2-28-84
Vol. 49 No. 40
Pages 7211-7346

federal register

Tuesday
February 28, 1984

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 12465 of February 24, 1984

Commercial Expendable Launch Vehicle Activities

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to encourage, facilitate and coordinate the development of commercial expendable launch vehicle (ELV) operations by private United States enterprises, it is hereby ordered as follows:

Section 1. The Department of Transportation is designated as the lead agency within the Federal government for encouraging and facilitating commercial ELV activities by the United States private sector.

Sec. 2. *Responsibilities of Lead Agency.* The Secretary of Transportation shall, to the extent permitted by law and subject to the availability of appropriations, perform the following functions:

(a) act as a focal point within the Federal government for private sector space launch contacts related to commercial ELV operations;

(b) promote and encourage commercial ELV operations in the same manner that other private United States commercial enterprises are promoted by United States agencies;

(c) provide leadership in the establishment, within affected departments and agencies, of procedures that expedite the processing of private sector requests to obtain licenses necessary for commercial ELV launches and the establishment and operation of commercial launch ranges;

(d) consult with other affected agencies to promote consistent application of ELV licensing requirements for the private sector and assure fair and equitable treatment for all private sector applicants;

(e) serve as a single point of contact for collection and dissemination of documentation related to commercial ELV licensing applications;

(f) make recommendations to affected agencies and, as appropriate, to the President, concerning administrative measures to streamline Federal government procedures for licensing of commercial ELV activities;

(g) identify Federal statutes, treaties, regulations and policies which may have an adverse impact on ELV commercialization efforts and recommend appropriate changes to affected agencies and, as appropriate, to the President; and

(h) conduct appropriate planning regarding long-term effects of Federal activities related to ELV commercialization.

Sec. 3. An interagency group, chaired by the Secretary of Transportation and composed of representatives from the Department of State, the Department of Defense, the Department of Commerce, the Federal Communications Commission, and the National Aeronautics and Space Administration, is hereby established. This group shall meet at the call of the Chair and shall advise and assist the Department of Transportation in performing its responsibilities under this Order.

Sec. 4. *Responsibilities of Other Agencies.* All executive departments and agencies shall assist the Secretary of Transportation in carrying out this Order. To the extent permitted by law and in consultation with the Secretary of Transportation, they shall:

(a) provide the Secretary of Transportation with information concerning agency regulatory actions which may affect development of commercial ELV operations;

(b) review and revise their regulations and procedures to eliminate unnecessary regulatory obstacles to the development of commercial ELV operations and to ensure that those regulations and procedures found essential are administered as efficiently as possible; and

(c) establish timetables for the expeditious handling of and response to applications for licenses and approvals for commercial ELV activities.

Sec. 5. The powers granted to the Secretary of Transportation to encourage, facilitate and coordinate the overall ELV commercialization process shall not diminish or abrogate any statutory or operational authority exercised by any other Federal agency.

Sec. 6. Nothing contained in this Order or in any procedures promulgated hereunder shall confer any substantive or procedural right or privilege on any person or organization, enforceable against the United States, its agencies, its officers or any person.

Sec. 7. This Order shall be effective immediately.

Ronald Reagan

THE WHITE HOUSE,
February 24, 1984.

[FR Doc. 84-5386
Filed 2-24-84; 3:25 pm]
Billing code 3195-01-M

Editorial Note: For the President's remarks of Feb. 24, 1983, on signing EO 12465, see the *Weekly Compilation of Presidential Documents* (vol. 20, no. 8).

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 422

[Amdt. No. 2]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith amends the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1984 and succeeding crop years, to update the regulations for insuring potatoes in Compliance with the provisions of Secretary's Memorandum No. 1512–1. The intended effect of this rule is to adopt, as modified herein, the proposed rule published in the **Federal Register** on June 22, 1983.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Wednesday, June 22, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 28468, to amend the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1984 and succeeding crop years by: (1) Changing the policy to make it easier to read; (2) eliminating the reduction in production guarantee for unharvested acreage and its related provisions; (3) providing that potatoes are insurable following sunflowers, potatoes, dry beans, soybeans, rape, or mustard if the rotation requirements are carried out; (4) permitting determination of indemnities based on the acreage report rather than at loss adjustment time; (5) providing for a coverage level if the insured does not select one; (6) providing that in the event of a probable loss, a representative sample of the unharvested crop be left intact for 15 days; (7) adding a 60-day claim for indemnity provision; (8) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (9) adding a hail/fire provision for appraisals of uninsured causes; (10) changing the cancellation/termination dates to conform with farming practices; (11) providing that any change in the policy will be available in the service office by a certain date; (12) adding a definition for "service office;" (13) providing for unit determination when the acreage report is filed; and (14) adding a section concerning "descriptive headings."

The public was given 60 days in which to submit written comments, data, and opinions, but none were received.

The proposed rule, published on Wednesday, June 22, 1983, was inadvertently identified as Amendment No. 1. This should have read Amendment No. 2. This final rule redesignates this amendment as Amendment No. 2.

Upon review, prior to the publication of these regulations as a final rule, FCIC determined that potato crop insurance in south Florida, approved by the Board of Directors effective for 1984, required an earlier insurance period and therefore, earlier cancellation, termination, and notice of contract dates. These necessary changes have been made and are included in the Potato Crop Insurance Policy found in this rule and in the regulations for insurance (7 CFR Part 422) at 7 CFR 422.7(d).

Section 7 of the Policy (7 CFR 422.7(d)) establishes October 10 as the date insurance attaches on potatoes in Lee, Hendry, and Palm Beach counties, Florida, and all counties south thereof.

Section 15(d) of the Policy (7 CFR 422.7(d)) establishes the cancellation and termination dates as September 30 for Lee, Hendry, and Palm Beach counties and all counties lying south thereof.

Section 16 of the Policy (7 CFR 422.7(d)) establishes June 30 as the date on which all contract changes for potato crop insurance affecting Lee, Hendry, and Palm Beach counties and all counties lying south thereof shall be placed on file in the service office.

In addition, FCIC revises and reissues a subsection of the potato crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The subsection in question (7 CFR 422.3) previously contained provisions for the posting a listing of indemnities paid within a county.

This requirement is no longer included in the Federal Crop Insurance Act thus rendering this subsection obsolete.

Appendix B to these regulations, listing the counties where potato crop insurance is otherwise authorized to be offered in accordance with 7 CFR 422.1 of these regulations, has been redesignated as Appendix A.

Additionally, it was determined that, since a substantial number of potato producers in Maine grow potatoes for certification as seed potatoes, provisions should be included in these regulations to permit insurance coverage as an option available to insureds in that state. Therefore, FCIC issues a new subsection to prescribe procedures providing the insured potato grower with a Certified Seed Potato Option Amendment, applicable only in Maine, as an adjunct to the insurance provided under these regulations.

Therefore, with the exception of minor and non-substantive changes in language, the new subsection and the Certified Seed Potato Option Amendment described above, the proposed rule is hereby published as a final rule to be effective beginning with the 1984 crop year.

List of Subjects in 7 CFR Part 422

Crop insurance, Potatoes.

Final rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1984 and succeeding crop years, in the following instances:

PART 7—[AMENDED]

1. The Authority citation for 7 CFR Part 422 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 422.3 is added to read as follows:

§ 422.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 422) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 422.7 [Amended]

3. 7 CFR § 422.7(d) is amended by revising the Potato Crop Insurance Policy therein to read as follows:

* * * * *

(d) * * *

Department of Agriculture

Federal Crop Insurance Corporation

Potato—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following losses occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

Unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We shall not insure against any loss of production due to:

(1) Damage that occurs or becomes evident after the potatoes have been placed in storage;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good potato farming practices;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(5) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be potatoes which are planted for harvest, which are grown on insured acreage, and for which we provide a guarantee and premium rate in the actuarial table.

b. The acreage insured for each crop year shall be potatoes planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured potatoes at the time of planting.

d. We do not insure any acreage:

(1) Planted with non-certified seed;

(2) Which does not meet the rotation requirements contained in the actuarial table;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(5) Which is destroyed and we determine it is practical to replant to potatoes and such acreage was not replanted;

(6) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(7) Of volunteer potatoes;

(8) Planted to a type or variety of potatoes not established as adapted to the area or excluded by the actuarial table;

(9) Planted with another crop; or

(10) Planted for the development or production of hybrid seed or for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good potato irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good potato irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, practice, and yield.

You shall report on our form:

a. All the acreage of potatoes in the county in which you have a share;

b. The practice;

c. Your share at the time of planting;

d. The most recent years production for insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any potatoes planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities will be contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the potatoes are planted except Florida where insurance attaches when the potatoes are planted, only if the potatoes are planted:

(1) From October 10 through January 10 for Lee, Hendry and Plam Beach Counties, Florida and all counties south thereof; and

(2) From January 1 through February 15 for all other Florida counties.

b. Insurance ends at the earliest of:

(1) Total destruction of the potatoes;

(2) Harvesting or removal from the field;

(3) Final adjustment of a loss; or

(4) The following dates of the calendar year in which potatoes are normally harvested:

(a) Florida—June 1;

(b) Idaho, Oregon and Washington—October 31;

(c) all other states—October 15.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the potatoes on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the potatoes and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested potatoes (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the potatoes on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. We must be given the opportunity to inspect any harvested production on any unit for which you have given notice of probable loss, if such production will not be delivered directly to a processing plant.

c. You must obtain written consent from us before you destroy any of the potatoes which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the potatoes on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of potatoes on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of potatoes to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested, marketable, and appraised production except if potatoes are marketed or stored without an acceptable inspection, the production to count shall be 90 percent of the gross weight so marketed or stored.

(1) We may determine the extent of any loss at the time the potatoes are placed in storage or delivered to a processor.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good potato farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Not less than the guarantee for any acreage from which the harvested production is disposed of without our prior written consent and such disposition prevents accurate determination of marketable potatoes; and

(d) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of potatoes becomes general in the country;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount of production of any unharvested potatoes on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the potatoes are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

(6) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If after the potatoes are planted for any crop year, you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all potatoes produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and counties	Cancellation and termination date
Lee, Hendry and Palm Beach Counties, Florida and all Florida counties lying south thereof.	Sept. 30.
All other Florida counties	Dec. 31.
All other states	Apr. 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date, by September 30 preceding the cancellation date for counties with a December 31 cancellation date, and by June 30 prior to the cancellation date for counties with a September 30 cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of potato crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which

show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding potato insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the potatoes are normally grown and shall be designated by the calendar year in which the potatoes are normally harvested.

d. "Harvest" means the digging of potatoes on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Marketable potatoes" means potatoes acceptable for use as certified seed or for human consumption and which meet the standards for sale through market outlets for the area and as may be further defined by the actuarial table.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the potatoes or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of potatoes in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed comodity payment, or any consideration other than a share in the potatoes on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share of the bona fide share or any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with our Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

4. 7 CFR Part 422 is amended by adding a new § 422.8 to read as follows:

§ 422.8 Certified seed potato option (Applicable only in Maine).

