *Williams, Henry, House (Huntington Town MRA)*, 43 Mill Ln.
Huntington, *Wood, Harry, House (Huntington Town MRA)*, 481 W. Main St.
Huntington, *Wood, John, House (Huntington Town MRA)*, 121 McKay Rd.
Huntington, *Wood, William Wooden, House (Huntington Town MRA)*, 90 Preston St.
Huntington, *Woodhull, Charles, House (Huntington Town MRA)*, 70 Main St.

Ulster County

Lew Beach vicinity, *Beaverkill Valley Inn*, Beaverkill Rd.

Westchester County

Pound Ridge, *Pound Ridge Historic District*, Roughly Pound Ridge, Old Stone Hill & Salem Rds., Trinity Pass & Westchester Ave.
Yonkers, *Copcutt, John, Mansion*, 239 Nepperhan Ave.

NORTH CAROLINA

Buncombe County

Asheville, *Oteen Veterans Administration Hospital Historic District*, N side US 70

Burke County

Morganton, *Tate, Franklin Pierce, House*, 410 W. Union St.

Durham County

Durham, *Clevelend Street District (Durham MRA)*, Roughly Cleveland St. between Seminary & Gray Aves.& Mallard St.
Durham, *Holloway Street District (Durham MRA)*, Roughly bounded by Holloway,

Railroad & Liberty Sts., Peachtree Pl. & Dillard St.

Wilkes County

Ronda vicinity, *Claymont Hill*, W side of SR 2303 along Ronda-Clingman Rd.

OHIO

Fayette County

Washington Court House, *Washington Court House Commercial Historic District*, Roughly bounded by N. North, East, Hinde & Market Sts.

OKLAHOMA

Carter County

Wilson vicinity, *Healdton Oil Field Bunk House*, N. of Wilson

Pontotoc County

Ada vicinity, *Mijo Camp Industrial District*, N. side of Pontotoc Cty. Rd. # 148

Pottawatomie County

Shawnee, *Billington Building*, 23 E. Ninth
Shawnee, *Douglas, H.T., Mansion and Garage*, 100 E. Federal

Seminole County

Wewoka, *Wewoka Switch and Side Tracks*, OK 56

PENNSYLVANIA

Montgomery County

Ambler vicinity, *Gwynedd Hall*, 1244 Meetinghouse Rd.

RHODE ISLAND

Kent County

Carbuncle Hill Archaeological District

Providence County

Breezy Hill Site (RI-957)
Double L Site (RI-958)
McGonagle Site (RI-1227)
Millrace Site (RI-1039)
Moswansicut Pond Site (RI-960)

Washington County

Fernwood Cemetery

SOUTH CAROLINA

Allendale County

Allendale Chert Quarries Archeological District

Charleston County

McClellanville vicinity, *Laurel Hill*, Off U.S. 17

Greenville County

Greenville, *Imperial Hotel (Greenville MRA)*, 201 W. Washington St.

Greenwood County

Greenwood vicinity, *Barratt House*, SC 67 & Bryan Dorn Rd.

Orangeburg County

Orangeburg, *Amelia Street Historic District (Orangeburg MRA)*, Amelia St. between Treadwell St. & Summers Ave.
Orangeburg, *Briggmann, F.H.W., House (Orangeburg MRA)*, 156 Amelia St.
Orangeburg, *Claflin College Historic District (Orangeburg MRA)*, On a portion of Claflin College campus.
Orangeburg, *Dixie Library Building (Orangeburg MRA)*, Bull St.
Orangeburg, *Dukes Gymnasium (Orangeburg MRA)*, South Carolina State College campus.
Orangeburg, *East Russell Street Area Historic District (Orangeburg MRA)*, Along sections of E. Russell St. between Watson & Clarendon Sts. and along portion of Oakland Pl., Dickson & Whitman Sts.
Orangeburg, *Ellis Avenue Historic District (Orangeburg MRA)*, Along portion of Ellis Ave. between Summers Ave & Wilson St.
Orangeburg, *Enterprise Cotton Mills Building (Orangeburg MRA)*, U.S. 21
Orangeburg, *Fordham, Major John Hammond, House (Orangeburg MRA)*, 415 Boulevard
Orangeburg, *Hodge Hall (Orangeburg MRA)*, South Carolina State College campus.
Orangeburg, *Hotel Eutaw (Orangeburg MRA)*, Russell & Centre Sts.
Orangeburg, *Lowman Hall, South Carolina State College (Orangeburg MRA)*, South Carolina State College campus.
Orangeburg, *Mt. Pisgah Baptist Church (Orangeburg MRA)*, 310 Green
Orangeburg, *Orangeburg County Fair Main Exhibit Building (Orangeburg MRA)*, U.S. 21
Orangeburg, *Orangeburg Downtown Historic District (Orangeburg MRA)* Russell, Broughton, Middleton, Church, Meeting, St. John, Hampton, and Amelia Sts. around public square
Orangeburg, *Treadwell Street Historic District (Orangeburg MRA)*, Along portions of Treadwell & Amelia Sts.
Orangeburg, *Whiteman Street Area Historic District (Orangeaburg MRA)*, Along sections of Whiteman, Elliot, and E. Russell Sts.
Orangeburg, *Williams Chapel A.M.E. Church (Orangeburg MRA)*, 1908 Glover St.

York County

Fort Mill vicinity, *Springfield Plantation House*, US 21
Fort Mill vicinity, *White, William Elliott, House*, N. White St.
Fort Mill, *White, John M., House*, White & Skipper Sts.

TEXAS

Bexar County

San Antonio, *Prospect Hill Missionary Baptist Church*, 1601 Buena Vista

Travis County

Austin, *Bailetti House (East Austin MRA)*, 1006 Waller St.
Austin, *Barnes, Charles W., House (East Austin MRA)*, 1105 E. 12th St.
Austin, *Briones, G. P., House (East Austin MRA)*, 1204 E. 7th St.
Austin, *City Cemetery (East Austin MRA)*, 16th & Navasota
Austin, *Community Center (East Austin MRA)*, 1192 Angelina St.
Austin, *Haehnel Building (East Austin MRA)*, 1101 E. 11th St.
Austin, *House at 1170 San Bernard Street (East Austin MRA)*, 1170 San Bernard St.
Austin, *House at 1202 Garden Street (East Austin MRA)*, 1202 Garden St.
Austin, *House at 1400 Canterbury Street (East Austin MRA)*, 1400 Canterbury St.
Austin, *Irvin, Robert, House (East Austin MRA)*, 1008 E. 9th St.
Austin, *Jobe, Phillip W., House (East Austin MRA)*, 1113 E. 9th St.
Austin, *Johnson, C.E., House (East Austin MRA)*, 1022 E. 7th St.
Austin, *Maddox, John W., House (East Austin MRA)*, 1115 E. 3rd St.
Austin, *Moreland, Charles B., House (East Austin MRA)*, 1301 E. 1st St.
Austin, *Peterson, George A., House (East Austin MRA)*, 1012 E. 8th St.
Austin, *Polhemus, Joseph O., House (East Austin MRA)*, 912 E. 2nd St.
Austin, *Rainey Street Historic District (East Austin MRA)*, 70-97 Rainey St.
Austin, *Robinson-Macken House*, 702 Rio Grande St.
Austin, *Shotgun at 1206 Canterbury Street (East Austin MRA)*, 1206 Canterbury St.
Austin, *Shotguns at 1203-1205 Bob Harrison (East Austin MRA)*, 1203-1205 Bob Harrison
Austin, *Southgate-Lewis House (East Austin MRA)*, 1501 E. 12th St.
Austin, *State Cemetery of Texas (East Austin MRA)*, 901 Navasota St.
Austin, *Swedish Hill Historic District (East Austin MRA)*, 900-1000 blks. of E. 14th St. & 900 blk. of E. 15th.
Austin, *Wesley United Methodist Church (East Austin MRA)*, 1164 San Bernard St.
Austin, *Willow-Spence Streets Historic District (East Austin MRA)*, Portions of Willow, Spence, Canterbury, San Marcos & Waller Sts.

Uvalde County

Fort Inge Archeological Site (41UV75)

VIRGINIA

Richmond (Independent City)

Fan Area Historic District, Roughly bounded by N. Harrison, W. Main, W. Grace & N. Mulberry Sts.

WEST VIRGINIA

Lewis County

Weston, *Weston Downtown Historic District*, Parts of Main, Center & Court Aves., Second & Third Sts.

WISCONSIN

Dane County

Madison, *Old U.S. Forest Products Laboratory*, 1509 University Ave., University of Wisconsin campus
Stoughton, *South School*, 1009 Summit Ave.

Milwaukee County

Fox Point, *Meyer, Starke, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 7896 N. Club Circle
Milwaukee, *American System Built Homes-Burnham Street District*, W. Burnham St.
Milwaukee, *Fiebing, Otto F., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 302 N. Hawley Rd.

Milwaukee, *Hoelz, Alfred M., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 49—51 Frederick Ave.
Shorewood, *Bossert, Thomas, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 2614 E. Menlo Blvd.
Shorewood, *Cords, Erwin, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 1913 E. Olive St.
Shorewood, *Hatch, Seneca W. & Bertha, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 3821 N. Prospect Ave.
Shorewood, *Meyer, Henry A., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 3559 N. Summit Ave.
Shorewood, *Morgan, George E., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 4448 N. Maryland Ave.
Wauwatosa, *Davis, H. R., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 6839 Cedar St.
Wauwatosa, *Fiebing, J. H., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 7707 Stickney
Wauwatosa, *George, Warren B., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 7105 Grand Pkwy.
Wauwatosa, *Hopkins, Willis, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 325 Glenview
Wauwatosa, *Norton, Pearl C., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 2021 Church St.
Whitefish Bay, *Arndt, Rufus, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 4524 N. Cramer St.
Whitefish Bay, *Barfield-Staples House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 5461–5463 Danbury Rd.
Whitefish Bay, *Gabel, George, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 4600 N. Cramer St.
Whitefish Bay, *Grant, Paul S., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 984 E. Circle Dr.
Whitefish Bay, *Hardie, Harrison, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 4540 N. Cramer St.
Whitefish Bay, *Hatch, Horace W., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 739 E. Beaumont
Whitefish Bay, *Jenkins, Halbert D., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 1028 E. Lexington Blvd.
Whitefish Bay, *McEwens, John F., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 829 E. Lake Forest
Whitefish Bay, *Sperling, Frederick, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 1016 E. Lexington Blvd.
Whitefish Bay, *Van Altena, William, House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 1916 E. Glendale
Whitefish Bay, *Van Devan, G. B., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 4601 N. Murray Ave.
Whitefish Bay, *Williams, Frank J., House (Ernest Flagg Stone Masonry Houses of Milwaukee County TR)*, 912 E. Lexington Blvd.

Outagamie County

Appleton, *Masonic Temple*, 330 E. College Ave.

Price County

Park Falls, *Flambeau Paper Company Office Building*, 200 N. First Ave.
Prentice, *Prentice Co-operative Creamery Company*, 700 Main St.

Winnebago County

Oshkosh, *Orville Beach Memorial Manual Training School*, 240 Algoma Blvd.

[FR Doc. 85–20444 Filed 8–26–85; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Extension of Comment Period on Scope of Issues To Be Analyzed in a Draft Environmental Impact Statement and a Preliminary Regulatory Impact Analysis on the Proposed Rule Defining the Applicability of the Prohibitions in Section 522 to Underground Coal Mining

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

ACTION: Extension of comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) will accept written comments until September 10, 1985, on the scope of the environmental impact statement (EIS) and the regulatory impact analysis (RIA) on the proposed rule defining the applicability of the prohibitions in section 522 to underground coal mining.

DATES: OSM will accept written comments on the scope of the EIS and RIA until 4 p.m. eastern daylight time on September 10, 1985.

ADDRESSES: Hand-deliver written comments to the Office of Surface Mining, Division of Permit and Environment Analysis, Room 5121, 1100 L Street, NW., Washington, D.C.; or mail them to the Office of Surface Mining, Division of Permit and Environment Analysis, Room 5121–L, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Anna May Orellana at the Washington, D.C., address listed above (telephone: 202–343–5143).

SUPPLEMENTARY INFORMATION: In the June 19, 1985, **Federal Register** (50 FR 25473), OSM published a notice of intent to prepare an EIS and RIA on the applicability of the prohibitions in section 522(e) (4) and (5) of the Surface Mining Control and Reclamation Act (the Act) to underground mining. OSM stated that written comments would be accepted on the scoping of the EIS and the RIA until 4 p.m. eastern daylight time on August 27, 1985. OSM has now decided to extend the period for acceptance of comments on the scope of these documents until September 10, 1985.

Dated: August 21, 1985.

Len Richeson,

Acting Assistant Director, Technical Services and Research.

[FR Doc. 85–20395 Filed 8–26–85; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–18 (Sub-76X)]

The Chesapeake & Ohio Railway Co.; Abandonment in Raleigh County, WV; Exemption

The Chesapeake and Ohio Railway Company (C&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights*, to abandon approximately 1.22 miles of rail line, C&O's Glade Creek and Raleigh Subdivision, from Valuation Station 0+00 (milepost 0.00) at Blue Jay Junction to Valuation Station 103+40 (milepost 1.22) near Glen Morgan (end of line), in Raleigh County, WV.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that no overhead traffice moves over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective September 26, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by September 6, 1985 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by September 16, 1985; 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 representatives:

Rene J. Gunning, Suite 2204, 100 North Charles St., Baltimore, MD 21201
Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101

If the notice of exempt contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: August 14, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-20453 Filed 8-26-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Pollution Control; Lodging of Consent Decrees Pursuant to Clean Air Act; United States v. Monsanto Co. and U.S. Dismantling & Equipment Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 9, 1985 proposed Consent Decrees in *United States* v. *Monsanto Company and U.S. Dismantling and Equipment Corporation*, Civil Action No. PCA 85-4093-RV were lodged with the United States District Court for the Northern District of Florida. The proposed Consent Decrees concern an action under the Clean Air Act (the "Act") for civil penalties and injunctive relief for alleged violations of the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for asbestos, 40 CFR Part 61, Subpart A and sections 112(c), 112(e) and 114(a)(1)(b) of the Act. The defendants are Monsanto Company, owner of the Pensacola, Florida facility, and U.S. Dismantling and Equipment Corporation, the party performing the demolition under contract with Monsanto. The proposed Consent Decrees require Monsanto to pay a civil penalty of $15,000 and the contractor to pay a $5,000 civil penalty. In addition, the Consent Decree with U.S. Dismantling and Equipment Corporation also requires full compliance with the Asbestos NESHAP in any future demolitions and renovations during the one (1) year term of the decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Washington, DC 20530, and should refer to *United States* v. *Monsanto Company and U.S. Dismantling & Equipment Corporation*, D.J. Ref. 90-5-2-1-1-785.