(a) Notwithstanding the provisions of § 422.7(d)(9)(e) of this part, an insured producer may, upon submission and approval of a Certified Seed Potato Option Amendment approved by the Corporation, elect to insure all insurable acreage of potatoes grown for certified seed in which the insured has a share, under the provisions of the Certified Seed Potato Option Amendment, providing: (1) Insurance is in effect under the provisions of the potato policy, (2) that all potatoes grown for seed must be insured, (3) the insured is a certified seed producer having acceptable production records, and (4) the management practices required for the production of certified seed potatoes as stated in the amendment are met. The Certified Seed Potato Option Amendment shall be applicable for the current crop year. A new option amendment must be submitted for each subsequent crop year.

(b) For those insureds who elect to insure potatoes under the certified Seed Potato Option Amendment, all provisions of the Potato crop insurance policy shall apply, except those provisions in conflict with the amendment as outlined below:

FCI– (12–83)

U.S. DEPARTMENT OF AGRICULTURE

Federal Corp Insurance Corporation

Potato Crop Insurance Policy—Certified Seed Potato Option Amendment

Insured's Name _____
Address _____
Contract No. _____
Crop Year _____
Identification No. _____
SSN _____ Tax _____

When you submit a signed Certified Seed Potato Option Amendment each crop year on or before the final date for accepting applications and we approve such amendment, your insurable acreage of potatoes grown for certified seed will be insured on such basis: Provided:

1. you must currently be insured under the potato insurance program;

2. all potatoes which are grown for certified seed must be insured;

3. you are considered to be a certified seed producer which for our purposes shall be a person whose potatoes have been certified as seed potatoes for the previous five years; except, following our initial approval of this amendment, you shall be exempt from this requirement in subsequent crop years provided you continue to insure your seed potato certification under this amendment and you meet the other requirements as provided;

4. you provide us with acceptable records of your certified seed potato acreage and production for at least the previous 5 years;

5. potatoes for seed are not grown on the same land on which potatoes have been grown more than 2 years out of 4;

6. Elite or high grade foundation seed potatoes or seed potatoes having a Florida test reading of less than 5 percent common virus are used in planting; and

7. all acreage insured for certified seed production is managed in accordance with standard practices and procedures required for certification as prescribed by applicable state regulations regarding seed potato certification.

Your production guarantee and premium rate will be that provided on the actuarial table for certified seed potatoes. If, due to insurable causes occurring within the insurance period, any certified seed potato acreage within a unit from which the potato production will not qualify as certified seed shall be considered lost. We will pay you one dollar ($1.00) per cwt., times your production guarantee for such acreage, times your share.

In addition to section 17k of the potato policy, insurable acreage grown under the provisions of this amendment may be designated as a separate unit(s).

All provisions of the potato policy not in conflict with this amendment will be applicable.

All determinations regarding the provisions of this amendment will be made by us.

This amendment is not continuous. A new amendment must be submitted each crop year to take advantage of the certified seed potato option.

(Crop year) _____ Certified Seed Potato Acreage (estimate by insured) _____
Insured's Signature _____ Date _____
Corporation representative's signature and code number _____ Date _____
Field actuarial office approval _____ Date _____

Following is the Privacy Act Statement found on the reverse side of the Certified Seed Potato Option Amendment:

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring certified seed potatoes under the Certified Seed Potato Option Amendment to the Potato Crop Insurance Regulations promulgated thereunder (7 CFR Part 422). The information requested is necessary for FCIC to process the option to insure certified seed potatoes, to determining the correct premium and indemnity, and to determine the correct parties to the insurance contract. The

information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture Agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal.

Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of the option for insuring certified seed potatoes, and/or subsequent denial of any claim for indemnity which may be filed under such option. The failure to supply correct, complete information may substantially delay acceptance of the Certified Seed Potato Option and/or any subsequent claim for indemnity.

§ 422.7 [Amended]

5. The "Appendix to § 422.7—Additional Terms and Conditions" is removed.

6. Appendix B is revised and redesignated as new Appendix A.

Appendix A—Counties Designated for Potato Crop Insurance—7 CFR Part 421

The following counties are designated for Potato Crop Insurance under the provisions of 7 CFR 422.1.

Colorado

Alamosa	Morgan	Saguache
Conejos	Rio Grande	Weld

Florida

Dade	Putnam
Flagler	St. Johns

Idaho

Bannock	Clark	Madison
Bingham	Elmore	Minidoka
Bonneville	Fremont	Owyhee
Butte	Gooding	Power
Canyon	Jefferson	Teton
Caribou	Jerome	Twin Falls
Cassia	Lincoln	

Maine

Aroostook	Oxford	Piscataquis
Cumberland	Penobscot	

Massachusetts

Hampshire

Michigan

Bay	Montcalm
Monroe	Presque Isle

Minnesota

Clay	Marshall	Sherburne
Freeborn	Norman	Todd
Hennepin	East Polk	
Kittson	West Polk	

Montana

Gallatin	Lake

Nevada

Humboldt

New York

Cayuga	Madison	Suffolk
Erie	Monroe	Wayne
Franklin	Oneida	Wyoming
Genesee	Orleans	
Livingston	Steuben	

North Carolina

Pamlico	Pasquotank

North Dakota

Grand Forks	Towner	Walsh
Pembina	Traill	

Oregon

Klamath	Morrow
Malheur	Umatilla

Pennsylvania

Cambria	Erie	York

Utah

Iron

Virginia

Accomack	Northampton

Washington

Adams	Franklin	Walla Walla
Benton	Grant	Whatcom

Wisconsin

Adams	Marathon	Waupaca
Juneau	Oneida	Waushara
Langlade	Portage	

Wyoming

Laramie

Done in Washington, D.C., on December 14, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: February 16, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-5182 Filed 2-27-84; 8:45 am]

BILLING CODE 3410-08-M

Packers and Stockyards Administration

9 CFR Part 201

Regulations and Policy Statements

Correction

In FR Doc. 84-4199 beginning on page 6080 in the issue of Friday, February 17, 1984, make the following correction:

§ 201.49 [Corrected]

On page 6084, first column, § 201.49(b), fifth line, "a scale" should have read "a scale ticket".

BILLING CODE 1505-01-M

Food Safety and Inspection Service

9 CFR Parts 303 and 381

[Docket No. 84-001N]

Exemptions for Retail Stores; Adjustment of Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Rule related notice.

SUMMARY: This notice announces that the dollar limitation currently in effect for annual sales of meat and poultry products by retail stores, exempt from routine Federal Inspection, to nonhousehold consumers, such as hotels, restaurants and similar institutions, has been adjusted to conform with price changes for meat and poultry products as indicated by the Consumer Price Index. The adjustment lowers the dollar limitation for meat products from $30,200 to $28,800 and raises the dollar limitation for poultry products from $23,100 to $25,500 per calendar year.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Ragan, Director, Regulations Office, Policy and Program Planning, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3317.

SUPPLEMENTARY INFORMATION:

Background

Federal inspection of meat and poultry products prepared for sale and distribution in commerce and in States designated under section 301(c) of the Federal Meat Inspection Act (21 U.S.C. 661(c)) and section 5(c) of the Poultry Products Inspection Act (21 U.S.C. 454(c)) is required by law and administered by the Food Safety and Inspection Service (FSIS). However, section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) and section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) state that the general requirement of routine Federal inspection ". . . shall not apply to operations of types traditionally and usually conducted at retail stores . . . when conducted at any retail store . . . for sale in normal retail quantities . . . to consumers . . ."

FSIS regulations (9 CFR 303.1(d) and 381.10(d)) define retail stores that qualify for exemption from routine Federal inspection under these Acts. Whether or not FSIS deems an

establishment to be an exempt retail establishment depends, in part, upon the level of its trade with nonhousehold consumers, such as hotels, restaurants and similar institutions. Accordingly, the Federal meat and poultry products inspection regulations state in terms of dollars the maximum amount of meat and poultry products which may be sold to nonhousehold consumers if the establishment is to remain an exempt retail establishment. For meat products, the maximum amount is currently $30,200 per calendar year; for poultry products, the amount is $23,100 per calendar year.

The Federal meat and poultry products inspection regulations 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*) further provide that the dollar limitations on the sales of meat and poultry products by exempt retail stores to nonhousehold consumers will be automatically adjusted during the first quarter of each calendar year, whenever the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, indicates a change in the price of the same volume of product exceeding $500, upward or downward. The regulations also require that notice of the adjusted dollar limitation will be published in the Federal Register.

The Consumer Price Index for 1983 has been published by the Bureau of Labor Statistics and, for that year, indicates a price decrease in meat products of 4.7 percent and a price increase in poultry products of 10.2 percent. As a percentage of the existing dollar limitations, a change in excess of $500 is indicated by both meat products and poultry products. When rounded off to the nearest $100, a price decrease for meat products amounts to $1,400 and a price increase for poultry products amounts to $2,400.

Accordingly, pursuant to the regulations, FSIS has automatically lowered the dollar limitation of permitted sales of meat products and raised the dollar limitation of permitted sales of poultry products to nonhousehold consumers by establishments desiring status as retail establishments exempt from Federal inspection requirements. The adjustment lowers the dollar limitation on meat products specified in § 303.1(d)(2)(iii)(b) from $30,200 to $28,800 and raises the dollar limitation on poultry products specified in § 381.10(d)(2)(iii)(b) from $23,100 to $25,500.

Done at Washington, DC, on: February 22, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-5195 Filed 2-27-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-2; Special Conditions No. 25-ANM-4]

Special Conditions: Avions Marcel Dassault-Breguet Aviation Mystere-Falcon 200

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued pursuant to §§ 21.16 and 21.101(b) of the Federal Aviation Regulations (FAR) to Avions Marcel Dassault-Breguet Aviation for the Mystere-Falcon 200 airplane. The airplane will have novel or unusual design features associated with the unusually high operating altitude (49,000 feet) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. These special conditions contain the safety standards which the Administrator finds necessary to reduce the likelihood of failures which could lead to cabin altitudes that exceed the protective capability of the oxygen equipment.

EFFECTIVE DATE: March 29, 1984.

FOR FURTHER INFORMATION CONTACT: Mark Ouam, Regulations and Policy Office, ANM-110, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C- 68966, Seattle, Washington 98168; telephone (206) 431-2134.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 1978, Avions Marcel Dassault-Breguet Aviation (AMD-BA), 33 rue du Professeur Victor Pauchet, 92420 Vaucresson, France, filed an application for an amended type certificate in the transport category for the airplane now designated as the Avions Marcel Dassault-Breguet Aviation Mystere-Falcon 200. The Mystere-Falcon 200 is a derivative version of the AMD-BA Fan Jet Falcon series, for which FAA Type Certificate No. A7EU was issued, with two Garrett Model ATF3-6 engines and associated engine system changes, increased fuel capacity, increased weights, aerodynamic changes, system changes, and installation of an auxiliary power unit. Type certification of the Model Mystere-Falcon 200 was accomplished on July 6, 1982, as an amendment to Type Certificate No. A7EU in accordance with Subpart D of Part 21.

On June 30, 1982, AMD-BA filed an amended application for type certification to operate the Mystere-Falcon 200 up to a maximum altitude of 49,000 feet MSL. The June 30 application superseded a November 27, 1981, application relating to operation up to 45,000 feet.

Discussion of Comments

A notice of proposed special conditions was published in the Federal Register (48 FR 19727; May 2, 1983) for comment.

A number of comments were received recommending that the FAA reconsider, withdraw, or limit the special conditions to airplanes being certificated above 45,000 feet. Commenters argued that it was unfair to apply special conditions to the Mystere-Falcon 200 from the 41,000 foot altitude when all other special conditions for executive jet transports were applied for operation above 45,000 feet. (It is recognized that certain large, airline-type transports have been modified for executive use; however, the term "executive jet transports," as used herein, refers to the smaller transports designed expressly for executive use.)

FAA Response: It has always been FAA policy to apply special conditions or equivalent means to prevent exposing passengers and flightcrews to cabin altitudes in excess of the protective capability of the oxygen equipment. The FAA has recognized for some time that additional measures are necessary to provide the same level of safety for operation above 41,000 feet as that provided by Part 25 for operation at lower flight levels. Special conditions were issued for larger airplanes, such as the Boeing 747, to provide this level of safety. The first executive jet transports approved by the FAA for operation above 41,000 feet to a maximum altitude of 45,000 feet were certain Learjet models. The special conditions issued for these models provided this level of safety by requiring that both pilots and passengers wear oxygen masks for flight above 41,000 feet. Subsequent special conditions were issued in 1976 to permit operation above 45,000 feet. The later special conditions were identified as those permitting operation above 45,000 feet because the airplanes were already approved for operation up to that

altitude. In reality, however, they also covered operation between 41,000 feet and 45,000 feet because the earlier special condition requiring occupants to wear and use oxygen masks was superseded.

The subsequent special conditions issued for other executive jet transports, such as later Learjet models, the Canadair CL-600, and the Cessna 650, also covered operation above 41,000 feet in the same manner. Unfortunately, the reference to operation above 45,000 feet was carried forward to the titles of these special conditions even though they applied to operation between 41,000 and 45,000 feet as well. Thus, although there may be some confusion due to the titles, the special conditions proposed for the Mystere-Falcon 200 are consistent with those issued for other executive jet transports. Correction was made in the special conditions issued for the Canadair CL-600-2A12 (CL-601) published in the **Federal Register** (48 FR 12334; March 24, 1983.

The statement was made by one commenter that application of the special conditions, as proposed, would have major consequences on costs and the delivery schedule of the Mystere-Falcon 200.

FAA Response: There has been no showing that the application of these special conditions would have any significant economic consequence. The airplane can be type certificated to 41,000 feet without meeting the special conditions; therefore, the airplane cost and delivery schedule should not be affected even if the special conditions cannot be complied with. Only altitudes actually flown in operation are affected, not the certification schedule.

One commenter stated the proposed special conditions would be applicable, regardless of the altitude of operation.

FAA Response: The words "for operation above 41,000 feet" are inserted in the final rule to be consistent with previous FAA policy in dealing with high altitude executive jet transports. In the future, special conditions will contain the words "when operating at airplane altitudes in excess of the protective capability of the oxygen equipment," or similar language. If structural failures (holes or cracks) occur in an area of negative pressure differential, at Mach .8 for instance, the cabin altitude can exceed the airplane altitude by 8,000 feet. Preventive inspection precautions need to be taken for airplanes that fly below as well as above 41,000 feet.

One commenter stated that according to Special Condition D, paragraph 2, a 17-second crew recognition and reaction time must be applied to paragraphs 1a and 1b of Special Condition D. It was suggested this is more stringent than previous special conditions and should only apply to paragraph 1b.

FAA Response: A review of the special conditions issued in the past confirms that the 17-second crew recognition and reaction time had been written to apply only to the equivalent of paragraph 1b of proposed Special Condition D. The pilot must recognize the depressurization and don oxygen equipment before initiating emergency descent procedures. This 17 seconds is the selected representation of that action. Therefore, the FAA considers it necessary that the 17 seconds used in standard emergency descent procedures should also be applied to paragraph 1a of Special Condition D.

One commenter stated the proposed notes in Figures 3 and 4 are new and differ from previous special conditions, and that application of these notes is discriminatory. In addition, the note related to Figure 4 is not consistent with the diagram. It was requested that the original note appearing in previously issued special conditions be retained.

FAA Response: The original note allowed the limits of Figures 3 and 4 to be exceeded. That note read, "Areas wherein the actual cabin altitude time history falls below the curve may be used to compensate, by integration, for areas wherein the actual cabin altitude time history reasonably exceeds the curve." Using the rates of descents that can be established by today's aircraft and applying the note, it can be demonstrated that the cabin altitude could reach in excess of 59,000 feet if present policy did not restrict Part 25 certification to 51,000 feet. Unfortunately, human physiology will not respond to an integrated exposure at high altitudes. The notes on Figures 3 and 4 were withdrawn and replaced with new notes for the special conditions applied to the Canadair CL-601.

Figures 3 and 4 were developed for a relatively large transport of the SST size where rapid rates of rise in the cabin altitude could be mitigated by ram air. Figure 4 is considered marginally sufficient if the cabin altitude is limited to the extent that the pilots have had ample time (on the order of 2 to 3 or more minutes) to breathe 100 percent oxygen before reaching the 37,000 foot limit, and all of the passengers have donned and are using their oxygen equipment. Unfortunately, a cabin altitude rate of rise limit was not established for this curve.

Both executive jet transports and large transports can decompress in under 30 seconds time, depending on the type of failure. Physiological data indicate 20 percent of the occupants may black out after rapid decompression to 35,000 feet even after donning an oxygen mask. The probability of blacking out increases with altitude. At 40,000 feet, half of the occupants may pass out. The likelihood that passengers will be able to don oxygen masks decreases with increasing cabin altitude. To compound this physiological problem, the oxygen dispensing systems have not proven 100 percent reliable.

To allow decompression to no higher than 40,000 feet, the Office of Aviation Medicine and the FAA Civil Aeromedical Institute have recommended the following:

1. To prevent the flightcrew from blacking out or passing out, the flightcrew must be breathing oxygen prior to the decompression failures that lead to altitude exposures in excess of 34,000 feet.

2. To prevent permanent brain damage to the occupants who may pass out before receiving oxygen, or are unable to receive oxygen, the decompression exposure time above 25,000 feet should not exceed 1½ to 2 minutes total time.

These criteria are the basis of the note that has been applied to Figure 4 for the Canadair CL-601 and is being applied to the Mystere Falcon 200. The operating rules of Parts 91 and 135, which most executive jet transports use, require that oxygen masks be worn and used above 35,000 feet. Operating in accordance with these rules will then provide protection to the extent it can be provided for the flightcrews, as long as the cabin altitude does not exceed 40,000 feet.

Figure 4 and the note may appear inconsistent. However, the use of the limitations of the note is an alternative and is more appropriate when the cabin altitude rate of rise is rapid and exceeds 34,000 feet. The note limitations are required when the cabin altitude exceeds 37,000 feet. It is assumed the flightcrew will be breathing oxygen when exposed to altitudes in excess of 34,000 feet.

One commenter was not aware of any special conditions issued for the Gulfstream III or large Part 25 transports for operation up to 45,000 feet.

FAA Response: Special conditions for operation at high altitude, or equivalent criteria, have been applied to all large certificated transports beginning with the Boeing 747. The Gulfstream III was certificated to 45,000 feet using the SST special conditions for guidance. The

cabin altitude was limited to 37,000 feet after failure.

One commenter stated the proposed special conditions are not actual special conditions relating to unusual characteristics of the Mystere-Falcon 200 as these are general requirements issued for other programs. It was contended that the application of these requirements is a deviation from the intent of § 21.101.

FAA Response: It is a correct assessment that the capability to fly in excess of 40,000 feet is no longer considered an unusual characteristic as there are a number of large transports and executive jet transports that have that capability. It appears, however, that the commenter may not fully understand the basis for issuing special conditions. Special conditions are issued under the provisions of §§ 21.16 and 21.101 when the applicable airworthiness standards do not provide an adequate level of safety due to a novel or unusual design feature. The basis for issuing special conditions is, therefore, an "unusual characteristic" with respect to the applicable airworthiness standards, not with respect to the state-of-the-art in design and operation. As noted below under "Type Certification Basis," airworthiness standards applicable to the Mystere-Falcon 200 are contained in Part 25. Although a program is currently in process to amend Part 25, that Part does not currently contain adequate standards for operation of executive jet transports above 41,000 feet. Until Part 25 is amended to incorporate adequate standards, it will be necessary to continue issuing special conditions for such operation.

One commenter stated that, for consistency, the proposed special conditions for operation between 41,000 and 45,000 feet should be amended to offer the alternative to either wear and use oxygen masks for crew and passengers during flight above 41,000 feet, or to delete from the special conditions the engine burst requirements of Special Condition D1b(2) and the 17-second delay requirement of Special Condition D1a.