The proposed Consent Decrees may be examined at the office of the United States Attorney, Northern District of Florida, 100 North Palafox Street, Room 307, Pensacola, Florida 32501, and at the Region IV Office of the U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the proposed Consent Decrees may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street & Pennsylvania Avenue, NW., Washington, DC 20530. Copies of both proposed Consent Decrees may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the U.S. Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-20398 Filed 8-26-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N 1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, DC 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Collection of Information in Current Rules

Occupational Safety and Health Administration
Powered Platforms for Exterior Maintenance
OSHA 201
On occasion
Businesses or other for profit; small businesses or organizations 19,500 respondents; 243,750 hours, 0 forms

OSHA is requiring this information to be collected by employers for determining the cumulative maintenance status of a powered platform and for taking the necessary preventive action to assure employee safety.

Occupational Safety and Health Administration
Records of Inspection of Running Ropes on Cranes and Derricks
OSHA 209, 212, 213
Recordkeeping
Businesses or other for profit; small businesses or organizations 780,000 responses; 390,000 hours; 0 forms

OSHA requires a record of periodic thorough inspection of running ropes on cranes, mobile cranes, and derricks. The inspections are to determine the condition of the wire ropes to prevent injury due to rope failure during use.

Occupational Safety and Health Administration
Inspection Report (Critical Components for Cranes)
OSHA 231
Recordkeeping
Businesses or other for profit; small businesses or organizations
110,000 responses; 660,000 hours; 0 forms

The employer is required to record the condition of items critical to the continued safe use of mobile cranes observed during monthly inspections. Use of the records to determine service and maintenance schedules ensures a safer workplace.

Occupational Safety and Health Administration
Hoist Inspection Record
OSHA 232
Recordkeeping
Businesses or other for profit; small businesses or organizations
1,200 respondents; 9,600 hours; 0 forms

Records of inspections and test of hoist facility are required to ensure corrective procedures in a timely manner to minimize hazards to employees while in, on, or around the hoist and its proximity.

Occuational Safety and Health Administration
Electrical Component Inspection (explosives haulage trucks used underground)
OSHA 236
Recordkeeping
Businesses or other for profit; small businesses or organizations
1 respondent; 8 hours; 0 forms

A record of electrical system checks on explosive haulage trucks is required to ensure elimination of ignition sources that would cause fires or explosions when employees are underground.

Reinstatement

Occupational Safety and Health Administration
Manlifts
1218–0055; OSHA 200
On occasion
Businesses or other for profit; small businesses or organizations 3,000 respondents; 52,500 hours; 0 forms

OSHA is requiring this information to be collected by employers for determining the cumulative maintenance status of a manlift and for taking the necessary preventive action to assure employee safety.

Signed at Washington, DC, this 22nd day of August 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85–20477 Filed 8–26–85; 8:45 am]

BILLING CODE 4510–26–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; American Standard, Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 6, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 6, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 19th day of August 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Standard, Inc. (workers)	New Orleans, LA	8/12/85	8/6/85	TA-W-16,278	Bowls & tanks.
Anchor Hocking, Plant No. 42 (Co.)	Lancaster, OH	8/9/85	8/6/85	TA-W-16,279	Warehousing.
Bow Age, Inc. (ILGWU)	East Newark, NJ	8/5/85	8/1/85	TA-W-16,280	Childrens apparel.
Cisco Casuals (ACTWU)	New York, NY	4/29/85	4/24/85	TA-W-16,281	Sportswear.
Eaton Corporation (USWA)	Salem, VA	7/25/85	7/19/85	TA-W-16,282	Lift truck components.
Homestake Mining Co. (workers)	Grants, NM	8/5/85	8/2/85	TA-W-16,283	Uranium ore mining & milling.
LTV Steel Company, Sinter Plant (USWA)	Youngstown, OH	8/9/85	8/5/85	TA-W-16,284	Sinter for blast furnace.
Patapsco & Back Rivers Railroad Co. (United Transportation Union)	Sparrows Point, MD	8/12/85	8/6/85	TA-W-16,285	Transporting steel & steel products.
Pettibone Corp. (International Association of Machinists)	Rome, NY	8/12/85	8/7/85	TA-W-16,286	Hydraulic rough terrain cranes, pedestal mounted cranes, railroad specialty cranes.
Powder Metal Products, Inc. (IUE)	St. Marys, PA	8/8/85	8/6/85	TA-W-16,287	Powder metal parts.
U.S. Steel Corp., National Works (USWA)	McKeesport, PA	8/5/85	8/1/85	TA-W-16,288	Steel pipe, oil country goods, line pipe, drill pipe, casing, tubing.
American Dade (workers)	Miami, FL	7/31/85	7/26/85	TA-W-16,289	Chemical reagents, blood serums, instruments for blood anslysis.
AMP, Inc. (workers)	Roanoke, VA	8/12/85	8/5/85	TA-W-16,290	Computer connectors.
B.F. Goodrich Distribution Center (workers)	Columbus, OH	8/6/85	8/1/85	TA-W-16,291	Conveyor belting, rubber products, hoses, sheet rubber v belts.
Forster Manufacturing Co., Inc. (workers)	Strong, ME	7/30/85	7/25/85	TA-W-16,292	Clothes pins, plastic tableware, toothpicks.
Do.	East Wilton, ME	7/30/85	7/25/85	TA-W-16,293	Do.
Do.	Straton, ME	7/30/85	7/25/85	TA-W-16,294	Do.
Do.	Wilton, ME	7/30/85	7/25/85	TA-W-16,295	Do.
Oneida, Ltd. (workers)	Sherrill, NY	8/1/85	7/26/85	TA-W-16,296	Stainless steel flatware.
Do.	do	8/1/85	7/26/85	TA-W-16,297	Do.
Do.	Oneida, NY	8/1/85	7/26/85	TA-W-16,298	Haloware products, flatware products, silver & stainless steel.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Quilrex Co., Inc. (workers)	Brooklyn, NY	8/5/85	7/29/85	TA-W-16,299	Childrens wear.
Seatt Corp. (company)	Downers Grove, IL	8/9/85	8/5/85	TA-W-16,300	Rechargeable flashlights.
Carin Manufacturing Co., Inc. (workers)	Hazleton, PA	8/12/85	8/6/85	TA-W-16,301	Ladies sportswear.
Carter Automotive Products Corp. (workers)	Lafayette, TN	8/12/85	8/5/85	TA-W-16,302	Automotive component fuel pumps, water pumps, control solenoids.
(The) Fenton Art Glass Ware (workers)	Williamstown, WV	8/8/85	8/5/86	TA-W-16,303	Decorative gift glassware, china, novelty items, gift items.
Fenron Tanning Corp. (company)	Peabody, MA	8/12/85	8/8/85	TA-W-16,304	Split cowhide.
LaBelle Processing Co. (UMWA)	McMurray, PA	8/12/85	8/6/85	TA-W-16,305	Metallurgical coal.
Maple Tree, Inc. (company)	Maplesville, AL	8/8/85	7/30/85	TA-W-16,306	Ladies polyester blouses, skirts & pants.
Potlatch Corp. Jaype Unit (IWA)	Pierce, ID	8/12/85	8/8/85	TA-W-16,307	Finished plywood.
Potlatch Corp., Clearwater Unit (IWA)	Headquarters, ID	8/12/85	8/8/85	TA-W-16,308	Logging.
Do.	Lewiston, ID	8/12/85	8/8/85	TA-W-16,309	Finished lumber.
Texas City Refining (workers)	Texas City, TX	8/13/85	7/15/85	TA-W-16,310	Gasoline, heating fuel (diesel fuel).
Vesta Mining Co. (UMWA)	McMurray, PA	8/12/85	8/6/85	TA-W-16,311	Mining coal.
Allis Crankshaft Corp. (UAW)	Fostoria, OH	8/12/85	7/31/85	TA-W-16,312	Components for diesel engines.
AT&T Information Systems (IBEW)	Shreveport, LA	8/8/85	7/29/85	TA-W-16,313	Telephones.
Brickman Industrial (workers)	Fullerton, CA	8/13/85	7/23/85	TA-W-16,314	Resistor networks, ceramic resistors, potentiometers and diodes.
E.W. Bowman, Inc. (USWA)	Uniontown, PA	8/12/85	8/7/85	TA-W-16,315	Annealing lehrs.
Furdootwear Co. (ACTWAU)	Hazleton, PA	8/9/85	8/1/85	TA-W-16,316	Plastic sandals, boots.
Goodyear Atomic Corp. (company)	Piketon, OH	8/12/85	8/9/85	TA-W-16,317	Enriched uranium services.
Heath Company (USWA)	Benton Harbor, MI	8/5/85	8/1/85	TA-W-16,318	Heath electronic kits, personal computers.
Picker International (workers)	Highland Heights, OH	8/12/85	8/7/85	TA-W-16,319	Cat scanners.
Pacel-Migo, Inc. (workers)	Ft. Lauderdale, FL	8/12/85	7/25/85	TA-W-16,320	Modems & multiplex.
Standard Plastics Products, Inc. (ILGPNWU)	Edison, NJ	8/9/85	7/29/85	TA-W-16,321	Toys (Plastics).
Wayne Floral Co., Inc. (company)	Newark, NJ	8/9/85	8/5/85	TA-W-16,322	Potted plants & cut flowers.
A.P. Green Refractories Co. (Aluminum Brick & Glass Wkrs of Amer.).	Massillon, OH	8/15/85	8/10/85	TA-W-16,323	High temperature fire brick.

[FR Doc. 85-20474 Filed 8-26-85; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-14,557]

Oak Communications Systems, Elkhorn, WI; Revised Determination

On June 3, 1985, the Department reopened an investigation on the basis of additional information provided by former employees of Oak Communications Systems, Elkhorn, Wisconsin. The Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance was published in the Federal Register on December 13, 1983 (48 FR 55526).

Upon reopening the investigation, the Department found that activities relating to the production of cable TV decoders continued beyond March 1, 1983 into the fourth quarter of 1983.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with decoders for cable TV produced at Oak Communications Systems, Elkhorn, Wisconsin contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Oak Communications Systems, Elkhorn, Wisconsin engaged in employment related to the production of decoders for cable TV at Oak Communications Systems, Elkhorn, Wisconsin who became totally or partially separated from employment on or after September 1, 1982 and before December 31, 1983 are eligible to apply for adjustment assistance benefits under Section 223 of the Trade Act of 1984.

I further determine that all workers of Oak Communications Systems, Elkhorn, Wisconsin engaged in employment related to the production of head end equipment and decoders for satellite TV are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of August 1985.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 85-20475 Filed 8-26-85; 8:45 am]
BILLING CODE 4510-30-M

Revised Final Program Year (PY) 1985 Allotments for Basic Labor Exchange Activities Under the Wagner-Peyser Act

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces revised final allotments for PY 1985 (July 1, 1985 through June 30, 1986) for basic labor exchange activities authorized under section 7 (a) and (b) of the Wagner-Peyser Act, as amended by Pub. L. 97-300.

FOR FURTHER INFORMATION CONTACT: Richard C. Gilliland, Director, United States Employment Service (Attention: TEES) 601 D Street, NW., Washington, DC 20213. 202-376-6750.

SUPPLEMENTARY INFORMATION: In February 1985 the Department of Labor submitted to Congress a proposal requesting a $37,000,000 reduction in PY 1985 allotments for employment service activities. Congress subsequently rejected the proposal in the FY 1985 Supplemental Appropriations Bill.

The amount of funds now available for distribution in PY 1985 is $777,398,000 of which $14,000,000 is being withheld to finance postage expenses associated with public employment service business. These allotments are distributed in accord with criteria established in section 6 of the Act.

The funding methodology is unchanged from that used for the final PY 1985 allotments published in the Federal Register on May 21, 1985.

Further information regarding the allocation methodology is available upon request.

Signed at Washington, DC on August 22, 1985.

Roberts T. Jones,

Acting Deputy Assistant Secretary of Labor.