FAA Response: To delete the consideration of a rotor burst or a 17-second delay would not be rationally consistent in dealing with failures that are not considered extremely improbable or with procedures used in evaluating an emergency descent. However, the use of undiluted oxygen for the passengers as well as the crew for airplane operational altitudes above 41,000 feet when the cabin altitude is normal (8,000 feet or less) is an alternative. The rule as adopted, will provide that the passenger oxygen system must contain a regulator that will provide 100 percent oxygen, undiluted when breathed, to each passenger for the duration of the longest flight capable of being sustained above an airplane altitude of 41,000 feet. The flightcrew will require pressure demand masks. The use of the flightcrew oxygen system is specified in Parts 91, 121, and 135, or the French equivalent. The flight manual is to specify that the passengers breathe oxygen above airplane altitudes of 41,000 feet. The alternate requirements to Special Conditions A through D are specified in Special Condition F.

Type Certification Basis

The original certification basis for the AMD–BA Fan Jet Falcon was Part 4b of the Civil Air Regulations (CAR) effective December 31, 1953, Amendments 4b–1 through 4b–12 thereto; Special Regulation SR–422B; and the provisions of Part 25 of the Federal Aviation Regulations (FAR), Amendment 25–4, in lieu of § 4b.350 (e) and (f). For the Mystere-Falcon 200 certification, AMD–BA elected to voluntarily comply with numerous other Part 25 requirements. The list of these requirements is contained in an FAA letter dated May 10, 1982. Avions Marcel Dassault-Breguet Aviation has filed an application for certification to operate the Mystere-Falcon 200 up to a maximum altitude of 49,000 feet. The applicable airworthiness requirements do not contain adequate or appropriate safety standards for this feature; therefore, the special conditions will form an additional part of the type certification basis for the Mystere-Falcon 200.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with §§ 21.17(a)(1) and 21.101(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of the airplane. Special conditions, as appropriate, are now issued after public notice in accordance with §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis in accordance with § 21.101.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued to Avions Marcel Dassault-Breguet Aviation for the Model Mystere-Falcon 200 airplane to be certified for operation above 41,000 feet and to 49,000 feet:

A. Pressure Vessel Integrity

1. The maximum extent of failure and pressure vessel opening that can be demonstrated to comply with Special Condition D. (Pressurization) must be determined. It must be demonstrated by crack propagation and fail-safe testing that a larger opening or a more severe failure than demonstrated will not occur in normal operations.

2. Inspection schedules and procedures must be established to assure that cracks and normal fuselage leak rates will not progress or that the pressurization system capability will not deteriorate to the extent that an unsafe condition could exist during normal operation.

3. With regard to the fuselage structural design for cabin pressure capability above 45,000 feet altitude, the following apply:

a. The pressure vessel structure, including doors and windows, must comply with CAR 4b.216(c)(3) using a factor of 1.67 in lieu of the 1.33 factor prescribed therein.

b. In addition to the requirements of CAR 4b.216(c)(3), the fuselage pressure vessel should be capable of withstanding maximum regulated pressure combined with lg. flight loads with a frame or stringer failed and two adjacent panels cracked, without total failure of the fuselage or floor collapse.

B. Ventilation

In lieu of the requirements of CAR 4b.371(a), the ventilation system must be designed to provide a sufficient amount of uncontaminated air to enable the crewmembers to perform their duties without undue discomfort or fatigue and to provide reasonable passenger comfort during normal operating conditions and also in the event of any probable failure of any system on the airplane which could adversely affect the cabin ventilating air. For normal operations, crewmembers and passengers must be provided with at least 10 cubic feet of fresh air per minute per person or the equivalent in filtered, recirculated air based on the volume and composition at the corresponding cabin pressure altitude of not more than 8,000 feet.

C. Air Conditioning

In addition to the requirements of CAR 4b.371 (b) through (e), the cabin cooling system must be designed to meet the following conditions during flight above 15,000 feet mean sea level (MSL):

1. After any probable failure, the cabin temperature-time history may not exceed the values shown in Figure 1.

2. After any improbable failure, the cabin temperature-time history may not exceed the values shown in Figure 2.

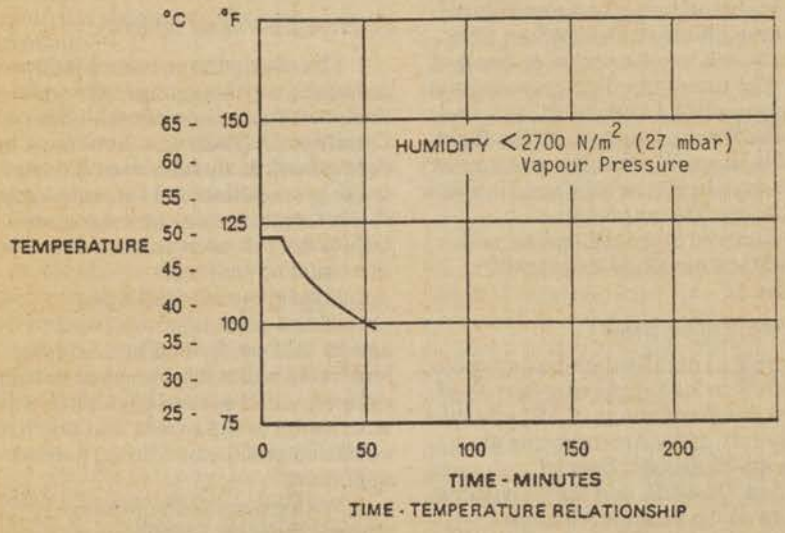


FIGURE 1

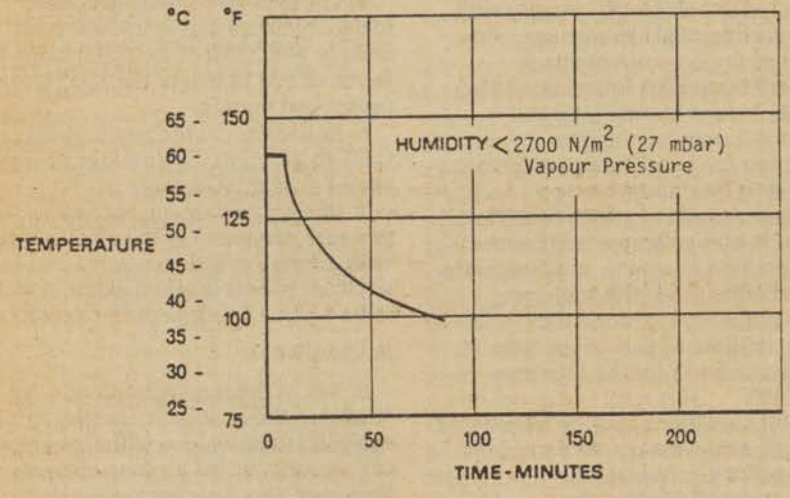


FIGURE 2

D. Pressurization

In addition to the requirements of CAR 4b.374 and 4b.375, the following apply:

1. The pressurization system must be capable of maintaining the following relationships between specific failure and cabin altitude-time histories:

a. The cabin altitude-time history may not exceed that shown in Figure 3 after each of the following:

(1) Any probable double failure in the pressurization system.

(2) Any single failure in the pressurization system combined with the occurrence of a leak produced by a complete less of a door seal element, or a fuselage leak through an opening having an effective area 2.0 times the effective area which produces the maximum, permissible fuselage leak rate approved for normal operation, whichever produces a more severe leak.

b. The cabin altitude-time history may not exceed that shown in Figure 4 after each of the following:

(1) The maximum pressure vessel opening resulting from crack propagation for a period encompassing two normal inspection intervals. The initial crack must be at least one-half the local panel width in length. Mid-panel cracks and cracks through skin-stringer and skin-frame combinations must be considered.

(2) The pressure vessel opening resulting from probable damage while under maximum operating cabin pressure differential due to a tire burst, engine rotor burst, loss of antennas or stall warning vanes, or any probable equipment failure (bleed air, pressure control, air conditioning, electrical power source(s), etc.) that affects pressurization.

(3) Complete loss of thrust from all engines.

2. In showing compliance with paragraphs D1a and b of these special conditions, it may be assumed that an emergency descent is made in accordance with an approved emergency procedure. A 17-second crew recognition and reaction time must be applied between cabin altitude warning and the initiation of an emergency descent.

For Figure 3, time starts at the moment cabin altitude exceeds 8,000 feet during depressurization.

If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following alternate limitations apply: After depressurization, the maximum cabin altitude exceedence is limited to 30,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is two minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

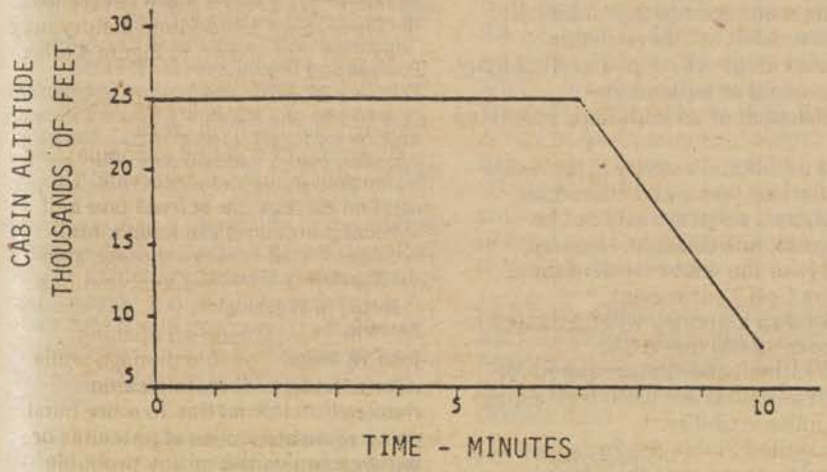
For Figure 4, time starts at the moment cabin pressure exceeds 8,000 feet during depressurization.

If depressurization analysis shows that the cabin altitude limit of this curve is exceeded, the following limitations

Figure 3

Cabin Altitude—Time History

(Supplemental oxygen available to all passengers.)

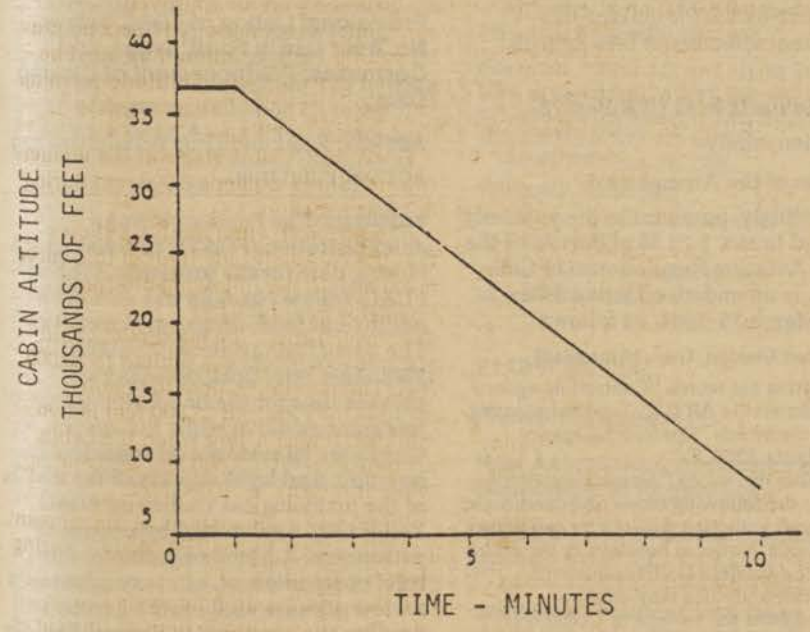


apply: After depressurization, the maximum cabin altitude exceedence is limited to 40,000 feet. The maximum time the cabin altitude may exceed 25,000 feet is two minutes; time starting when the cabin altitude exceeds 25,000 feet and ending when it returns to 25,000 feet.

Figure 4

Cabin Altitude—Time History

(Supplemental oxygen available to all passengers.)



E. Oxygen Equipment and Supply

In addition to the requirements of CAR 4b.651, the following apply: A pressure-demand oxygen system with quick-donning masks with mask-mounted regulators must be provided for the flightcrew. It must be shown that each quick-donning mask can, with one hand and within 5 seconds, be placed on the face from its ready position, properly secured, sealed, and supplying oxygen upon demand.

F. Alternative to A Through D

As an alternative to Special Conditions A through D for approval to fly above 41,000 feet to 45,000 feet, the following applies:

1. The passenger oxygen system shall be designed and installed so that each passenger will be breathing 100 percent undiluted oxygen at the normal airplane cabin altitude (8,000 feet or below) when the airplane is flying above 41,000 feet. The oxygen system shall have the capacity to contain enough oxygen for the duration of the longest flight the airplane is capable of sustaining above 41,000 feet. The flight manual shall specify the use of passenge oxygen (100 percent undiluted) when the airplane is operated above altitudes of 41,000 feet.

2. The requirements of Special Condition E apply to the flightcrew.

3. All other CAR 4b and operating rule requirements apply where not superceded by F1 and F2 and the certification basis.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.28 and 11.49(b))

Note.—This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

Issued in Seattle, Washington, on January 26, 1984.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-4336 Filed 2-27-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 83-ASO-3]

Special Use Airspace; Amendment to Restricted Area R-3004 Fort Gordon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Restricted Area R-3004, Fort Gordon, GA, by changing the controlling agency from Jacksonville Air Route Traffic Control Center (ARTCC) to Atlanta ARTCC, authorizing an additional activity in the restricted area, and placing operating restrictions on the using agency. This action does not increase the restricted area's size or time of use.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic

Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

History

On February 17, 1983, the FAA proposed to amend § 73.30 of the Federal Aviation Regulations (14 CFR Part 73) to amend Restricted Area R–3004, Fort Gordon, GA, by changing the controlling agency from Jacksonville ARTCC to Atlanta ARTCC, and to enter in the record the addition of air to surface inert and practice ordnance delivery to the current use of the area for artillery firing (48 FR 6991). The controlling agency change reflects a relocation of the Jacksonville and Atlanta ARTCC boundaries. The need for the addition of aircraft activities within the restricted area is a result of significant increases in the using agency's operational readiness training requirements that cannot be accommodated in other existing restricted areas wherein aircraft activity is authorized, or without the establishment of an additional restricted area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Twenty-seven objections were received as a result of circulation of the subject proposal, however, most of these objections were in response to the associated Bulldog D Military Operations Area (MOA), GA, and involved environmental issues, impact to local airport operations and impact to agricultural operations related to the MOA.

In order to resolve all objections, the U.S. Air Force has altered the proposal by agreeing to a series of operational terms and conditions. Therefore, except for editorial changes, and the operational terms and conditions, this amendment of the restricted area is the same as that proposed in the notice. Section 73.30 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to § 73.30 of Part 73 of the Federal Aviation Regulations is to amend Restricted Area R–3004, Fort Gordon, GA, by changing the controlling agency from Jacksonville ARTCC to Atlanta ARTCC, and to enter in the record the addition of air to surface inert and practice ordnance delivery to the current use of the area for artillery firing. The controlling agency change reflects a relocation of the Jacksonville and Atlanta ARTCC boundaries. The need for the addition of aircraft activities within the restricted area is a result of significant increases in the using agency's operational readiness training requirements that cannot be accommodated in other existing restricted areas wherein aircraft activity is authorized or without the establishment of an additional restricted area.

This additional activity is limited to the following terms and conditions:

1. Aircraft activities will not be conducted on weekends, National holidays or the entire week of the Masters Golf Tournament.
2. Aircraft activities will be limited to surface to 12,000 feet AGL.
3. Weather conditions required for aircraft activities are 3,000 feet ceiling and 5 miles visibility.

The United States Air Force has planned to commence their training activity in Restricted Area R–3004 on March 15, 1984. The city of Wrens, GA, and the Georgia State Aviation Office have been so advised. The Air Force has advised the FAA that their crews have been trained and all necessary equipment is in place for a March 15 operation. Any delay would significantly impact this important training activity. Therefore, I find that good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 73

Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.30 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73), is amended, effective 0901 G.m.t., March 15, 1984, as follows:

R–3004 Fort Gordon, GA—[Amended]

By deleting the words "Controlling agency. FAA, Jacksonville ARTCC." and substituting for them the words "Controlling agency. FAA, Atlanta ARTCC."

By adding the words "Aircraft activity is limited to the following terms and conditions:

1. Aircraft activities may not be conducted on weekends, National holidays or the entire week of the Masters Golf Tournament.
2. Aircraft activities may only be conducted from the surface to 12,000 feet AGL.
3. Weather conditions required for aircraft activities are 5 miles visibility and with prevailing clouds or obscuring phenomena no greater than five-tenths coverage of the sky and bases no lower than 3,000 feet above the surface."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on February 24, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–5468 Filed 2–27–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N–0366]

Provisional Listing of FD&C Yellow No. 6 for Use in Food, Drugs, and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Yellow No. 6 for use as a color additive in food, drugs, and cosmetics. The new closing date will be April 30, 1984. This brief postponement will provide time for the uninterrupted use of this color additive while the agency completes its review and considers the scientific and legal aspects of the results of the toxicological studies on FD&C Yellow No. 6 submitted by several petitioners. Additionally, during this brief postponement, after completing its review of these studies, the agency will prepare the appropriate **Federal Register** document(s).

DATES: Effective February 28, 1984, the new closing date for FD&C Yellow No. 6 will be April 30, 1984.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC. 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of February 28, 1984, for the provisional listing of FD&C Yellow No. 6 in food, drugs, and cosmetics by a rule published in the **Federal Register** of March 27, 1981 (46 FR 18954). The agency established the February 28, 1984 closing date to provide time for the completion of toxicity studies, submission of the data to FDA, review and evaluation of the data concerning the use of FD&C Yellow No. 6 in food, drugs, and cosmetics, and publication of a regulation in the **Federal Register** regarding FDA's final decision on the petition for the permanent listing of this color additive. The regulation set forth below will postpone the February 28, 1984 closing date for the provisional listing of the color additive until April 30, 1984.

On March 29, 1968, the Certified Color Industry Committee (now the Certified Color Manufacturers Association, c/o Hazleton Laboratories, Inc., 9200 Leesburg Turnpike, Vienna, VA 22180) submitted to FDA a petition requesting the listing of the color additive FD&C Yellow No. 6 for use in foods, drugs, and cosmetics. On September 27, 1968, the Certified Color Industry Committee amended the petition to add two other petitioners, the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association Inc.), and the Pharmaceutical Manufacturers Association. The petition (CAP 8C0066) was filed on October 7, 1968. FDA published a filing notice for this petition in the **Federal Register** of November 20, 1968 (33 FR 17205).

FDA's review and evaluation of the data relevant to the use of FD&C Yellow No. 6 have required more time than anticipated. The agency therefore concludes that a brief extension of the closing date to April 30, 1984, is necessary. This brief postponement will provide time for the agency to complete its review and prepare the appropriate **Federal Register** document(s). No harm to the public health will result from this extension.

Because of the short time until the February 28, 1984 closing date, FDA concludes that notice and public procedure on this regulation are impracticable, and that good cause exists for issuing this postponement as a final rule. This regulation will permit the uninterrupted use of this color additive until April 30, 1984. To prevent any interruption in the provisional listing of FD&C Yellow No. 6 and in accordance with 5 U.S.C. 553(d) (1) and (3), this regulation is being made effective on February 28, 1984.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Food, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d))), under the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "FD&C Yellow No. 6" in paragraph (a) to read "April 30, 1984."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "FC&C Yellow No. 6" in paragraph (d) to read "April 30, 1984."

Effective date. This final rule shall be effective February 28, 1984.

(Secs. 701, 706(b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: February 15, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–5075 Filed 2–27–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 514

[Docket No. 83N–0361]

New Animal Drug Applications; Untrue Statements in Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the animal drug regulations regarding untrue statements in animal drug applications to remove an inconsistency. The correction reflects the original intention of the agency that the regulation pertain to omissions of certain information from original applications as well as from supplemental applications.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–100), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: Under section 512 (e)(1)(D) and (m)(4)(A)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b (e)(1)(D) and (m)(4)(A)(i)), the Secretary of Health and Human Services is required to withdraw approval of applications for a new animal drug, and for an animal feed bearing or containing a new animal drug, respectively, after due notice and an opportunity for hearing, if such application contains any untrue statement of a material fact. The statutory provision is implemented in § 514.15 *Untrue statements in applications* (21 CFR 514.15; originally 21 CFR 135.31).

Section 514.15(b) currently states that an application may contain an untrue statement of a material fact "[i]f it is a supplement to an approved application and does not explain omissions in whole or in part from the original application or any amendment or supplement to it or from any record or report required [by the act and regulations] * * *." Thus, paragraph (b) can be read to apply only to supplemental applications. That result was not intended by the agency.