BILLING CODE 4510-30-M

U.S. DEPARTMENT OF LABOR--EMPLOYMENT AND TRAINING ADMINISTRATION 8/13/85
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
REVISED FINAL PY 1985 WAGNER-PEYSER ALLOTMENTS TO STATES

	BASIC FORMULA	3% DISTRIBUTION			TOTAL ALLOTMENT***
		STEP 1*	STEP 2**	TOTAL	
ALABAMA	12,366,823	0	0	0	12,366,823
ALASKA	7,244,045	1,054,457	0	1,054,457	8,298,502
ARIZONA	7,574,869	0	468,789	468,789	8,043,658
ARKANSAS	7,453,716	0	752,588	752,588	8,206,304
CALIFORNIA	75,240,001	0	0	0	75,240,001
COLORADO	9,319,730	0	0	0	9,319,730
CONNECTICUT	8,686,623	0	435,774	435,774	9,122,397
DELAWARE	2,068,178	0	64,126	64,126	2,132,304
DIST OF COLUMBIA	5,545,809	0	559,950	559,950	6,105,759
FLORIDA	28,753,577	0	0	0	28,753,577
GEORGIA	15,348,585	0	0	0	15,348,585
HAWAII	2,967,432	0	299,616	299,616	3,267,048
IDAHO	6,035,577	878,550	0	878,550	6,914,127
ILLINOIS	35,678,714	0	0	0	35,678,714
INDIANA	16,373,725	0	0	0	16,373,725
IOWA	9,470,007	0	956,168	956,168	10,426,175
KANSAS	6,423,210	0	104,705	104,705	6,527,915
KENTUCKY	11,020,703	0	0	0	11,020,703
LOUISIANA	12,795,130	0	0	0	12,795,130
MAINE	3,589,301	522,465	0	522,465	4,111,766
MARYLAND	12,116,632	0	0	0	12,116,632
MASSACHUSETTS	15,967,625	0	0	0	15,967,625
MICHIGAN	30,101,604	0	0	0	30,101,604
MINNESOTA	12,575,684	0	0	0	12,575,684
MISSISSIPPI	8,220,846	0	830,043	830,043	9,050,889
MISSOURI	13,980,241	0	0	0	13,980,241
MONTANA	4,932,305	717,956	0	717,956	5,650,261
NEBRASKA	5,927,660	862,842	0	862,842	6,790,502
NEVADA	4,794,720	697,928	0	697,928	5,492,648
NEW HAMPSHIRE	2,651,042	0	0	0	2,651,042
NEW JERSEY	21,441,444	0	0	0	21,441,444
NEW MEXICO	5,534,912	805,673	0	805,673	6,340,585
NEW YORK	57,143,645	0	5,769,682	5,769,682	62,913,327
NORTH CAROLINA	17,452,783	0	0	0	17,452,783
NORTH DAKOTA	5,022,562	731,093	0	731,093	5,753,655
OHIO	32,880,053	0	0	0	32,880,053
OKLAHOMA	13,065,462	0	1,319,193	1,319,193	14,384,655
OREGON	9,145,278	0	923,381	923,381	10,068,659
PENNSYLVANIA	34,899,263	0	0	0	34,899,263
PUERTO RICO	8,970,784	0	0	0	8,970,784
RHODE ISLAND	2,750,810	0	277,744	277,744	3,028,554
SOUTH CAROLINA	8,645,268	0	0	0	8,645,268
SOUTH DAKOTA	4,642,002	675,699	0	675,699	5,317,701
TENNESSEE	13,823,364	0	0	0	13,823,364
TEXAS	43,507,202	0	618,422	618,422	44,125,624
UTAH	10,152,622	1,477,836	0	1,477,836	11,630,458
VERMONT	2,174,580	316,536	0	316,536	2,491,116
VIRGINIA	15,075,687	0	0	0	15,075,687
WASHINGTON	13,251,148	0	0	0	13,251,148
WEST VIRGINIA	6,086,634	0	0	0	6,086,634
WISCONSIN	14,144,054	0	256,484	256,484	14,400,538
WYOMING	3,601,490	524,240	0	524,240	4,125,730
FORMULA TOTAL	738,635,161	9,265,275	13,636,665	22,901,940	761,537,101
GUAM	357,211	0	0	0	357,211
VIRGIN ISLANDS	1,503,688	0	0	0	1,503,688
NATIONAL TOTAL	740,496,060	9,265,275	13,636,665	22,901,940	763,398,000

* - FUNDS ARE ALLOCATED TO THE 12 STATES WHOSE RELATIVE SHARE DECREASED FROM PY 1984 TO THE PY 1985 BASIC FORMULA AMOUNT AND WHICH HAVE A CIVILIAN LABOR FORCE (CLF) BELOW ONE MILLION AND ARE BELOW THE MEDIAN CLF DENSITY. THESE STATES ARE HELD HARMLESS AT 100% OF THEIR PY 1984 RELATIVE SHARE.

** - THE BALANCE OF THE 3% FUNDS ARE DISTRIBUTED TO THE REMAINING 15 STATES LOSING IN RELATIVE SHARE FROM PY 1984 TO THE PY 1985 BASIC FORMULA AMOUNT.

***- HOLD-HARMLESS PROVISIONS REQUIRED UNDER SECTION 6(B) OF THE WAGNER-PEYSER ACT, AS AMENDED, ARE MAINTAINED AT THE REVISED ALLOTMENT LEVEL.

[FR Doc. 85-20476 Filed 8-26-85; 8:45 am]
BILLING CODE 4510-30-C

Occupational Safety and Health Administration

Nevada State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the **Federal Register** (39 FR 1008) of the approval of the Nevada plan and the adoption of Subpart W to Part 1952 of Title 29 containing the decision. The Nevada plan provides for the adoption of Federal standards as State standards by reference.

By letter dated June 13, 1985, from Michael Tyler to Ray Owen and incorporated as part of the plan, the State submitted State standard revisions identical to 29 CFR Part 1910, Subpart T, Commercial Diving Operations (50 FR 1046) and 29 CFR 1910.1047, occupational exposure to Ethylene Oxide (50 FR 9800). These standards are contained in the Department of Occupational Safety and Health, Standards for General Industry, and were promulgated by resolution adopted by the Department of Occupational Safety and Health pursuant to Nevada Occupational Safety and Health Act.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been detemined that the standards are identical to the Federal standards and accordingly should be approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102; and Director, Department of Occupational Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710, and Directorate of Federal Compliance and State Programs, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 27, 1985.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California, this 10th day of July, 1985.

Russell B. Swanson,

Regional Administrator.

[FR Doc. 85-20479 Filed 8-26-85; 8:45]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New and revision.

2. The title of the information collection: 10 CFR Part 72—Licensing requirements for the storage of Spent Fuel in an Independent Spent Fuel Storage Installation (ISFSI)

3. The form number if applicable: Not applicable.

4. How often the collection is required: Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses or amendments may be submitted at any time. Applications for renewal of licenses would be required every 20 years for an Independent Spent Fuel Storage Facility (ISFSI) and every 40 years for a Monitored Retrievable Storage installation (MRS).

5. Who will be required or asked to report: Licensees and applicants for a license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI, and the Department of Energy for licenses to receive, transfer, package and possess power reactor spent fuel, high-level waste, and other radio-active materials associated with spent fuel and high-level waste storage in an MRS.

6. An estimate of the number of responses: 10.

7. An estimate of the total number of hours needed to complete the requirement or request: 18,255.

8. An indication of whether section 3504(h), Pub. L. 95-511 applies: Not applicable.

9. Abstract: NRC regulations in 10 CFR Part 72 establish requirements, procedures, and criteria for the issuance of licenses to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage, in an indpendent spent fuel storage installation (ISFSI).

NRC is also proposing a rule which would extend the scope of 10 CFR Part 72 to include regulatory requirements needed for NRC licensing of a facility provided for in the Nuclear Waste Policy Act of 1982, section 141, called a Monitored Retrievable Storage Installation (MRS).

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 21st day of August 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director Office of Administration.

[FR Doc. 85-20468 Filed 8-26-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative, (La Crosse Boiling Water Reactor); Exemption

I

Dairyland Power Cooperative (the licensee) is the holder of Provisional Operating License No. DPR-45 which authorizes the operation of the La

Crosse Boiling Water Reactor (the facility) at the steady-state power levels not in excess of 165 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Vernon County, Wisconsin. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

Section 50.71(e)(3)(ii) of 10 CFR Part 50 requires that those plants initially subject to the NRC's systematic evaluation program (SEP) must file a complete updated Final Safety Analysis Report (FSAR) within 24 months after receipt of notification that SEP has been completed. By letter dated July 20, 1983, the staff informed Dairyland Power Cooperative that SEP has been completed for the La Crosse Boiling Water Reactor (LACBWR) and that, pursuant to 10 CFR 50.71(e)(3), the licensees was required to file an updated FSAR. By letter dated July 12, 1983, the licensee requested an exemption to defer submittal of the update FSAR for 60 days.

The final report, "Integrated Plant Safety Assessment, Systematic Evaluation Program" for the La Crosse Boiling Water Reactor, NUREG–0827, had several open item that required further evaluation and plant modifications. The licensee's July 12, 1985 letter states that these changes required the full-time utilization of LACBWR's small engineering staff and that the majority of the design changes were completed during the refueling outage in March-April 1985. Since that time, the LACBWR staff has been engaged in conducting the engineering review of the updated FSAR. The licensee indicated that it needs an additional 60 days to complete the activities associated with submitting the update FSAR.

The NRC staff considered safety aspects of the requested exemption from the update FSAP submittal date. The proposed exemption affects only the required date for updating the FSAR and does not affect the risk of facility accidents. Thus, the granting of the requested exemption will have no significant impact on plant safety.

III

The public interest will be served by granting the exemption since the licensee used its personnel to complete other work of higher safety significance sooner than would be the case if personnel were diverted to update the FSAP.

Based on its review, the staff concludes that issuance of this exemption will have no significant effect on plant safety. Further, this action is in the public interest and good cause has been shown to support the exemption. Therefore, a 60-day exemption from the date of issuance of this exemption is being granted for the submittal of an updated FSAR for the La Crosse Boiling Water Reactor.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (50 FR 33656, August 20, 1985).

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following temporary exemption from compliance with § 50.71(e)(3).

An undated FSAR containing those original pages of the FSAR that are still applicable plus new replacement pages shall be filed on or before a date 60 days from the date of issuance of this exemption. This updated FSAR shall bring the FSAR up to date as of a maximum of 6 months prior to the date of filing the uipdated FSAP, with subsequent revisions no less frequently than annually thereafter.

Dated at Bethesda, Maryland, this 21st day of August 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–20469 Filed 8–26–85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Reactor Operations; Rescheduling of Meeting

The **Federal Register** published on Friday, August 16, 1985 (50 FR 33135) contained notice of a meeting of the ACRS Subcommittee on Reactor Operations to be held on September 9, 1985 *has been changed to Tuesday, September 10, 1985, 1:00 p.m., Room 1046, 1717 H Street, NW, Washington, DC.* All other items remain the same as previously published.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: August 21, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–20470 Filed 8–26–85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

OFPP Policy Letter 85–1—Federal Acquisition Regulation System

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Final Policy Letter.

SUMMARY: This Policy Letter is issued to implement certain authorities and responsibilities of the Office of Federal Procurement Policy contained in Pub. L. 93–400 as amended by Pub. L. 96–83 and Pub. L. 98–191 concerning the definition and maintenance of the single system of simplified Government-wide procurement regulations.

DATE: The effective date of this Policy Letter is October 1, 1985.

FOR FURTHER INFORMATION CONTACT: William Maraist, Office of Federal Procurement Policy, OMB, 726 Jackson Place, NW, Washington, DC 20503, (202–395–3300).

SUPPLEMENTARY INFORMATION: The Office of Federal Procurement Policy Act (Pub. L. 93–400 as amended by Pub. L. 96–83 and Pub. L. 98–191) provides, in part, the following:

Section 4. As used in this Act—(4) the term "single system of Government-wide procurement regulations" means (A) a single Government-wide procurement regulation issued and maintained jointly by the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration. . . . and (B) agency acquisition regulations implementing and supplementing the Government-wide procurement regulation. . . .

Section 6(a). The Administrator shall provide overall direction of procurement policy and leadership in the development of procurement systems of the executive agencies.

Section 6(d). The functions of the Administrator shall include—(1) providing leadership and ensuring action by the executive agencies in the establishment,

development and maintenance of the single system of simplified Government-wide procurement regulations and resolving differences among the executive agencies in the development of simplified Government-wide procurement regulations, procedures and forms.

Section 6(b). In any instance in which the Administrator determines that the DOD, NASA and the GSA are unable to agree on or fail to issue Government-wide regulations, procedures and forms in a timely manner, the Administrator may. . . . prescribe Government-wide regulations, procedures and forms which shall be followed by executive agencies. . . .

This Policy Letter (a) designates the Federal Acquisition Regulations System as the single system of Government-wide procurement regulations referred to in the OFPP Act; (b) requires certain information flow in the FAR System; (c) requires that issues on which DOD, GSA and NASA are unable to agree be referred to the Administrator for resolution; and (d) requires that decisions not to develop FAR coverage on issues affecting members of both the Defense Acquisition Regulatory Council and the Civil Agency Acquisition Council (leaving such issues to be covered in agency supplementing regulations) shall be referred to the Administrator. It is intended to implement the regulatory role assigned to OFPP by Pub. L. 98–191—that is, to resolve disputes and to be in a position to issue regulations if regulations are not timely under the FAR. It is not intended to implement OMB's rescission authority which will be the subject of a subsequent issuance.

A draft policy letter was published in the **Federal Register** on July 6, 1984 (49 FR 27863) for public and Federal agency review and comment. A public meeting for the purpose of providing an opportunity for interested parties to present their views in person was held on August 2, 1984.

Comments received were very diverse and not susceptible to summarization; however, they fell in three categories. First, those from the private sector were very supportive of a strong OFPP regulatory role giving suggested changes to strengthen the policy letter. Most of these recommendations went beyond the required regulatory role specified in Pub. L. 98–191. Other suggested changes that clarified the policy letter were adopted. Second, a group of executive agencies and industry associations supported the policy letter without comment or stated that they had no objection. Third, some agencies commented, either in writing or in subsequent meetings, that the policy letter was either unnecessary or intruded on the regulatory authority of DOD, GSA and NASA with respect to the FAR. The policy letter was narrowly drafted to implement the statutory responsibilities for procurement regulations assigned to OFPP by Pub. L. 98–191.

All comments received were carefully considered in drafting the following policy letter.

Dated: August 19, 1985.

William J. Maraist,

Acting Associate Administrator for Policy Development.

OFPP Policy Letter 85–1

To the Heads of Executive Departments and Establishments

Subject: Federal Acquisition Regulations System

1. *Purpose.* The purpose of this Policy Letter is to implement certain requirements of the Office of Federal Procurement Policy Act (the Act) (Pub. L. 93–400 as amended, 41 U.S.C. 401 et seq.) concerning the definition and maintenance of the single system of simplified Government-wide procurement regulations. It also rescinds and replaces Policy Letter 80–5, dated July 10, 1980. It does not address OMB's rescission authority which will be the subject of a subsequent issuance.

2. *Authority.* This Policy Letter is issued pursuant to section 6 of the Office of Federal Procurement Policy Act, 41 U.S.C. 405.

3. *Background.* Pub. L. 93–400, (August 30, 1974) which established the Office of Federal Procurement Policy, required the Administrator to establish a system of coordinated and, to the extent feasible, uniform procurement regulations for the executive agencies. In January 1978, with the cooperation of the Department of Defense (DOD) and General Services Administration (GSA), the Administrator launched the Federal Acquisition Regulation (FAR) project. On July 10, 1980, OFPP issued Policy Letter 80–5 which initiated the FAR System. On March 17, 1982, Executive Order 12352 directed that DOD, GSA and the National Aeronautics and Space Administration (NASA) continue their joint efforts to consolidate their common procurement regulations into a single simplified FAR by the end of calendar year 1982. On September 19, 1983, the FAR was published in the **Federal Register** under the regulatory authority of GSA, DOD, and NASA, with an effective date of April 1, 1984.