When FDA proposed definitions and procedural regulations regarding new animal drugs (35 FR 7569; May 15, 1970), paragraph (b) of proposed § 135.31 *Untrue statements in applications* referred to "the unexplained omission in whole or in part from the original application or any amendment or supplement to it, or from any record or report required * * *." Thus, paragraph (b) was intended to apply to all applications, including originals and amendments or supplements, as well as postapproval records and reports that sponsors of approved applications are required to submit. When FDA adopted the final regulations, it specifically stated in the preamble that the text in paragraph (b) should be retained and modified to state that the proviso also pertains to supplemental applications (36 FR 18376 at 18392; September 14, 1971), but the final regulation contained the language in paragraph (b) that is incorporated in the current Code of Federal Regulations. The agency considers the omission of language to cover original new animal drug applications to have been a mistake. (See, for example, the comparable human drug provision in 21 CFR 314.12(b) which refers to original new

drug applications as well as supplements.)

Because § 514.15(b) is inconsistent with the intent of the original proposal or with the agency's intent in the issuance of the final rule (which intent is revealed by the preamble), the agency is correcting § 514.15(b). The corrected regulation states that the unexplained omission from an application or from any amendment or supplement to an application, as well as an unexplained omission from any required record or report, may be a reason why an application contains an untrue statement of a material fact. Because the change that is now being made is consistent with the proposed rule and with the evident intent of the final rule, there is no need either to propose the change again or to invoke the exceptions from notice and comment and from delayed effective date in the Administrative Procedure Act (5 U.S.C. 553).

The agency has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, the economic effects of this action have been carefully analyzed and it has been determined that it is not a major rule as defined by that Order. The agency has reached this conclusion because the final rule places no additional economic burden on sponsors.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued before January 1, 1981, and is, therefore, exempt.

List of Subjects in 21 CFR Part 514

Administrative practice and procedure, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 514.15 is amended by revising the introductory text of paragraph (b) to read as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

§ 514.15 Untrue statements in applications.

* * * * *

(b) The unexplained omission in whole or in part from an application or from an amendment or supplement to an application or from any record or report required under the provisions of section 512 of the act and § 510.300 or § 510.301 of this chapter of any information obtained from:

* * * * *

Effective date. This regulation shall be effective February 28, 1984.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)))

Dated: February 22, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-5158 Filed 2-27-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

[T.D. 7946]

Backup Withholding of Principal Payments Made Outside the United States by Brokers on Obligations the Interest Payments on Which are Foreign Source Income

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the exemption from backup withholding for principal payments made outside the United States by brokers on obligations the interest payments on which are foreign source income. These temporary regulations are intended to modify, amend, and clarify temporary regulations on backup withholding published in the **Federal Register** for December 20, 1983 (§ 35a.9999–3; 48 FR 56330). These regulations affect brokers making principal payments on obligations outside the United States and provide the public with the guidance necessary to comply with the law.

DATE: The Temporary regulations are effective for payments made after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Yerachmiel Weinstein of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (202–566–3289, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1983, the **Federal Register** published Temporary Employment Tax Regulations under the Interest and Dividend Tax Compliance Act of 1983 (26 CFR Part 35a) under section 3406 of the Internal Revenue Code of 1954 (48 FR 56330) (December 20 regulations). Among the provisions contained in the December 20 regulations were provisions dealing with the treatment of payments of interest and of the proceeds of broker transactions made to foreign persons.

The regulations under section 6049 exempt foreign source interest payments made outside the United States from information reporting. The regulations prescribe this result for such payments without regard to whether they are made to foreign persons. The regulations under section 6045, however, presently contain no such exemption for payments made outside the United States of the proceeds of broker transactions.

This disparity in treatment can lead to anomalous results, particularly since transactions subject to information reporting are potentially subject to backup withholding. This anomaly becomes most apparent in the case of obligations the interest on which constitutes foreign source income and the principal on which is paid outside the United States. In such a situation, the regulations under section 6049 assure that the interest payments made outside the United States will be exempt from information reporting and backup withholding, while the regulations under section 6045 do not similarly exempt the principal payments on the same obligation.

The Treasury Department has determined that this inconsistency of treatment of payments on a single obligation should be subjected to further study and should be eliminated for the present. The Treasury Department is providing for the time being in this temporary regulation that payments of principal made outside the United States on an obligation will be exempt from information reporting under section 6045 and from backup withholding if the interest on that obligation is from foreign sources. In making the determination of whether interest on an obligation is from foreign sources, rules similar to those contained in § 1.6049–5(b)(3)(i) will apply. This exemption applies whether the payments are made to a foreign person or to a United States person. Any future change to this rule will apply no earlier than July 1, 1984, and will apply on a prospective basis only.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 20, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for this regulation. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of this regulation is Yerachmiel E. Weinstein of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and the Treasury Department participated, however, in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividend Tax Compliance Act of 1983.

Adoption of Amendments to the Regulations

Accordingly, Part 35a is amended by the addition of a new § 35a.9999–3A immediately after § 35a.9999–3 to read as follows:

PART 35a—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983

§ 35a.9999–3A Question and answer relating to exemption from backup withholding for certain principal payments made outside the United States by brokers on certain obligations.

The following question and answer concerns the exemption from information reporting and backup withholding for certain principal payments on obligations made outside the United States. The question and answer is issued under the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98–67, 97 Stat. 369):

Q. Are payments of principal on obligations subject to information reporting under section 6045 or to backup withholding if made outside the United States?

A. Such payments are not subject to section 6045 information reporting or backup withholding if made with respect to obligations the interest on which would be from sources outside the United States. The determination of whether a payment of principal is made outside the United States for this purpose shall be determined under rules similar to those contained in A–37 of § 35a.9999–3 of the regulations.

The issue of whether information reporting and backup withholding should apply with respect to these payments remains under consideration by the Treasury Department. If information reporting and backup withholding are subsequently determined to be appropriate, such will be provided in future regulations. Information reporting and backup withholding will apply in that case no earlier than July 1, 1984, and will apply on a prospective basis only.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. Taxpayers have communicated to the Department of the Treasury an urgent need for a rule providing certainty in the treatment of payments they will be obligated to make in the immediate future in the ordinary course of their trade or business. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section

This Treasury decision is issued under the authority contained in section 3406 (b), (g), (h), and (i), section 6045, and section 7805 of the Internal Revenue Code of 1954 (97 Stat. 372, 377, 378, 379, 26 U.S.C. 3406 (b), (g), (h), and (i); 96 Stat. 600, 26 U.S.C. 6045; 68A Stat. 917, 26 U.S.C. 7805) and in section 104 of the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 22, 1984.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–5278 Filed 2–27–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Commission is making a procedural modification to its rules at 28 CFR 2.11(b) to require that if a prisoner waives parole consideration and later wishes to be considered for parole, he must apply for parole consideration at least 60 days prior to the first day of the month in which the next visit of the Commission to his institution occurs if he wishes to be heard during that visit. This modification is intended to reduce disruption of parole dockets by last minute waivers of parole.

DATE: Effective April 1, 1984.

FOR FURTHER INFORMATION CONTACT: Harry Dwyer, Jr., Chief, Case Operations, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492–5952.

SUPPLEMENTARY INFORMATION: 28 CFR 2.11(b) currently provides that a prisoner who waives parole consideration may be considered for parole at the Commission's next visit to the prisoner's institution if the prisoner applies for parole at least 45 days prior to the first day of the month in which such visit occurs.

The Commission has found that an increasing number of prisoners are delaying waiving parole consideration until the arrival of the parole hearing examiners at the institution. These last minute waivers are very disruptive to the Commission's hearing dockets. In particular they upset the Bureau of Prison's scheduling of hearings and the Commission's allocation of resources for hearings. To discourage last minute waivers the Commission will require that a prisoner who has waived parole consideration, to be considered for parole at the next visit of the Commission to his institution must apply for parole at least 60 days prior to the first day of the month in which the next visit occurs.

Prisoners are notified at the time they waive parole consideration of the procedures for reapplying for parole. This rule revision will apply only to those prisoners who waive parole consideration after April 1, 1984 on a waiver form that notifies them of the 60 day time period for reapplying.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

PART 28—[AMENDED]

Accordingly, pursuant to 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.11(b) is revised as follows:

§ 2.11 Application for parole; notice of hearing.

* * * * *

(b) A prisoner may knowingly and intelligently waive any parole consideration on a form provided for that purpose. If a prisoner waives parole consideration, he may later apply for parole and may be heard during the next visit of the Commission to the institution at which he is confined, provided that he has applied at least 60 days prior to the first day of the month in which such visit of the Commission occurs.

* * * * *

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

Dated: February 23, 1984.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 84-5211 Filed 2-27-84; 8:45 am]

BILLING CODE 4410-01-M

PENSION BENEFIT GUARANTY COPRORATION

29 CFR Part 2610

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the Payment of Premiums regulation enlarges by 60 days the time period within which the plan administrator of a pension plan newly covered under Title IV of the Employee Retirement Income Security Act of 1974, *as amended,* must file with and pay any premiums due the Pension Benefit Guaranty Corporation. The purpose of the amendment is to increase the time period for filing that applies to new and newly covered plans, in order to reduce the paperwork burden associated with filing required within a relatively short period.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Stuart E. Bernsen, Staff Attorney, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-4895. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 ("ERISA" or "the Act") provides for a comprehensive pension plan insurance program administered by the Pension Benefit Guaranty Corporation ("PBGC").

Under the statutory scheme, covered plans pay a stated dollar amount per participant in premiums annually to help finance the insurance program.

The PBGC's Payment of Premiums regulation is set forth in 29 CFR Part 2610 (Part 2602 prior to recodification on June 29, 1981). The regulation prescribes the time periods required for plan administrators to file with the PBGC a form for the declaration, payment and reconciliation of premiums (Form PBGC-1) and to pay any premiums due. Currently, under § 2610.3(a)(5), newly covered plans must pay the required premium by the later of: seven months after the beginning of the plan year; 30 days after the date of the plan's adoption; 30 days after the date on which the plan becomes effective for benefit accruals for future service; or 30 days after the plan becomes covered under section 4021 of the Act.