Part 1 of the FAR, which formalized the FAR System, provides for the operation, and maintenance of the FAR system. A Memorandum of Understanding for FAR Maintenance was approved by the Deputy Under Secretary of Defense (Acquisition Management), the Assistant Administrator for Acquisition Policy of GSA, and the Assistant Administrator for Procurement of NASA on February 21, 1984, which included procedures for recommending FAR changes, establishing FAR cases, processing FAR cases and for resolving disagreements.

The Office of Federal Procurement Policy Act Amendments of 1983 (Pub. L. 98–191), requires that policies prescribed by the Administrator be implemented in the single system of Government-wide procurement regulations. It also requires that the Administrator provide leadership, ensure action, and resolve differences among the executive agencies in the maintenance of the single regulation. In any instance in which the Administrator is notified that DOD, GSA, and NASA are unable to agree on or fail to issue Government-wide regulations in a timely manner, the Administrator may, under the Act, and with due regard to applicable laws and the program activities of the executive agencies, prescribe Government-wide regulations which must be consistent with the policies and functions set forth in Pub. L. 98–191.

4. *Single System of Government-Wide Procurement Regulations.* The Federal Acquisition Regulations System is the single system of Government-wide procurement regulations defined in Section 4(4) of the Act. The FAR System includes the FAR and agency acquisition regulations, including those issued by suborganizations, which implement or supplement the FAR. However, the FAR System does not include agency and suborganization regulations covering internal operating procedures that have no significant impact on the contractor, e.g., designations and delegations of authority, assignments of responsibilities, work-flow procedures, and internal reporting requirements.

Each agency, based on its unique structure, shall determine to which organizational level its suborganizations have authority to issue regulations implementing or supplementing higher-level agency FAR supplements. Such determination shall be provided to the Administrator and made a part of the Agency's implementation of Part 1 of the FAR. DOD, GSA, and NASA shall be responsible for ensuring that agency implementing and supplementing regulations are reviewed for compliance with the FAR System requirements.

5. *Information on FAR Maintenance.* For the purpose of keeping OFPP informed of the content of the FAR System, each executive department and agency shall provide a copy of its FAR

implementing and supplementing regulations to OFPP.

Once every three months, the Civilian Agency Acquisition and Defense Acquisition Regulatory Councils each shall provide OFPP a list of all open CAAC, DAR and FAR cases. The lists shall include the case numbers; the originator; the subject matter of the case; the date received or originated; and the date and nature of disposition. The FAR Secretariat shall also provide OFPP: (a) A copy of all proposed and final FAR changes as soon as practicable; and (b) upon request, a copy of the initiating document of any assigned FAR case or other proposed FAR change.

6. *OFPP Resolution of Differences.* When the Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council cannot agree on the resolution of a proposed FAR change, the matter shall be forwarded to the Deputy Under Secretary of Defense for Acquisition Management, DOD; the Assistant Administrator for Acquisition Policy, GSA; and the Assistant Administrator for Procurement, NASA for resolution. DOD, GSA and NASA shall notify OFPP if they are unable to agree within 15 days of the referral. If, for any reason, an agreement cannot be reached within 30 days following the date of the notice, the matter shall be deemed a disagreement in accordance with Pub. L. 98-191, and shall be referred promptly to the Administrator for resolution. All such referrals shall be accompanied by an issue paper containing a description of the proposed FAR change and the relevant positions of all executive agencies and other interested parties that have expressed a position in writing to the Councils on the proposed FAR change. Any decision not to develop FAR coverage on a proposed FAR change affecting members of both councils, with the intention that such proposed FAR change is to be covered differently in agency implementing or supplementing regulations, shall be referred promptly, with supporting rationale, to the Administrator, who will determine within five working days after receipt of such referral whether the decision conforms to the Federal Acquisition Regulations System maintenance concept.

7. *OFPP Issuance of Regulations.* When the Administrator considers that a particular proposed FAR change is not being resolved in a timely manner, the Administrator, after consultation with DOD, GSA and NASA, shall give notice and specify a time in which a decision must be reached regarding issuance of regulations. Following such notice and time allotted for issuance of regulations, the Administrator may determine that DOD, GSA and NASA have failed to issue Government-wide regulations in a timely manner and may prescribe regulations, which shall be forwarded to DOD, GSA, and NASA for timely publication in the applicable part of the FAR. OFPP development of any regulations will follow the requirements of Sec. 302(a) of Pub. L. 98-577 (41 U.S.C. 420) on public participation.

8. *Effective Date.* This Policy Letter will be effective October 1, 1985.

9. *Concurrence.* This Policy Letter has the concurrence of the Director of the Office of Management and Budget.

William E. Mathis,

Acting Administrator.

[FR Doc. 85-20404 Filed 8-26-85; 8:45 am]

BILLING CODE 3110-01-M

PENSION BENEFIT GUARANTY CORPORATION

Multiemployer Pension Plans; Effect of Withdrawal Following Sale of Assets

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: This notice advises employers, multiemployer plan sponsors, and other interested persons that the Pension Benefit Guaranty Corporation is no longer considering the issuance of an interpretation concerning the effect that a sale of assets meeting the requirements of section 4204 of ERISA has on subsequent withdrawals.

FOR FURTHER INFORMATION CONTACT: John Carter Foster, Attorney, Multiemployer Regulations Group, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; 202-254-4860 (202-254-8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On January 15, 1985 the Pension Benefit Guaranty Corporation (PBGC) published in the **Federal Register** a notice soliciting public comment concerning the effect that a sale of assets has on certain subsequent plan determinations with respect to the withdrawal of the seller (50 FR 2116). The PBGC was particularly interested in receiving comments on methods for giving credit to a withdrawing employer for a prior sale of assets that met the requirements of section 4204(a)(1) of the Employee Retirement Income Security Act. This notice was issued partly in response to questions raised by the PBGC's May 12, 1983 Opinion Letter (Opinion Letter 83-10). That opinion letter stated that if a selling employer had previously sold assets in compliance with section 4204, then that seller was entitled to be given credit when facing liability for a subsequent withdrawal. The PBGC's purpose in soliciting comments was to obtain the public's input for an interpretation that the agency expected to publish in the near future.

The PBGC has reviewed the nine submissions received in response to the **Federal Register** notice. These submissions provide opinions and substantive comments on the differing effects that a withdrawal following a sale of assets has on an employer's withdrawal liability. However, in light of the complexity of these issues and the varied situations in which they arise, the PBGC now believes that disputes relating to these matters are best addressed individually by arbitration subject to review in the courts. See, *e.g.*, Kroger Co. and Southern California Food Workers Pension Fund, 6 EBC 1345 (1985) (Nagle, Arb.). The PBGC is, therefore, no longer considering publishing the interpretation of section 4204 contemplated by the **Federal Register** notice of January 15, 1985.

Issued at Washington, D.C., on this 22nd day of August 1985.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 85-20471 Filed 8-26-85; 3:45 am]

BILLING CODE 7708-01-M

POSTAL RATE COMMISSION

[Docket No. C85-1]

Complaint of Advo-System, Inc.; Filing of Settlement Agreement in Docket No. C85-1 Complaint of Advo-System, Inc.

August 22, 1985.

The Commission hereby gives notice that the Director of the Office of the Consumer Advocate, who was named settlement coordinator in this proceeding, has filed with the Commission a document entitled "Stipulation and Agreement." In his transmittal letter, the Director noted that the agreement has been negotiated by a number of parties in the case, including the complainant and the respondent. He also said:

Although this agreement is not a unanimous one, the signatories believe that it can be the basis for a recommended decision to the Governors by the Commission, after an

appropriate opportunity for comment by all parties.

Transmittal Letter From Stephen A. Gold Dated August 20, 1985

This notice serves only to indicate that the filing has been made; the Commission anticipates shortly issuing an appropriate order governing subsequent procedures.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 85-20455 Filed 8-26-85; 8:45 am]

BILLING CODE 7715-01-M

[Docket No. A85-23; Order No. 626]

Pacific House, California 95725 (George R. Steele, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: August 22, 1985.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; James H. Duffy; Bonnie Guiton.

Docket Number: A85-23.

Name of Affected Post Office: Pacific House, California 95725.

Name(s) of Petitioner(s): George R. Steele.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: August 19, 1985.

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).

2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate isssue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before September 3, 1985.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

APPENDIX

Aug. 19, 1985	Filing of Petition.
Aug. 22, 1985	Notice and Order of Filing of Appeal.
Sept. 13, 1985	Last day of filing of petitions to intervene (*See* 39 CFR 3001.111(b)).
Sept. 23, 1985	Petitioner's Participant Statement or Initial Brief (*see* 39 CFR 3001.115 (a) and (b)).
Oct. 15, 1985	Postal Service Answering Brief (*see* 39 CFR 3001.115(c)).
Oct. 30, 1985	(1) Petitioner's Reply Brief should Petitioner choose to file one (*see* 39 CFR 3001.115(d)).
Nov. 6, 1985	(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument (*see* 39 CFR 3001.116).
Dec. 17, 1985	Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 85-20457 Filed 8-26-85; 8:45 am]

BILLING CODE 7715-01-M

[Docket No. A85-24; Order No. 623]

Whitestone, Georgia 30186 (John L. Payne, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: August 21, 1985.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; James H. Duffy; Bonnie Guiton.

Docket Number: A85-24.

Name of Affected Post Office: Whitestone, Georgia 30186.

Name(s) of Petitioner(s): John L. Payne, Petitioner.

Type of Determination: Closing.

Date of Filing of Appeal Papers: August 19, 1985.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one of more of these issues.

In the interest of expedition within the 120-day decision schedule (39 U.S.C. 404(b)(5)) the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders:

(A) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

(B) The record in this appeal shall be filed by September 3, 1985.

By the Commission.

Charles L. Clapp,

Secretary.

APPENDIX

Aug. 19, 1985	Filing of Petition.
Aug. 21, 1985	Notice and Order of Filing of Appeal.
Sept. 13, 1985	Last day of filing of petitions to intervene (*see* 39 CFR 3001.111(b)).
Sept. 23, 1985	Petitioner's Participant Statement or Initial Brief (*see* 39 CFR 3001.115(a) and (b)).
Oct. 15, 1985	Postal Service Answering Brief (*see* 39 CFR 3001.115(c)).
Oct. 30, 1985	(1) Petitioner's Reply Brief should Petitioner choose to file one (*see* 39 CFR 3001.115(d)).
Nov. 6, 1985	(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument (*see* 39 CFR 3001.116).
Dec. 17, 1985	Expiration of 120-day decisional shedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 85-20456 Filed 8-26-85; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMMISSION

[File No. 1-2743]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; CF&I Steel Corp.

August 21, 1985.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the common stock ($5.00 Par Value) of CF&I Steel Corporation ("Company") from listing and registration on the Pacific Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

CF&I Steel Corporation states that it wants to delist from the Pacific Stock Exchange, Inc. in order to list the Company's common stock on NASDAQ.

Any interested person may, on or before September 12, 1985, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-20480 Filed 8-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14689; 811-3620]

Fir Tree International Fund, Inc.; Application for an Order Delaring That Applicant Has Ceased to be an Investment Company

August 21, 1985.

Notice is hereby given that Fir Tree International Fund, Inc., ("Applicant"), c/o Mengel and Company, Inc., One Rockefeller Plaza, Third Floor, New York, New York 10020, registered as an open-end, divesified management investment company under the Investment Company Act of 1940 ("Act"), filed an application on March 27, 1985, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that it has ceased to be an investment company and terminating Applicant's registration under the Act. All interested persons are referred to the applicaton on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and regulations thereunder for the text of the applicable provisions.

Applicant states that it is a Maryland corporation that registered under the Act with the Commission and filed a registration statement pursuant to the Securities Act of 1933 on December 12, 1982. Applicant commended offering its shares on October 13, 1983. Applicant states that when it began offering its shares to the public, Mengel and Company, Inc., was intended to be the exclusive distributor of Applicant's shares, and that Fir Tree Advisers, Inc. ("Adviser"), pursuant to an agreement ("Agreement"), would be the adviser to Applicant. Due to a lack of success in distribution efforts, Adviser absorbed a significant amount of Applicant's expenses.

According to the application, in August 1984, Adviser entered into an agreement to act as investment adviser with F T International Trust ("FT Trust") and informed Applicant's Board of Directors ("Board") that Adviser intended to terminate the Agreement. The Board, by reason of Adviser's decision to terminate the Agreement, and because no shares of Applicant had been sold since July 31, 1984, determined to suspend further sales of Applicant's shares.

Applicant states that as of December 3, 1984, all shareholders of Applicant, other than Adviser, had redeemed their shares. To obtain the funds needed to pay redeeming shareholders, Applicant states that it sold most of its portfolio securities on November 30, 1984, to FT Trust, in accordance with Board Procedures adopted to ensure compliance with Rule 17a-7 under the Act. Applicant states that all expenses accrued prior to December 3, 1984, during the winding up of Applicant's affairs, were borne by Adviser, and that no brokerage commissions or other remuneration (except customary transfer fees) was paid in connection with the sale of the portfolio securities.

According to the application, Adviser intends to redeem its shares following receipt by Applicant of outstanding foreign tax claims and dividends and the termination of Applicant's registration under the Act. Applicant states that: Applicant is not now engaged, and does not propose to engage, in any business activities other than winding up its affairs; Applicant has no outstanding debts or liabilities; and, Applicant has not made any distributions to shareholders other than pursuant to redemption requests. Applicant states it possesses approximately $93,000 in assets, representing the investment of Adviser in Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 16, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

FR Doc. 85-20481 Filed 8-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14690 (File No. 812-6093)]

The Piedmont Income Fund, Inc.; Notice of Application

August 21, 1985.

Notice is hereby given that The Piedmont Income Fund, Inc. (the "Applicant), 1150 Connecticut Ave., NW., Suite 705, Washington, D.C. 20036, filed an application on April 16, 1985, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order amending a previous order (Investment Company Act Release No. 14239, November 16, 1984) ("Previous Order"). The Previous Order exempted Applicant from the provisions of sections 18(f)(1) and 17(f) of the Act to the extent necessary to permit Applicant to invest in options on stock indexes, stock index futures contracts and options on stock index futures contracts. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below. Such persons are also referred to the Act for the text of the provisions which are relevant to a consideration of the application.

According to the application, Applicant is a diversified, open-end management investment company. Applicant's investment objective is to realize income by investing in stocks of large, established domestic corporations that have a history of yielding higher than average dividends. Applicant's shares will be sold only to corporate investors and it will endeavor to derive as much of its income as possible from dividends of "qualifying domestic companies" in order to maximize the percentage of its distributions of net investment income that will qualify for the 85 percent dividends received deduction for its shareholders. Applicant intends to hedge its securities holdings by selling exchange-traded call options on its portfolio stocks and by selling futures contracts on stock indexes where there is some correlation between the stocks comprising the index and the stocks in its portfolio. As a further hedge against declines in the value of its portfolio, Applicant may purchase put options and/or write call options on stock indexes and puchase

put options and/or write call options on stock index futures contracts that are traded on a U.S. stock exchange or board of trade and engage in closing transactions to terminate existing options positions.

In its application for the Previous Order, Applicant represented that, among other limitations, "[t]he aggregate market value at the time of sale of all open futures contracts sold by the Fund, together with the aggregate market value of all futures contracts with respect to which the Fund is either a writer or a holder of options will not exceed 33⅓% of the Fund's net assets."

Applicant desires to eliminate the one-third limitation described above. Instead, Applicant will agree not to maintain open short positions in stock index futures contracts, call options written on stock index futures, and call options written on stock indexes if, in the aggregate, the value of the open positions (marked to market) exceeds the current market value of its securities portfolio plus or minus the unrealized gain or loss on those open positions, adjusted for the historical volatility relationship between the portfolio and the index contracts (*i.e.*, the Beta volatility factor). To the extent Applicant has written call options on specific securities in its portfolio, the value of those securities will be deducted from the current market value of the securities portfolio. If this limitation should be exceeded at any time, Applicant will take prompt action to close out the appropriate number of open short positions to bring its open stock futures and options positions within this limitation.

Applicant states that it believes that the restrictions on its trading in index contracts and options are consistent with the underlying purposes of section 18(f)(1), and prevent Applicant from becoming excessively leveraged. Applicant also believes that its transactions in index contracts and options, limited as described above, do not give rise to the speculative abuses which section 18(f)(1) was designed to prevent.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 13, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary

[FR Doc. 85-20482 Filed 8-26-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

August 21, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange 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:

American General Corporation
$2.64 Cumulative Preferred Series D (File No. 7-8554)
American Stores Company
$4.375 Convertible Preferred Series A (File No. 7-8555)
Anheuser-Busch Company
3.60 Convertible Preferred Series A (File No. 7-8556)
CIGNA Corporation
$2.75 Cumulative Convertible Preferred Series B (File No. 7-8557)
LTV Corporation
$3.06 Cumulative Convertible Preferred Series B (File No. 7-8558)
LTV Corporation
$5.25 Cumulative Convertible Preferred Series D (File No. 7-8559)
LTV Corporation
$1.25 Convertible Preferred Series D (File No. 7-8560)
Orion Pictures Corporation
Convertible Exchange Preferred Class E (File No. 7-8561)
Occidental Petroleum
Convertible Exchange Preferred Series I. (File No. 7-8562)
Paine Webber Group, Inc.
$2.25 Convertible Exchange Preferred (File No. 7-8563)
Trans World Airlines, Inc.
$2.25 Cumulative Convertible Preferred Series B (File No. 7-8564)
United Technologies Cp.
$2.25 Cumulative Convertible Exchange Preferred Series D (File No. 7-8565)
U.S. Steel Corporation
Cumulative Convertible Exchange Preferred Series C (File No. 7-8566)

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 September 12, 1985, 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, Washington, D.C. 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-20485 Filed 8-26-85; 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.

August 21, 1985.

The above named national securities exchange has filed applications with the Securities and Exchange 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:

Crane Company (Delaware)
Common Stock, $6.25 Par Value (File No. 7-8567)
Cilcorp, Inc. (Holding Company)
Common Stock, No Par Value (File No. 7-8568)
Alaska Air Group, Inc. (Delaware) (Holding Company)
Common Stock, $1.00 Par Value (File No. 7-8569)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transactions reporting system.

Interested persons are invited to submit on or before September 12, 1985, 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, Washington, D.C. 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-20486 Filed 8-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22334; File No. SR-CBOE-85-35]

Self-Regulatory Organizations; Proposed Rule Change; Chicago Board Options Exchange, Inc.; Relating to Corrections to Erroneous RAES Prints

Pursuant to section 19(b)(1) of the Securities Exchanges Act of 1934, 15 U.S.C. 78s.(b)(1), notice is hereby given that on *August 9, 1985* the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The Exchange submits as a rule filing the following memorandum:

To: All Members
From OEX Floor Procedure Committee
Re: *Corrections to Erroneous RAES Prints*

The OEX Floor Procedure Committee has been asked for a statement of its position regarding RAES-executed trades at mistakenly reported quotes. Given the size of the OEX crowd, the number of quote reporters in the crowd and frequency with which quotes in more than one series are updated, it is possible for a quote reporter to misinterpret what he or she hears and thus incorrectly report a market quote. While the erroneous quote may appear on the screen for only a few seconds, a moment is all that is necessary for a RAES trades to be executed at the incorrect price. The OEX Floor Procedure Committee has determined that a RAES-executed trade at an erroneous quote should be treated simply as a trade reported at an erroneous price. Thus, the price of the RAES trade should be adjusted to accurately reflect the market quote at the time of the execution. This treatment will guarantee public customers and market makers alike the full benefit of the RAES system, namely, prompt and certain fills at prevailing market quotes.

The question of whether a particular RAES trade was executed at an erroneous price is important not only to the market maker and public customer who were parties to the trade, but to others as well, including floor brokers and member firms, whose customer orders may appear to have been "printed through" by the RAES trade even though such orders were being diligently represented in the trading crowd. For this reason, the OEX Floor Procedure Committee believe that the decision whether a particular RAES order was filed at an incorrect price should be left to two floor officials. In making their determination, the floor officials should consider such factors as: (1) The length of time the allegedly incorrect quote was displayed; (2) whether any non-RAES trades were effected at the same price as the RAES transaction; and (3) whether any members of the trading crowd were aware of orders actively being represented in the crowd that appear to have been "printed through" by the RAES trade.

In the event that the incorrect fill on RAES is detected during the trade day, the following procedures should be followed. The market maker, floor broker or order book official who first notices the print outside prevailing market quotes should promptly notify the post supervisor or RAES supervisor, who will then examine the MDR to determine whether the print was generated by a RAES trade. If it was, then two floor officials should promptly be paged. The floor officials should then attempt to verify that the RAES order was in fact filled at an erroneous price. In reaching their decision, the floor officials should, as necessary: (1) Consult with the floor broker, market maker or order book official who first noticed the questionable print; (2) examine the MDR to ascertain the period of time during which the challenged quote was displayed; (3) inquire of others in the trading crowd whether any actively represented orders were printed through by the RAES trade; and (4) examine the hard card pertaining to any order that allegedly was printed-through to verify that the order was present in the crowd sufficiently in advance of the RAES trade to have been actively represented. If the floor officials satisfy themselves that the RAES order was filled at an erroneous price, they should order the trade price adjusted. The post supervisor or RAES supervisor should then notify the parties to the RAES trade that the trade at the originally reported price has been cancelled and that the trade should be reported for trade match at the adjusted price.

The procedure outlined above should also be followed in the event that the reported error is not detected until after the RAES trade has cleared. The floor broker, market maker or order book official who first learns of the incorrectly reported RAES trade should notify the post supervisor of RAES supervisor, who should then consult the MDR to determine whether the RAES trade was in fact executed at what appears to be an erroneous market quote. After this preliminary inquiry, the post supervisor of RAES supervisor should summon two floor officials. Proceeding in the manner set forth above, the floor officials should then decide whether the RAES-executed transaction was incorrectly reported. If it was, then the post supervisor or RAES supervisor should promptly notify the parties to the trade and their respective clearing firms. Thereafter, the price at which the options were traded should be adjusted on an "as of" basis.

Because the problem of incorrectly reported RAES trades ordinarily can be expected to arise from Exchange errors, the OEX Floor Procedure Committee is of the opinion that the Exchange should reimburse the party to the RAES trade who is adversely affected by the price adjustment that will result when the price report is corrected. For example, a public customer who was first notified that this market order to sell was filled at two and an eighth only to learn later that the correct price was two and a sixteenth, should be compensated by the Exchange for the difference. Similarly, the market maker on the RAES system who receives a fill report indicating that he has purchased a ten lot at two and an eighth should be reimbursed by the Exchange if the price report is deemed to be erroneous and an adjustment is made reflecting that the trade occurred at two and three sixteenths.

Questions concerning this matter should be directed to David C. Bohan, Attorney at (312) 786-7502.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to formalize the procedure whereby price adjustments are made in transactions effected over the Exchange's Retail Automated Execution System ("RAES"). The RAES system is described in detail in numerous prior rule filings, most recently SR-CBOE-85-32. RAES began as a pilot on February 1, 1985 and has continued, in pilot status, since that date. In SR-CBOE-85-32 the Exchange has sought Commission approval to establish RAES as a permanent feature of the Exchange.

Since its inception, RAES has proven to be an efficient tool for the expeditious processing of public customer market orders to purchase or sell S&P 100 Index ("OEX") option contracts in lots of ten or less. It is possible, however, that a RAES trade will be executed at a price that does not represent the actual current market quote. Because RAES executions are based upon displayed market quotes, an erroneous displayed quote may result in a RAES execution at an inaccurate price.

The Exchange has determined to establish a standard procedure that will govern price adjustments where a RAES execution is established to have been not based on an accurate market quote display.

The procedure allows anyone, including market-makers, floor brokers and order book officials, to bring to the attention of a designated Exchange employee, either the OFX Post Supervisor or the RAES Supervisor, the RAES trade that is claimed to have been executed at an incorrect price. The Exchange employee will then make a preliminary determination as to whether the facts and circumstances surrounding the trade tend to support the claim that an error occurred. If they do, two floor officials will then be paged. The floor officials will conduct a brief and informal inquiry in an effort to decide whether a price adjustment is warranted. As necessary, the floor officials will consult relevant Market-Data retrieval listings showing the length of time the allegedly incorrect quote appeared on the screen as well as actual participants in the trading crowd. If the floor officials are satisfied that the RAES trade was in error, the parties to the trade will promptly be notified and will be instructed to report the trade for clearing purposes at the adjusted price. If the error is not discovered before the trade is cleard, the price adjustment will be made on an "as of" basis. In any case, the Exchange will reimburse the party to the trade adversely affected by the price adjustment.

The procedure established by the OEX Floor Procedure Committee enables all market participants to use the RAES system confident that they will not be disadvantaged by an error. By reserving to floor officials the authority to order a price adjustment, the procedure ensures fair review of claims of errors.

The proposed rule change is consistent with the Securities Exchange Act of 1934 and in particular seciton 6(b)(5) thereof in that it serves to protect investors and the public interest by providing for price adjustments to RAES trades executed at mistakenly reported quotes.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the proteciton of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 17, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

August 19, 1985.

[FR Doc. 85-20483 Filed 8-26-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22342; File No. SR-Phlx-85-21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change; Philadelphia Stock Exchange, Inc.

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted on June 27, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to delete from Exchange Rule 1014, Commentary .14 the requirement that a Registered Options Trader ("ROT") must spend 50% of the business days on the trading floor of the Exchange. The rule formerly required that to meet the percentage requirement of the rule, a member registered as a ROT must spend, for each business day that such member is present, a substantial portion of that business day on the Phlx option floor.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release

(Securities Exchange Act Release No. 22220, July 10, 1985) and by publication in the **Federal Register** (50 FR 29036, July 17, 1985), no comments were received with respect to the proposed rule change.

In its filing with the Commission, the Exchange stated that the attendance requirement discussed above was adopted in 1978 in an attempt to make Phlx options markets deeper, more liquid and more competitive. The Exchange stated that, since this time, the liquidity and activity on the options floor has so grown that the attendance requirement is no longer necessary.

The Commisson finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Phlx and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 21, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-20484 Filed 8-26-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund 22 of its 41 Small Business Development Centers (SBDC's) during fiscal year 1986. It should be noted that fiscal year 1986 funding is contingent upon legislative appropriation of the SBDC program. The SBDC's intended to be refunded are located in the following states: Arkansas; the District of Columbia; Florida; Georgia; Illinois; Indiana; Kansas; Louisiana; Maine; Minnesota; Nebraska; New Hampshire; New Jersey; Oregon; Pennsylvania; Rhode Island; South Carolina; South Dakota; Tennessee; Utah; Washington; and Wisconsin. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDC's to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through December 16, 1985.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416 Phone: 653-6768.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing SBDC program in detail.

This notice is being published four months in advance of the date of refunding of these existent SBDC's. Relevant information identifying these SBDC's and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 110 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 110-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small businesses that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: August 21, 1985.

James C. Sanders,

Administrator.