Many plan administrators have commented that the 30-day filing period is burdensome, considering the need to secure copies of the PBGC Form-1 and instructions, to compile the necessary data for eligible participants, and to submit the form. PBGC has determined that extension of the time periods applicable to newly covered plans would provide a more reasonable period for implementation of a new plan, including submission of the required filing. Accordingly, this amendment revises the current regulation to effectuate this change.

Thus, under this amendment, the required filing and premium payment for newly covered plans must be made by the later of seven months after the beginning of the plan year, 90 days after the date of the plan's adoption, 90 days after the plan becomes effective for benefit accruals for future service, or 90 days after the plan becomes covered under section 4021 of the Act.

This amendment makes only technical changes and does not substantively affect the public except to extend filing deadlines. Because this regulation relates to agency procedures and practices, it is being issued in final form without notice and opportunity for public comment. In addition, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because the forms that must be filed for the 1984 plan year are due as early as July 31, 1984. Accordingly, the PBGC finds that good cause exists for making this regulation effective immediately.

The PBGC has determined that this amendment to the Payment of Premiums regulation is not a "major rule" under the criteria set forth in Executive Order 12291 of February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

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

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and reporting and recordkeeping requirements.

PART 2610—[AMENDED]

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

1. The authority citation for Part 2610 reads as follows:

Authority: Secs. 4002(b)(3), 4006, and 4007, Pub. L. 93-406, 88 Stat. 829, 1004, 1010, and 1013, as amended by secs. 403(1), 105, 402(a)(3), and 403(b), Pub. L. 96-364, 94 Stat. 1208, 1302, 1264, 1298, and 1300 (29 U.S.C. 1302(b)(3), 1306, and 1307).

2. In § 2610.3, paragraphs (a)(5)(ii) through (iv) are revised as follows:

§ 2610.3 Filing requirement.

(a) * * *

(5) * * *

(ii) 90 days after the date of the plan's adoption;

(iii) 90 days after the date on which the plan became effective for benefit accruals for future service; or

(iv) 90 days after the date on which the plan becomes covered by section 4021 of the Act.

* * * * *

Effective Date: February 28, 1984.

Charles C. Tharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-5150 Filed 2-27-84; 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

39 CFR Parts 2, 3, 4, 5, 6, 7, and 8

Miscellaneous Amendments to Bylaws of Board of Governors

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the bylaws of the Board of Governors of the United States Postal Service to conform to reporting requirements of a new law, to include the position of Deputy General Counsel in the list of positions for which compensation is to be approved by the Board, to improve procedures for Board review of capital investments, and to provide for the use of a gender-neutral terminology.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Harris, Secretary, Board of Governors, U.S. Postal Service, Washington, D.C. 20260–1000, (202) 245–3734.

SUPPLEMENTARY INFORMATION: The new law referred to in the summary is section 3(a) of Pub. L. 98–186, the Mail Order Consumer Protection Amendments of 1983, which adds, among other things, a new section 3013 to title 39 of the United States Code, requiring the Postmaster General to submit semi-annual reports to the Board of Governors summarizing the investigative activities of the Postal Service. In addition, since the Postal Service established the new position of Deputy General Counsel in Level II of the Postal Career Executive Service, compensation for that position became subject to Board approval.

List of Subjects in 39 CFR Parts 2, 3, 4, 5, 6, 7, and 8

Administrative practice and procedure, Reporting requirements.

For the reasons set out above, the Board amends title 39, Code of Federal Regulations, as follows:

PART 2—GENERAL AND TECHNICAL PROVISIONS [ARTICLE II]

§ 2.4 [Amended]

1. In the second sentence of paragraph (a) of § 2.4, strike out "The General Counsel shall keep the Seal in his custody," and insert "The Seal shall be in the custody of the General Counsel, who shall" in lieu thereof.

PART 3—BOARD OF GOVERNORS [ARTICLE III]

2. In § 3.4, redesignate paragraph (x) as paragraph (y); revise paragraphs (g) and (q); and insert a new paragraph (x) as follows:

§ 3.4 Matters reserved for decision by the Board.

* * * * *

(g) Approval of Postal Service five-year plans and capital investment plans, including specific approval of each capital investment project and each lease/rental agreement exceeding $5 million. For the purpose of determining the cost of a capital investment project or lease/rental agreement,

(1) All such projects and agreements undertaken as part of a unitary plan (either for one location or for contemporaneous or sequential development in several locations) shall be considered one project or agreement, and

(2) The cost of a lease/rental agreement shall be the dollar amount which would, in accordance with generally accepted accounting principles, be included as a liability on the face of a balance sheet as of the date such liability is first incurred in respect of obligations under the lease/rental agreement, plus the cost of any leasehold improvements planned in connection with the lease/rental agreement.

* * * * *

(q) Compensation of officers of the Postal Service whose positions are included in Level II of the Postal Career Executive Service, including the Senior Assistant Postmasters General, Assistant Postmasters General, Regional Postmasters General, General Counsel, Deputy General Counsel, Chief Inspector, Controller, Treasurer, Consumer Advocate, Executive Assistant to the Postmaster General, and Judicial Officer.

* * * * *

(x) Approval and transmittal to the Congress of the semi-annual report of the Postmaster General under 39 U.S.C. 3013, summarizing the investigative activities of the Postal Service.

(y) [Redesignated]

3. Revise § 3.5 to read as follows:

§ 3.5 Delegation of authority by Board.

As authorized by 39 U.S.C. 402, these bylaws delegate to the Postmaster General the authority to exercise the powers of the Postal Service to the extent that this delegation of authority does not conflict with powers reserved to the Governors or to the Board by law, these bylaws, or resolutions adopted by the Board. Any of the powers delegated to the Postmaster General by these bylaws may be redelegated by the Postmaster General to any officer, employee, or agency of the Postal Service.

PART 4—OFFICERS [ARTICLE IV]

4. In § 4.1 revise paragraph (c) to read as follows:

§ 4.1 Chairman.

* * * * *

(c) Serves a term that commences upon election and expires at the end of the first annual meeting following the meeting at which he or she was elected.

5. Revise § 4.2 to read as follows:

§ 4.2 Vice Chairman.

The Vice Chairman is elected by the Board from among the members of the Board and shall perform the duties and exercise the powers of the Chairman during the Chairman's absence or disability. The Vice Chairman serves a term that commences upon election and expires at the end of the first annual meeting following the meeting at which he or she was elected.

§ 4.3 [Amended]

6. In the second sentence of § 4.3, strike out "his responsibilities as" and insert "being" in lieu thereof.

7. Revise § 4.4 to read as follows:

§ 4.4 Deputy Postmaster General.

The Governors and the Postmaster General appoint and have the power to remove the Deputy Postmaster General, who is a voting member of the Board. In addition to being a member of the Board, the Deputy Postmaster General is the alternate chief executive officer of the Postal Service and shall perform all tasks assigned by the Postmaster General. The Deputy Postmaster General shall act as Postmaster General during the Postmaster General's absence or disability, and when a vacancy exists in the office of Postmaster General. The Governors set the salary of the Deputy Postmaster General by resolution, subject to the limitations of 39 U.S.C. 1003(a).

PART 5—COMMITTEES [ARTICLE V]

8. In § 5.1 revise the last two sentence to read as follows:

§ 5.1 Establishment and appointment.

* * * * *

Each committee chairman may assign responsibilities to members of the committee that are considered appropriate. The committee chairman, or the chairman's designee, shall preside at all meetings of the committee."

PART 6—MEETINGS [ARTICLE VI]

9. Revise § 6.3 to read as follows:

§ 6.3 Notice of meetings.

The Chairman or the members of the Board may give the notice required under § 6.1 or § 6.2 of these bylaws in oral or written form. Oral notice to a member may be delivered by telephone and is sufficient if made to the member personally or to a responsible person in

the member's home or office. Any oral notice to a member must be subsequently confirmed by written notice. Written notice to a member may be delivered by telegram or by mail sent by the fastest regular delivery method addressed to the member's address of record filed with the Secretary, and except for written notice confirming a previous oral notice, must be sent in sufficient time to reach that address at least 2 days before the meeting date under normal delivery conditions. A member waives notice of any meeting by attending the meeting, and may otherwise waive notice of any meeting at any time. Neither oral nor written notice to the Secretary is sufficient until actually received by the Secretary. The Secretary may not waive notice of any meeting.

PART 7—PUBLIC OBSERVATION [ARTICLE VII]

§ 7.6 [Amended]

10. In the first sentence of paragraph (a) of § 7.6, strike out "in his opinion" and insert "in his or her opinion" in lieu thereof.

PART 8—REPORTS AND RECORDS [ARTICLE VIII]

11. In § 8.2, add a new paragraph (c) reading as follows:

§ 8.2 Reports to the executive and legislative branches.

* * * * *

(c) No later than sixty days after each March 31st and each September 30th, the Postmaster General shall submit a report to the Board for the six-month period ending on such date, summarizing the investigative activities of the Postal Service. The report shall include the information specified in 39 U.S.C. 3013. Upon approval of the report by the Board, or after any changes requested by the Board have been made, the Board shall transmit the report to the Congress as required by 39 U.S.C. 3013.

(39 U.S.C. 202, 205, 401 (2), (10), 1003, 3013)

David F. Harris,

Secretary.

[FR Doc. 84-5198 Filed 2-27-84; 8:45 am]

BILLING CODE 7710-12-M

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39 CFR Part 233

Regulations Implementing Postal Service Authority To Purchase Articles or Services Offered for Sale by Mail Directly From Mail-Order Merchants

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule implements the "test purchase" authority authorized by the Mail Order Consumer Protection Amendments of 1983 for use in investigations of possible violations of the postal false representation statute. It sets forth the procedures to be followed by representatives of the Postal Service in tendering, in person, the price of any item or service offered for sale through the mails.

EFFECTIVE DATE: March 29, 1984.

FOR FURTHER INFORMATION CONTACT: George C. Davis, (202) 245-4385.

SUPPLEMENTARY INFORMATION: On January 6, 1984, the Postal Service published for comment in the **Federal Register** (49 FR 897) proposed regulations designed to implement certain authority found in the 1983 Mail Order Consumer Protection Amendments, which authorizes the Postal Service to purchase directly from a merchant, at the advertised price, a sample of an article or service offered for sale by mail as a means of expediting investigations on possible violations of the false representation statute, 39 U.S.C. 3005. Interested persons were invited to submit written comments concerning the proposed regulations on or before February 6, 1984. Written comments were received from these organizations.