Addresses of Relevant SBDC Directors

Mr. Paul McGinnis, State Director, University of Arkansas, New Business Building, 33rd & University Avenue, Little Rock, Arkansas 72204, (501) 371-5381

Ms. Nancy Flake, SBDC Director, Howard University, 6th and Fairmount St., NW., Room 128, Washington, D.C. 20059, (202) 636-5150

Mr. Gregory Higgins, State Director, University of West Florida, 627 University Office Boulevard, Pensacola, Florida 32504, (904) 478-2820

Dr. Frank Hoy, State Director, University of Georgia, Brooks Hall, Room 348, Athens, Georgia 30602, (404) 542-5760

Mr. Jeffrey J. Mitchell, State Director, Department of Commerce and Community Affairs, 620 East Adams Street, Springfield, Illinois 62701, (217) 785-6174

Mr. John E. Evans, State Director, Indiana Chamber of Commerce, One North Capitol, Suite 200, Indianapolis, Indiana 46204, (317) 634-6407

Ms. Susan K. Osborne-Howes, State Director, Wichita State University, College of Business Administration, 1845 Fairmount, Wichita, Kansas 67208, (316) 689-3193

Mr. John Baker, State Director, Northeast Louisiana University, Administration 2-123, Monroe, Louisiana 71209, (318) 342-2464

Mr. Warren Purdy, State Director, University of Southern Maine, 246 Deering Avenue, Portland, Maine 04102, (207) 780-4423

Mr. Jerry Cartwright, State Director, College of St. Thomas, 2115 Summit Avenue, St. Paul, Minnesota 55105, (612) 647-5840

Mr. Robert Bernier, State Director, University of Nebraska at Omaha, Peter Kiewit Center, Omaha, Nebraska 68182, (402) 554-2521

Mr. Craig R. Seymour, State Director, University of New Hampshire,

McConnell Hall, Durham, New Hampshire 03824, (603) 862–3558

Ms. Adele Kaplan, State Director, Rutgers University, Ackerson Hall—3rd Floor, 180 University Street, Newark, New Jersey 07102, (201) 648–5950

Mr. Sandy Cutler, State Director, Lane Community College, Downtown Center, 1059 Willamette Street, Eugene, Oregon 97401, (503) 687–9125 or 687–9144

Ms. Susan Garber, State Director, University of Pennsylvania, The Wharton School, 3201 Steinberg Hall—Dietrich Hall/CC, Philadelphia, Pennsylvania 19104, (215) 898–1219

Mr. W. F. Littlejohn, State Director, University of South Carolina, College of Business Administration, Columbia, South Carolina 29208, (803) 777–4907

Dr. Leonard Rosser, State Director, Memphis State University, Fogelman College of Business and Economics, Memphis, Tennessee 38152, (901) 454–2500

Mr. Ed Owens, State Director, Washington State University, College of Business and Economics, Pullman, Washington 99164, (509) 335–1576

Mr. Douglas Jobling, State Director, Bryant College, Smithfield, Rhode Island 02917, (401) 232–6000

Mr. Donald Greenfield, State Director, University of South Dakota, Business Research Bureau, School of Business, Vermillion, South Dakota 57069

Mr. Kumen Davis, State Director, University of Utah, 420 Chipeta Way, Suite 110, Salt Lake City, Utah 84108, (801) 581–4869

Dr. Robert Pricer, State Director, University of Wisconsin, 609 State Street, 2nd Floor, Madison, Wisconsin 53703, (608) 263–7794

[FR Doc. 85–20421 Filed 8–26–85; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 02/02–0489]

United Jersey Venture Capital, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations govering small business investment companies (13 CFR 107.102 (1985)) under the name of United Jersey Venture Capital, Inc. (the Applicant), 301 Carnegie Center, P.O. Box 2066, Princeton, New Jersey 08540 for the license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole stockholders of the Applicant are as follows:

Name and address	Title or relationship
Stephen H. Paneyko, 301 Carnegie Center, P.O. Box 2066, Princeton, NJ 08540.	President and Director.
Daniel J. Haughton II, 301 Carnegie Center, P.O. Box 2066, Princeton, NJ 08540.	Vice President and Director.
Peter D. Holstead, 301 Carnegie Center, P.O. Box 2066, Princeton, NJ 08540.	Vice President.
Robert J. Peters, 25 East Salem Street, Hackensack, NJ 07602.	Do.
Robert A. Bonelli, 301 Carnegie Center, P.O. Box 2066, Princeton, NJ 08540.	Do.
Richard F. Ober, Jr., 301 Carnegie Center, P.O. Box 2066, Princeton, NJ 08540.	Secretary and Director.
William J. Healy, 301 Carnegie Center, P.O. Box 2066, Princeton, NJ 08540.	Treasurer.
United Jersey Banks, 301 Carnegie Center, P.O. Box 2066, Princeton, NJ 08540.	100% Shareholder.

United Jersey Banks is a registered bank holding company which, at December 31, 1984, had six commercial bank subsidiaries. There are no 10 percent or more shareholders of United Jersey Banks.

The Applicant will begin operations with a capitalization of $1,000,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this notice, submit to SBA in writing relevant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the Princeton, New Jersey area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 20, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85–20438 Filed 8–26–85; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–0433]

Raybar Small Business Investment Corp.; License Surrender

Notice is hereby given that Raybar Small Business Investment Corporation, 255 West Spring Valley Avenue, Maywood, New Jersey 07607, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958 (the Act). Raybar Small Business Investment Corporation was licensed on February 26, 1982.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on July 31, 1985, and accordingly all rights and privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 20, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85–20460 Filed 8–26–85; 8:45]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/877]

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Friday, September 20, 1985 at 2:15 p.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 3:30 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in March 1985, the announcement of gifts, loans, and financial contributions from December 31, 1984 to June 1, 1985, and a report on the latest architectural project on the 7th floor.

Public access to the Department of State is controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Monday, September 16, 1985, telephone (202) 632–0298 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: August 19, 1985.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 85-20385 Filed 8-26-85; 8:45 am]

BILLING CODE 4710-38-M

[Public Notice CM-8/876]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Rescheduling of Meeting

The meeting of Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT), originally scheduled for September 4, 1985 as published in the **Federal Register** August 16, 1985, page 33143, has been rescheduled owing to unforeseen conflicts in meeting dates affecting many participants. Study Group C will now meet on September 17, 1985 at 9:00 a.m. in Room 1107, Department of State, 2210 C Street, NW., Washington, DC.

The purpose of this meeting is to consider contributions to October meetings of CCITT Study Group XI Working Parties.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting should contact the office of Earl Barbely, Department of State, Washington, DC, telephone (202) 632-5632. All attendees must use the C Street entrance to the building.

Dated: August 21, 1985.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 85-20386 Filed 8-26-85; 8:45]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

[Docket No. 43006]

Pan Aviation Fitness Investigation; Cancellation of Hearing

Notice is hereby given that the hearing noticed to be held in the above-entitled matter on September 4, 1985, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590, before the undersigned administrative law judge is cancelled.

Dated at Washington, D.C., August 21, 1985.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 85-20487 Filed 8-26-85; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-85-22]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 17, 1985.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 21, 1985.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24684	Lewis County, WA, Sheriff's Office	14 CFR 91.79(c)	To allow petitioner to operate a public aircraft closer than 500 feet to persons, vessels, vehicles, or structures for the purpose of Search and Rescue operations.
24704	United Technologies Corporation	14 CFR 91.53(c)(1)	To permit petitioner to have lower alternate weather minimums for helicopters.
24681	Omniflight Offshore, Inc.	14 CFR 43.3(g)	To permit pilots of petitioner to remove, check, and reinstall cowlings and replenish hydraulic fluids on its Bell 206 helicopters.
22192	Richmor Aviation, Inc.	14 CFR 141.91(a)	Extension of Exemption 3398 to permit petitioner to conduct flight training and instruction in its approved courses of training at its satellite bases located at Ballston Spa, New York; Scotia, New York; and Poughkeepsie, New York, provided the facilities continue to be available to the chief instructor.
24693	Fairchild Aircraft Corporation	14 CFR 135.157(b)(2)	To permit petitioner and any other similarly situated operator of SA226-TC, SA227-AC, and SA227-TC aircraft to operate those aircraft under the oxygen quantity requirements of §121.133(e)(1) & (2).
24633	Hercules Flight Training Center	14 CFR 61.58 & 61.157	To permit petitioner to use the L-382 flight simulator to accomplish certain training and checking requirements.
23547	Embry-Riddle Aeronautical University	14 CFR 141.65	To allow petitioner to recommend graduates of its approved certification courses for flight instructor certificates and ratings without taking the Federal Aviation Administration's flight or written test, or both, in accordance with the provisions of Subpart D of Part 141, subject to certain conditions and limitations.
24692	Chaparral Airlines	14 CFR 135.157(b)	To permit petitioner to operate a Grumann Gulfstream aircraft up to 25,000 feet mean sea level without complying with the passenger oxygen dispensing requirements.
24646	Continental Aviation Services	14 CFR 135.89(b)(3)	To allow petitioner to fly aircraft above 35,000 feet without either pilot wearing an oxygen mask.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
24696	Republic Airlines	14 CFR 121.433, 121.441, & Appendix F to Part 121.	To permit petitioner to (1) combine recurrent simulator training and proficiency checks for pilots in command into one annual simulator training and proficiency check session; (2) conduct proficiency checks designed for a particular crew position, aircraft type, and line operation; and (3) conduct the line check required at 6-months intervals.
23361	Japan Air Lines	14 CFR Portions of Parts 21 & 91	To allow petitioner to operate three leased U.S.-registered Boeing 747 aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list and an FAA-approved continuous airworthiness maintenance and inspection program.
23447	Amway Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list.
23743	Swissair	14 CFR Portions of Parts 21 & 91	To allow petitioner to operate two leased U.S.-registered Boeing 747 aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list and an FAA-approved continuous airworthiness maintenance and inspection program.
24728	Black & Decker Manufacturing Co.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24731	General Dynamics	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24742	Atlantic Aviation Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of minimum equipment list.
24739	Waylarer Ketch Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of minimum equipment list.
24737	Ingersoll Publications Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of minimum equipment list.
24721	Massey Coal Services Inc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of minimum equipment list.
24725	Pepsico	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of minimum equipment list.
24709	Texasgulf, Inc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of minimum equipment list.
24771	W. H. Brady Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of minimum equipment list.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
24368-1	Minerve	14 CFR 91.303	To allow petitioner to operate one Stage 1 DC-8-62-F aircraft until hush kits are installed. Denied July 16, 1985.
24257-1	Ecuatoriana Airline	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Denied July 16, 1985.
24338-1	Air Transport Int'l Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Denied July 29, 1985.
24639	Florida West Airlines, Inc.	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 707-300 until hush kits are installed. Granted July 26, 1985.
21635	Airborne Express, Inc.	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: DC 9-14: N925AX, N901AX; DC-9-15: N926AX, N932AX, N927AX, N903AX; DC-9-31: N906AX, N904AX, N907AX, N905AX; N908AX, N928AX; DC-9-32: N900AX; DC-9-33F: N931AX; SE210: N901MW. Granted July 25, 1985.
23757	Evergreen State Balloon Co.	14 CFR 101.13(a)(4)	To allow relief from the prohibiton in conducting moored balloon operations within 5 miles of an airport. Denied June 6, 1985.
24326	Hawaiian Airlines, Inc.	14 CFR 91.303	To amend Exemption 4218E, to allow petitioner to operate two Stage 1 DC-8 aircraft at additional airports. Granted July 29, 1985.
23996-1	Zantop Int'l Airlines, Inc.	14 CFR 91.303	To extend the January 1, 1985, noise level compliance date. Granted Aug. 1, 1985.
22872	Air Transport Assoc. of America	14 CFR Portions of 61.157(a), 121.424 (a) & (b), Part 61 Appendix A, & Part 121 Appendix E.	Extension of Exemption 3653B to allow member carriers to permit the actual static airplane preflight inspection training and checking requirements for a pilot candidate for a rating in a two-member flightcrew airplane to be accomplished by using an advanced and approved pictorial means. Granted July 25, 1985.
23956-1	Worldwide Airlines, Inc.	14 CFR 91.303	To allow petitioner to operate at least two Stage 1 Boeing-707-331B aircraft until hush kits are installed. Partial Grant Aug. 2, 1985.
24186-1	Arrow Air Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Granted Aug. 2 1985.
23992-1	Tradewinds Airways	14 CFR 91.303	To allow petitioner to operate Stage 1 Boeing 707 aircraft in scheduled and charter cargo service to the United States until hush kits are installed. Partial Grant Aug. 2, 1985.
17324	Gulf Air Company	14 CFR Portions of Part 21	Extension of Exemption 2468 to allow petitioner to operate two leased U.S.-registered L-1011 aircraft, N92TA and N92TB, using a Federal Aviation Administration (FAA)-approved continuous maintenance program. Granted July 3, 1985.
23645	Buckeye Cellulose Corp.	14 CFR 21.181	To extend the July 31, 1985, termination date of Exemption 3834. That exemption allows petitioner to operate a Cessna 500 aircraft utilizing the provisions of a minimum equipment list. Granted July 26, 1985.
24164	Royale Airlines	14 CFR 135.157(b)(2)(ii)	To permit petitioner to operate the nine Grumman Gulfstream (G-159) airliner aircraft, N715RA, N716RA, N717RA, N718RA, N719RA, N721RA, N722RA, N723RA, and N724RA, up to 23,000 feet mean sea level (MSL) without complying with the passenger oxygen dispensing requirements in its air carrier passenger-carrying operations. Partial Grant July 25, 1985.
24672	Trinidad & Tobago Airways Corporation	14 CFR 21.181	To permit petitioner to operate an MD-82 type airplane of U.S. registry (N9802F) leased from United Airlines Leasing, Inc. To allow petitioner to operate the aircraft using the Frontier Airlines, Inc. (FAL), Federal Aviation Administration (FAA)-approved minumum equipment list (MEL) and continuous airworthiness training program (CAMP). Granted June 28, 1985.
24453	Mid Pacific Airlines, Inc.	14 CFR 11.59	Extension of Exemption 4270 to permit petitioner to use certain Fokker F-28 pilot flight instructors and simulator instructor's initial cadre of F-28 pilots. Granted June 28, 1985.
23565	Cigna Service Co.	14 CFR 21.181	To extend the June 30 termination date of Exemption 3800 and amend the exemption to add an aircraft. Exemption 3800 allows petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 28, 1985.
22635	Sierra Academy of Aeronautics	14 CFR Portions of Appendix C, Section (a)(3)(iv)(a).	Extension of Exemption 3564 to allow petitioner to continue to conduct a Federal Aviation Administration (FAA) test program for flight engineer applicants who do not possess at least a commercial pilot certificate with an instrument rating to reduce the required 5 hours of flight training in an airplane and by incorporating static ground training in airplanes, subject to certain conditions and limitations. Partial Grant June 28, 1985.
22270	Executive Air Fleet Corporation	14 CFR 135.25(b) & (c)	Extension of Exemption 3438A to allow petitioner to operate under Part 135 without having the exclusive use of at least one aircraft that meets the requirements for at least one kind of operation authorized in petitioner's operations specifications, subject to certain conditions and limitations. Granted undated.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
24547	United States Parachute Association	14 CFR 105.43	To allow foreign participants to use parachutes which do not meet the parachute equipment and packing requirements of § 105.43 in the U.S. National Skydiving Championship to be held at Muskogee, Oklahoma, during the period of June 20 through July 17, 1985. Granted June 20, 1985.
24642	Eastern Air Lines Incorporated	14 CFR 121.411(a) &(1), (a)(2), (a)(3), and (a)(6); 121.411 (b); and 121.411(b); and 121.413 (b), (c), and (d).	To permit petitioner to use certain qualified McDonnell Douglas Airport Corp. DC-10-30 (DC-10) pilots and flight engineers from Canadian Pacific Airlines (CPAir) to train petitioner's initial cadre of pilots and flight engineers in the DC-10 type airplane without holding appropriate U.S. certificates and ratings and without meeting all of the applicable training requirements Subpart N Appendix H of Part 121 of the FAR. Partial Grant June 10, 1985.
24316	FMC Corportation	14 CFR 21.181	To allow the operation of DA-50B aircraft utilizing the provisions of a minimum equipment list. Granted June 5, 1985.
24505	Wayne Eggleston	14 CFR 121.383(c)	To allow petitioner to serve as a pilot in Part 121 operations after reaching his 60th birthday. Denied June 11, 1985.
23448	Coastal Aviation Services, Inc.	14 CFR 135.261(b)	To extend the termination date of Exemption 3727. To permit petitioner to operate a helicopter in a hospital emergency medical evacuation service from the Tallahassee Memorial Regional Medical Center located in Tallahassee, Florida, without complying with the duty time limitations. Granted June 11, 1985.
24404	Wolfe Industries Aviation	14 CFR 21.181	To allow petitioner to operate a Beech King Air airplane utilizing the provisions of a minimum equipment list. Granted June 3, 1985.
24640	Eagle Helicopters	14 CFR 135.261	To permit petitioner to assign a flight crewmember, and to permit a flight crewmember to accept an assignment, for duty during flight time without that assignment providing for at least 10 consecutive hours of rest during the 24 hour period preceding the planned completion of the assignment in a helicopter emergency medical evacuation service. Granted May 31, 1985.
24243	Sundstrand Corp.	14 CFR 21.181	To allow petitioner to operate Cessna 550 aircraft utilizing the provisions of a minimum equipment list. Granted June 3, 1985.
19475	Flightsafety Int'l	14 CFR 61.63(d)(2) &(3); 61.157(d)(1) & (e)(1); 121.407(a)(1)(i); & portions of Appendix A to Part 61 & Appendix H to Part 121.	To amend Exemption 2854B and extend its termination date to permit the inflight requirements of Appendix A of Part 61 of the FAR to be accomplished in an approved simulator without meeting the certificate holding requirement. To permit petitioner to use instructors or check airmen who have not been employed by petitioner for at least 1 year in the capacity of an instructor, airman, pilot in command, or second in command of an airplane of the same group in which they are instructing or checking and without its instructors or check airmen participating in an approved line flying program or approved line observation program. Granted June 18, 1985.
24661	National Soaring Foundation & Soaring Society of America.	14 CFR 61.3 & 91.27	To allow certain foreign glider pilots and gliders to participate in the 16th National Standard Soaring Championship at Hobbs, New Mexico, July 2 through July 11, 1985, and two practice days, June 30 and July 1, 1985. To allow foreign glider pilots and gliders to participate without complying with the pilot certification and airworthiness requirements of those sections. Partial Grant July 3, 1985.
24537	Woodrow M. Nesbitt	14 CFR 61.161(b)	To allow Petitioner to apply for an airline transport pilot certificate (ATCP) with a rotorcraft category rating without meeting the, at least 1,200 hours of flight time within the preceeding 8 years requirement. Granted June 28, 1985.
24408	Dan River, Inc.	14 CFR 21.181	To allow petitioner to operate a Beech King Air 200 airplane utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24468	Nekoosa Papers, Inc.	14 CFR 21.181	To allow petitioner to operate a DH-125 aircraft utilizing the provisions of a minimum equipment List. Granted July 22, 1985.
24559	Fort Howard Paper Co.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24555	Rich Products Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24470	Farm & Home Savings Association	14 CFR 21.181	To allow petitioner to operate a Falcon 20 aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24562	Bristol-Myers Co.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24487	AT&T Resource Management	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24492	Harrah's Hotels & Casinos	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24475	Rinker Materials Corp.	14 CFR 21.181	To allow petitioner to operate Beech King Air 200 aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24489	New York State Dept. of Environmental Conservation.	14 CFR 21.181	To allow petitioner to operate a King Air 200 aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24474	B. F. Goodrich Co.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24503	Digital Switch Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
24485	National Medical Enterprises	14 CFR 21.181	To allow petitioner to operate Falcon 10 and Falcon 50 aircraft utilizing the provisions of a minimum equipment list. Granted July 22, 1985.
20048	Chalk's International Airlines	14 CFR 135.75(a)	To allow petitioner to conduct day visual flight rules (VFR) operations in Grumman G-73 Mallard airplanes without having approved airborne radar equipment installed in the airplanes. Granted July 23, 1985.
24098	Alaska Helicopters, Inc.	14 CFR 121.652(a)	To permit petitioner to operate BV-234 type helicopters under Part 135 and certain sections of Part 121 in lieu of Part 121 of the Federal Aviation Regulations (FAR). To permit certain pilot employees of petitioner to credit pilot in command (PIC) flight time acquired in operations conducted under Part 91 of the FAR in a civil BV-234 helicopter for up to 50 percent of the 100 hours of PIC experience required. Granted July 15, 1985.
17324	Gulf Air Company	14 CFR Parts 21, 61, 63, and 121	To permit petitioner to continue to operate certain U.S.-registered L-1011 airplanes using a master minimum equipment list and a continuous airworthiness maintenance program as provided by the previous issuances of Exemption No. 2468. Granted June 28, 1985.
22635	Sierra Academy of Aeronautics	14 CFR Portions of Part 63	To extend Exemption 3564, as amended which terminates on June 30, 1985 which allows petitioner to conduct a Federal Aviation Administration (FAA) test program for flight engineer applicants who do not possess at least a commercial pilot certificate with an instrument rating, to reduce the required 5 hours of flight training in an airplane and by incorporating static ground training in an airplane subject to certian conditions and limitations. Partial Grant June 28, 1985.
24537	Woodrow M. Nesbitt	14 CFR 61.161(b)	To permit petitioner to apply for an airline transport pilot certificate (ATCP) with a rotocraft category rating without meeting the requirement that petitioner have at least 1,200 hours of flight time within the preceding 8 years. Granted June 28, 1985.
24377	Pittsburg & Shawmut Coal Company	14 CFR 21.181	To allow petitioner to operate a Citation II aircraft utilizing the provisions of a minimum equipment list. Granted June 27, 1985.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
23565	CIGNA Service Company	14 CFR 21.181	To allow petitioner to operate an additional airplane, a Grumman Gulfstream G-159, Serial Number 162, using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). Granted June 28, 1985.
24425	Pan American World	14 CFR 121.411 and 121.413	To permit petitioner to use Aeroformation instructor pilots to train petitioner's initial cadre of A310-222 pilots. Granted June 28, 1985.
24453	Mid Pacific Airlines	14 CFR 121.411(a)	To permit petitioner to use certain Fokker F-28 pilot flight instructors and simulator instructors to train petitioner's initial cadre of F-28 pilots. Granted June 28, 1985.
21792	Aeronaves de Mexico, S.A.	14 CFR 21.181	To extend the June 30 termination date of Exemption 3266, as amended. It would allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted June 28, 1985.
23725	Purolator Courier Corp.	14 CFR 121.3(e), 135.5	To allow petitioner to operate as a domestic air carrier by using aircraft chartered from operators who are certified by the FAA under the terms of air charter agreements which provide operational control of the aircraft by the certificated charter operator. To permit petitioner to engage in air transportation without its own air carrier operating certificate in accordance with appropriate operations specifications, subject to certain conditions and limitations. Granted July 15, 1985.

[FR Doc. 85-20473 Filed 8-26-85; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

August 21, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Office listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0415
Form Number: IRS Form W-4P
Type of Review: Extension
Title: Withholding Certificate for Pension or Annuity Payments

OMB Number: None
Form Number: IRS Form 1120-IC-DISC, Schedules K, and Schedule P
Type of Review: New
Title: Interest Charge Domestic International Sales Corporation Return—1985, and its related Schedules K and P

OMB Number: None
Form Number: IRS Form 8404
Type of Review: New
Title: Computation of Interest-Charge on DISC-Related Deferred Tax Liability

OMB Number: 1545-0717
Form Number: IRS Forms W-4S
Type of Review: Extension
Title: Request for Federal Income Tax Withholding from Sick Pay

OMB Number: 1545-0892
Form Number: IRS Form 8300
Type of Review: Revision
Title: Report of Cash Payments Over $10,000 Received in a Trade or Business

OMB Number: 1545-0121
Form Number: IRS Form 1116
Type of Review: Revision
Title: Computation of Foreign Tax Credit - Individual, Fiduciary, or Nonresident Alien Individual

Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224

OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Comptroller of the Currency

OMB Number: 1557-0012
Form Number: OCC Form 7030-01
Type of Review: Extension
Title: Application to Establish a Federal Branch or Agency

OMB Number: 1557-1065
Form Number: Schedule EC—Large Bank and Schedule EC—Small Bank
Type of Review: Revision
Title: Special Energy Call Report

Clearance Officer: Eric Thompson, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219

OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Customs Service

OMB Number: 1515-0099
Form Number: None
Type of Review: Extension
Title: Foreign Shipper's Declaration

OMB Number: 1515-0108
Form Number: None
Type of Review: Extension
Title: Declaration by Person Abroad Who Received and is Returning Merchandise to the U.S.

OMB Number: 1515-0047
Form Number: Customs Form 5523
Type of Review: Revision
Title: Invoice Details for Footwear

OMB Number: 1515-0104
Form Number: None
Type of Review: Extension
Title: Declaration of Ultimate Consignee That Articles Were Exported for Temporary Scientific or Educational Purposes

Clearance Officer: Vince Olive (202) 566-9181, U.S. Customs Service, Room 2130, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Carole Hutchinson,
Departmental Reports Management Office.

[FR Doc. 85-20488 Filed 8-26-85; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 166
Tuesday, August 27, 1985

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).

CONTENTS

1

FARM CREDIT ADMINISTRATION

Federal Farm Credit Board; Special Meeting

DATES AND TIMES: The special meeting is scheduled as follows: Wednesday, September 4—8:30 a.m. to 4:30 p.m.

ADDRESS: Federal Farm Credit Board Special Meeting, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Federal Farm Credit Board, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703-883-4010).

SUPPLEMENTARY INFORMATION: A special meeting of the Federal Board has been called and will be held on September 4, 1985. The matters to be considered at the special meeting are:

Wednesday, September 4

*1. Executive Session
2. Proposed Regulations—System Loss Sharing
**3. Reports and Recommendations for Supervisory Actions and Legislative Proposals
(a) Contingency Plans for System Financial Assistance
(b) Farm Credit Administration Powers, Authorities, and Structure
4. CEO Salary—Farm Credit Corporation of America

* This session of the meeting will be closed to the public pursuant to the exemptions set forth in 5 U.S.C. §§ 552b(c) (2) and (8).

** This session of the meeting will be closed to the public pursuant to the exemptions set forth in 5 U.S.C. §§ 552b(c) (8) and (9).

Dated: August 23, 1985.

Donald E. Wilkinson,

Governor.

[FR Doc. 85-20578 Filed 8-23-85; 12:01 pm]

BILLING CODE 6705-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 22, 1985.

TIME AND DATE: 10:00 a.m., Thursday, August 29, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission will consider and act upon the following:

2. Gary Goff v. Youghiogheny & Ohio Coal Company, Docket No. LAKE 84-86-D. (Issues include whether the administrative law judge erred in dismissing the miner's discrimination complaint on the grounds that the miner should have proceeded under the Black Lung Benefits Act, 30 U.S.C. 901 *et seq.*)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR § 2706.150(a)(3) and § 2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 85-20568 Filed 8-23-85; 3:49 pm]

BILLING CODE 6735-01-M

3

LEGAL SERVICES CORPORATION

Committee on the Provisions for the Delivery of Legal Services

TIME AND DATE: Meeting will commence at 9:00 a.m. Thursday, September 5, 1985 and continue until 11:30 a.m.

PLACE: Twin Bridges Marriott, Commonwealth II Room, 333 Jefferson Davis Highway, Arlington, Virginia 22202.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes—June 28, 1985
3. Case Service Reporting (CSR) System
4. Report from the Office of Field Services—Law School Civil Clinical Project
5. Discussion of Partial Fee Payment Concept

CONTACT PERSON FOR MORE INFORMATION: Dan Rathbun, Office of Field Services, (202) 272-4060.

Date issued: August 23, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85-20502 Filed 8-23-85; 11:32 am]

BILLING CODE 6820-38-M

4

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting Tentative Agenda

TIME AND DATE: Meeting will commence at 8:00 a.m., Friday, September 6, 1985, and continue until all official business is completed.

PLACE: Twin Bridges Marriott, Commonwealth II Room, 333 Jefferson Davis Highway, Arlington, Virginia 22202.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes—August 1, 1985
3. Lobbying—45 CFR Part 1612
   —Outside witnesses
   —Report from the Office of Compliance and Review
   —Report from the Office of General Counsel
   —Public comment
4. Questioned costs—Proposed 45 CFR Part 1630
   —Report from the Office of Monitoring, Audit and Compliance
   —Report from the Office of General Counsel
   —Public comment
5. Other Regulations Adopted after April 27, 1984.

CONTACT PERSON FOR MORE INFORMATION: Dennis Daugherty, Executive Office, (202) 272-4040.

Date issued: August 23, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85-20503 Filed 8-23-85; 11:33 am]

BILLING CODE 6820-35-M

5

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: An executive session will be held at 7:30 p.m., Wednesday, September 4, 1985. The public portion of the meeting will commence at 11:00 a.m.,

Friday, September 6, 1985, and continue until all official business is completed.

PLACE: Twin Bridges Marriott, Commonwealth II Room, 333 Jefferson Davis Highway, Arlington, Virginia 22202.

STATUS OF MEETING: Open [A portion of the meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under The Government in the Sunshine Act [5 U.S.C. 552b (c) (2), (6), (7), (9)(B), and (10)] and 45 CFR 1622.5 (a), (e), (f), (g), and (h)].

MATTERS TO BE CONSIDERED:

1. Personal and Personnel Matters (Closed)
2. Litigation and Investigation matters (Closed)
3. Approval of Agenda
4. Approval of Minutes—August 2, 1985
5. Report of the President
6. Report of the Operations and Regulations Committee
7. Discussion and Action on the Recommendations of the Provisions for the Delivery of Legal Services Committee
   —Law School Civil Clinical Projects
8. Discussion and Action on the Recommendations of the Committee on Audit and Appropriations
   —1986 Refunding Applications
   —1986 State Support Funding Formula
   —Reallocation of FY '85 Funds

CONTACT PERSON FOR MORE INFORMATION: Dennis Daugherty, Executive Office, (202) 272–4040.

Date issued: August 23, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–20504 Filed 8–23–85; 11:33 am]

BILLING CODE 6820–35–M

6

LEGAL SERVICES CORPORATION

Committee on Audit and Appropriations

TIME AND DATE: Meeting will commence at 1:30 p.m., Thursday, September 5, 1985, and continue until all official business is completed.

PLACE: Twin Bridges Marriott, Commonwealth II Room, 333 Jefferson Davis Highway, Arlington, Virginia 22202.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Draft Minutes—August 1, 1985
3. Audit and Accounting Guide Report
4. National Support Survey Report
5. Review of Refunding Application Forms
6. State Support Funding Formula
7. Third Quarter Budget Review

CONTACT PERSON FOR MORE INFORMATION: Joel Thimell, Executive Office, (202) 272–4040.

Date issued: August 23, 1985.

Dennis Daugherty,

Acting Secretary.

[FR Doc. 85–20505 Filed 8–23–85; 11:34 am]

BILLING CODE 6820–35–M

7

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9 a.m., Wednesday, September 4, 1985.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Ave., SW, Washington D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Hazardous Materials Accident Report:* Overturn of a Tractor-Semitrailer Transportating Torpedoes, Denver, Colorado, August 1, 1984.
2. *Hazardous Materials Release:* Missouri Pacific Railroad Company, North Little Rock, Arkansas, Railroad Yard, December 31, 1984.
3. Report Summarizing NTSB's Child Passenger Safety Symposium.
4. *Proposed Letter of Recommendation* Concerning Collection of Data on Use and Misuse of Child Restraints.
5. *Aviation Safety Report:* General Aviation Crashworthiness Project: Phase Three—Acceleration Loads and Velocity Changes of Survivable General Aviation Accidents.

CONTACT PERSON FOR MORE INFORMATION: Catherine T. Kaputa.

Catherine T. Kaputa,

Federal Register Liaison Officer.

August 22, 1985.

[FR Doc. 85–20512 Filed 8–23–85; 11:51 am]

BILLING CODE 7533–01–M

8

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10:15 a.m. (EDT), Thursday, August 29, 1985.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on July 24, 1985.

Action Items

Old Business

1. Final rate review.

New Business

B—Purchase Awards

B1. Requisition 97—Spot Coal for Johnsonville Steam Plant.

C—Power Items

C1. Letter Agreement with the Department of the Air Force amending power contract covering power supply to Arnold Engineering Development Center (TV–59316A).

D—Personnel Items

D1. Renewal of personal services contract with Hartford Steam Boiler Inspection and Insurance Company, Hartford, Connecticut, for performance of authorized inspection services at TVA nuclear plant sites, requested by the Division of Construction.

D2. Personal Services Contract with Dick Anderson Travel Services, Inc., Winston-Salem, North Carolina, for provision of travel services to TVA, requested by the Division of Property and Services.

* D3. Relocation incentive arrangement.

E—Real Property Transactions

E1. Abandonment of certain rights affecting 0.31 acre of Chickamauga Reservoir Land located in Rhea County, Tennessee—Tract Nos. XCR–169 and CR–1571.

F—Unclassified

* F1. Contract No. TV–67525A between TVA and the Commonwealth of Kentucky for a continuing effort to provide economic development technical advice and assistance to Kentucky communities in the Tennessee Valley region.

F2. Supplement No. 3 to Agreement No. TV–61962A with Tennessee State University, Nashville State Technical Institute, and the State of Tennessee Board of Regents for construction, operational, and training expenses at the Industrial Training Center at Cockrill Bend.

F3. Agreement No. TV–67619A with Nashville State Technical Institute and Tennessee State University covering arrangements for cooperation in an advanced technology demonstration program.

F4. Cooperative agreement among TVA, Agricultural Stabilization and Conservation Service, and Soil Conservation Service covering arrangements for a project to demonstrate the use of animal waste management systems to improve water quality (TV–66539A).

F5. Supplement to Letter Agreement No. TV–59841A with RECRA Research, Inc., covering arrangements for stream gage monitoring activities to be performed by TVA.

* Item approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: August 22, 1985.

W.F. Willis,

General Manager.

[FR Doc. 85–20521 Filed 8–23–85; 12:08 pm]

BILLING CODE 8120–01–M

federal register

Tuesday
August 27, 1985

Part II

Environmental Protection Agency

40 CFR Parts 85 and 86

Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines; Amendment to Certain Regulations To Require Assertion of any Business Confidentiality Claim Under the Freedom of Information Act at Time of Submittal of Information; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85 and 86

[FRL-2862-4]

Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines; Amendment to Certain Regulations To Require Assertion of any Business Confidentiality Claim Under the Freedom of Information Act at Time of Submittal of Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds a provision to certain subparts of 40 CFR Parts 85 and 86, which rquire businesses to submit information to EPA's Manufacturers Operations Division (MOD). This provision will require businesses to identify information as confidential at the time it is submitted to EPA, if they wish to exempt it from disclosure under the Freedom of Information Act. Failure to assert a business confidentiality claim as outlined in this final rule will permit EPA, consistent with its regulations at 40 CFR Part 2, Subpart B, to release the information without further notice to the submitter.

EFFECTIVE DATE: These regulations are effective September 26, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Bergovoy, Manufacturers Operation Division (EN-340-F), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Phone: (202) 382-2522.

SUPPLEMENTARY INFORMATION: Exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4), exempts trade secrets and confidential business information from the FOIA's general disclosure requirement. EPA's implementing regulations at 40 CFR Part 2, Subpart B, permit submitters of business information to clearly identify those documents or portions thereof for which they wish to assert a confidentiality claim, by placing on the information a stamp, cover sheet, or other suitable form of notice employing such language as "trade secret", "proprietary", or "company confidential." However, even if the business fails to assert its claim at the time of submittal, if EPA wishes to disclose the information it is still required under 40 CFR 2.204(c)(2) to contact the business whenever it appears that the business might be expected to assert a confidentiality claim if it knew EPA proposed to disclose the information and EPA has not previously given the business the notice described in 40 CFR 2.203(a).

This contact requirement has proved extremely burdensome to MOD, which receives a great volume of business information that subsequently is requested under the FOIA. MOD must expend substantial resources each year contacting submitters to find out whether they wish to claim confidentiality for information they provided EPA. Sometimes a long period of time has elapsed since the information was submitted, and as a result, MOD has difficulty locating the submitter or the submitter is not certain what information is being discussed and must be sent a duplicate. In the absence of a requirement that confidentiality claims be asserted at the time information is submitted, EPA often must contact the submitter of the information even to respond to FOIA requesters who are seeking only those portions of the information for which confidentiality has not been claimed.

Under 40 CFR 2.203(c) and 2.204(c)(2)(i)(A), EPA can bypass the contact requirement by including certain statements with its request for information. Pursuant to these provisions, some subparts of EPA regulations which require businesses to submit information to MOD will now include provisions which state that a business must identify clearly all items claimed confidential at the time of submittal. Failure to do so at the time of submittal will permit EPA to make the information available to the public without further notice to the submitting business. This requirement will be inserted in 40 CFR Part 84, Subparts P (Importation of Motor Vehicles and Motor Vehicle Engines, R (Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines), S (Recall Regulations), T (Emission Defect Reporting Requirements) and V (Performance Warranty and Voluntary Aftermarket Part Certification Program); and Part 86, Subparts G (Selective Enforcement Auditing of Light-Duty Vehicles), K (Selective Enforcement Auditing of Heavy-Duty Engines), and L (Nonconformance Penalties for Heavy-Duty Engines and Vehicles). While not required, it is recommended that a submitter asserting a confidentality claim also send EPA a "sanitized" copy of its submission from which all confidential information has been deleted. This will reduce the chance that EPA, in preparing a sanitized copy for release to FOIA requesters, might inadvertently failed to delete all information claimed confidential. EPA will assume that documents sanitized by a submitter accurately delete the information the submitter claims confidential.

Legal Authority

5 U.S.C. 301, 552, and 553. Sections 208, 301, and 307 of the Clean Air Act as amended (42 U.S.C. 7542, 7601, 7607).

Public Participation

The Agency finds that good cause exists for making this rule effective without a prior notice of proposed rulemaking. As discussed above, the existing FOIA regulations allow the Agency to release, without further notice, business information which has not been marked confidential at the time of submittal if the Agency has provided the business with appropriate notice that such claims must be made at the time the information is submitted. Since these amendments merely implement long-standing regulations which passed through notice and comment already (*see* 40 FR 21987 (May 20, 1975); 41 FR 36902 (Sept. 1, 1976)), impose no significant burden on submitters, and relieve EPA of substantial administrative burdens, it would be unnecessary and contrary to the public interest to require prior notice and comment in this case. 5 U.S.C. 553(b)(3)(B). In addition, since these amendments are merely procedural (implementing existing FOIA regulations), prior notice and comment are unnecessary. 5 U.S.C. 553(b)(3)(A).

Administrative Designation

Under Executive Order 12291, EPA must submit a Regulatory Impact Analysis for all "major" rules. This regulation is not "major" because it will not have an annual effect on the economy of more than $100 million and it will have no significant adverse effects on competition, productivity, investment, employment, or innovation. Therefore, a Regulatory Impact Analysis will not be prepared.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket cited above.

This rule does not come under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because it makes no independent request or requirement to collect information. It merely gives submitters the option to make certain notations when they submit information which is requested or required by previously promulgated regulations.

Effect on Small Entities

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis of any final rule unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. This final rule slightly modifies existing regulations and imposes an insubstantial new requirement on submitters of business information. Therefore, I hereby certify, pursuant to 5 U.S.C. 605(b), that this rule will not have a significant adverse impact on a substantial number of small entities. Accordingly, the Agency has not prepared a regulatory flexibility analysis to accompany this rule.

Judicial Review

This regulation is a nationally applicable regulation promulgated under the Clean Air Act. Accordingly, under section 307(b)(1) of the Clean Air Act, any judicial review must be sought in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed October 28, 1985. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by submitters of business information.

List of Subjects

40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: August 15, 1985.

Lee M. Thomas,

Administrator.

For the reasons set forth in this preamble, Parts 85 and 86 of Title 40, Code of Federal Regulations are amended as follows:

PART 85—[AMENDED]

1. The authority citation for Parts 85 and 86 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 553; Clean Air Act 208, 301, and 307, as amended, 42 U.S.C. 7542, 7601, 7607.

2. By adding a new § 85.1510 to read as follows:

§ 85.1510 Treatment of confidential information.

(a) Any importer or consignee, laboratory or modifier may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, an importer, consignee, laboratory, or modifier must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

3. By adding § 85.1712 to subpart R to read as follows:

§ 85.1712 Treatment of confidential information.

(a) Any person or manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a person or manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of it submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to ths subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

4. By adding § 85.1808 to Subpart S to read as follows:

§ 85.1808 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a person or manufacturer must indicate clearly the items of information claimed confidential by marking, circling bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to ths subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

5. By adding § 85.1909, to Subpart T to read as follows:

§ 85.1909 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted all confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

6. By adding § 85.2123 to Subpart V to read as follows:

§ 85.2123 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information shall be deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted all confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

PART 86—[AMENDED]

1. By adding § 86.615 to read as follows:

§ 86.615 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

2. By adding § 86.1015, to Subpart K to read as follows:

§ 86.1015 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

3. By adding a new § 86.1116–87, to Subpart C to read as follows:

§ 86.1116–87 Treatment of confidential information.

(a) Any manufacturer may assert that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment as provided by 40 CFR Part 2, Subpart B.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(c) To assert that information submitted pursuant to this subpart is confidential, a manufacturer must indicate clearly the items of information claimed confidential by marking, circling, bracketing, stamping, or otherwise specifying the confidential information. Furthermore, EPA requests, but does not require, that the submitter also provide a second copy of its submittal from which all confidential information has been deleted. If a need arises to publicly release

nonconfidential information, EPA will assume that the submitter has accurately deleted the confidential information from this second copy.

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Administrator only to the extent and by means of the procedures set forth in Part 2, Subpart B, of this chapter.

(e) Information provided without a claim of confidentiality at the time of submission may be made available to the public by EPA without further notice to the submitter, in accordance with 40 CFR 2.204(c)(2)(i)(A).

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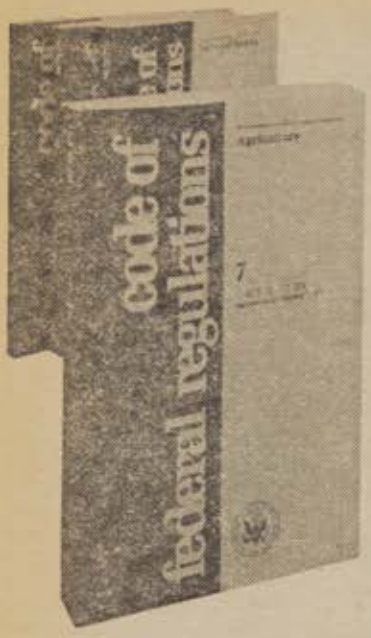

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