Two of the commenters expressed general approval of the proposed regulations. In addition, one of these commenters expressed concern that some mail-order merchants might refuse to negotiate a check in an attempt to prevent the Postal Service from obtaining the cancelled check for inclusion in its records on test purchase transactions. To prevent this possibility, the commenter suggested that representatives of the Postal Service be authorized to retain a photocopy of the issued check for their records as an alternative to the requirement that they keep the cancelled check itself. We have adopted this suggestion and have revised §233.6(c)(2) accordingly.

A third commenter suggested that the Postal Service might consider reselling merchandise obtained through its "test purchase" authority as a means of partially funding its investigation activities. The Postal Service doubts whether the sale of test purchase items would be practical inasmuch as such items often are opened and examined as part of an investigation to determine whether 39 U.S.C. 3005 has been violated. In cases where examination of an item leads to the conclusion that the statute has not been violated, the salability of the product often is substantially reduced by the examination procees. If, on the other hand, administrative or judicial proceedings are initiated, the item is introduced as evidence and becomes a permanent part of the procedural record.

In view of the above considerations, the Postal Service hereby amends 39 CFR Part 233 by adopting the following new section:

List of Subjects in 39 CFR Part 233

Postal Service.

PART 223—INSPECTION SERVICE AUTHORITY

In Part 233 of 39 CFR, add new § 233.6 reading as follows:

§ 233.6 Test Purchases Under 39 U.S.C. 3005(e).

(a) *Scope.* This section, which implements 39 U.S.C. 3004(e), supplements any postal regulations or instructions regarding test purchases or test purchase procedures. It is limited to test purchases conducted according to 39 U.S.C. 3005(e).

(b) *Definitions.*—(1) *Test Purchase.* The acquisition of any article or service, for which money or property are sought through the mails, from the person or representative offering the article or service. The purpose is to investigate possible violations of postal laws.

(2) *Test Purchase Request.* A written document requesting the sale of an article or service pursuant to 39 U.S.C. 3005(e) and containing the following information:

(i) The name and address of the person, firm, or corporation to whom the request is directed;

(ii) The name, title, signature, office mailing address, and office telephone number of the person making the request;

(iii) A description of the article or service requested which is sufficient to enable the person to whom the request is made to identify the article or service being sought;

(iv) A statement of the nature of the conduct under investigation;

(v) A statement that the article or service must be tendered at the time and place stated in the purchase request, unless the person making the request and the person to whom it is made agree otherwise in writing;

(vi) A verbatim statement of 39 U.S.C. 3005, 3007; and

(vii) A statement that failure to provide the requested article or service may be considered in a proceeding under 39 U.S.C. 3007 to determine whether probable cause exists to believe that 39 U.S.C. 3005 is being violated.

(c) *Service of Test Purchase Request.*

(1) The original of the Test Purchase Request must be delivered to the person, firm, or corporation to whom the request is made or to his or its representative. It must be accompanied by a check or money order in the amount for which the article or service is offered for sale, made payable to the person, firm or corporation making the offer.

(2) The person serving the Test Purchase Request must make and sign a record, stating the date and place of service and the name of the person served. The person making the request must retain a copy of the Test Purchase Request, the record of service, and the money order receipt or a photocopy of the issued check or the cancelled check. Alternatively, the request may be made by certified mail.

(d) *Authorizations.* The Chief Postal Inspector is the principal officer of the Postal Service for the administration of all matters governing test purchases under this section. The Chief Inspector may delegate any or all authority in this regard to any or all postal inspectors.

(39 U.S.C. 401(2), 404(a)(7), 3005(e)(1)).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-5199 Filed 2-27-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2533-5]

Approval and Promulgation of Implementation Plans; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On July 7, 1983, EPA published a notice of proposed rulemaking concerning volatile organic compounds (VOC) rules submitted by the State of California. That notice proposed to approve the VOC rules. Today's notice takes final action under Part D of the Clean Air Act to approve these rules since they are consistent with the recommendations of the Control Techniques Guidelines (CTG) and sections 110 and 172 of the Clean Air Act.

DATES: This action is effective March 29, 1984.

ADDRESS: A copy of today's revision to the California State Implementation Plan is located at:.

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

Public Information Reference Unit, EPA Library, 401 M Street, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano, (415) 974-7640.

SUPPLEMENTARY INFORMATION: .

Background

On July 7, 1983 (48 FR 31261), EPA published a notice of proposed rulemaking for certain VOC rules submitted by the State on November 8, 1982. That notice should be used as a reference in reviewing today's notice. That notice provides a description of the proposed rules and compares them to the Group I and II CTG documents. EPA determined that the rules are consistent with the CTG reasonably available control technology (RACT) recommendations and sections 110 and 172 requirements of the Clean Air Act. In addition, EPA noted that the other (non-CTG) VOC rules strengthen the districts' requirements and provide controls necessary for the attainment and maintenance of the National Ambient Air Quality Standards.

Public Comments

After EPA's review, which appears in the July 7 proposal notice, one comment was received. Tulare County's Department of Public Health noticed a typographical error referring to the Tulare County's Rule 410.4 reading "50 lbs per day or 5000 lbs in any 30 consecutive days." It should read as 500 lbs in any 30 . . . .

No other comments were received.

EPA Actions

EPA is taking final action under section 172 of the Clean Air Act to approve the following rules since they are consistent with the Group I CTG and represent RACT:

Sacramento County Air Pollution Control District (APCD)

Rule 19 Cutback and Emulsified Asphalt Paving Materials

Stanislaus County APCD

Rule 411 Gasoline Transfer into Stationary Storage Containers Phase I

Tulare County APCD

Rule 410.3 Organic Solvent Degreasing Operations

Rule 410.4 Surface Coating of Manufactured Metal Parts and Products

EPA also takes final action under section 172 to approve one rule as it is consistent with the Group II CTG and RACT:

Stanislaus County APCD

Rule 409.8 Perchloroethylene Dry Cleaning System

In addition, EPA takes final action under section 110 of the Clean Air Act to approve the following rules since they will strengthen the State Implementation Plan, and are consistent with section 110 of the Clean Air Act:

Sacramento County APCD

Rule 16 Architectural Coatings

Stanislaus County APCD

Rule 411.1(G) Transfer of Gasoline into Vehicle Fuel Tanks

Yolo-Solano County APCD

Rule 2.22 Gasoline Transfer to Motor Vehicle Tanks

Regulatory Process

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

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

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

List of Subjects in 40 CFR Part 52

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

Authority: Secs. 110, 129, 171-178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601 (a)).

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(126) (i)(B), (iii)(B), (v)(B) and (vi)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(126) * * *

(i) * * *

(B) Amended Rules 16 and 19.

* * * * *

(iii) * * *

(B) Amended Rules 409.8, 411 and 411.1 (G).

* * * * *

(v) * * *

(B) Amended Rules 410.3 and 410.4.

(vi) * * *

(B) Amended Rule 2.22.

* * * * *

[FR Doc. 84-5253 Filed 2-27-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2533-8; FL-010]

Approval and Promulgation of Implementation Plans; Florida: TSP Variance for Jacksonville Kraft Paper Co.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Florida Department of Environmental Regulation (DER) submitted for EPA's approval as a State Implementation Plan (SIP) revision a variance for Jacksonville Kraft Paper Company (formerly St. Regis Paper Company) of Jacksonville, Florida. The revision allows the source until September 15, 1985, to achieve compliance with the reasonably available control technology (RACT) rule for particulate matter. Since neither the prevention of significant air quality deterioration (PSD) increments nor the national ambient air quality standards (NAAQS) will be violated and there is only a minor influence on the secondary nonattainment area, EPA hereby approves the revision.

DATE: These actions are effective March 29, 1984.

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

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

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

Florida Department of Environmental Regulation, Bureau of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Mr. Barry Gilbert, Air Management Branch, EPA Region IV at the above address and telephone number 404/881-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: Jacksonville Kraft Paper Company has always been located in a particulate attainment area, but is in the area of influence of the Jacksonville secondary particulate nonattainment area. The designated nonattainment area was reduced in size in the November 18, 1982, **Federal Register**, effective January 17, 1983.

DER RACT rules were adopted on January 21, 1981, and were submitted to EPA on February 27, 1981. The control strategy for Jacksonville was submitted on March 16, 1982. EPA proposed approval on September 24, 1982, and published the final notice approving the SIP on May 2, 1983 (48 FR 19715). The secondary attainment date for the areas is July 31, 1986, in the control strategy.

Jacksonville Kraft Paper Co. has three power boilers which are rated 185, 246, and 246 MMBTU/hr. burn #6 oil with 2.27% sulfur and have no control equipment. These boilers are out of compliance with the DER rule Florida Administrative Code (FAC) 17-2.650(2)(c)2., Particulate Matter, Specific RACT Emission Limiting Standards for Stationary Sources, Fossil Fuel Steam Generators, of 0.10 pounds of particulates/million BTU. DER regulation FAC 17-2.650(2)(f) requires compliance schedules for sources not in compliance. Such schedules are to be as expeditious as practicable.

On July 11, 1983, DER held a hearing to solicit public comments on the proposed revision to DER rule FAC 17-2.650(2)(c)2., for Jacksonville Kraft Paper Co. On August 18, 1983, DER adopted the variance and submitted (on September 2, 1983) the variance as a SIP revision to EPA. EPA proposed approval of the variance on November 8, 1983 (48 FR 51339). No comments were received on the proposal.

The revision allows the source to emit 0.19 lb. until September 15, 1985, when it must meet the 0.10 lb. limit in DER rule FAC 17-2.650(2)(c)2. A compliance schedule is included which has increments of progress during the last six months prior to September 15, 1985, for obtaining a fuel which will meet 0.10 lb. or DER approved control equipment.

DER has shown that the PSD increments will not be violated by this SIP revision. Information provided by DER shows that there has not been an increase in actual particulate or SO_2 emissions since the PSD baseline was triggered on December 27, 1977. Therefore, the PSD increments are not being consumed.

The atmospheric dispersion modeling of Jacksonville Kraft Paper Company and other sources impacting the area shows the NAAQS will continue to be maintained in the attainment area. The dispersion models (CRSTER and ISCST) predict concentrations of 48 and 105 ug/m^3 for the annual and 24-hour periods, respectively. The NAAQS are 75 and 150 ug/m^3 for the annual and 24-hour periods, respectively. This revision is predicted to have less than a 16 ug/m^3 24-hour impact in the area near the plant. Past ambient monitoring in the vicinity of the plant shows attainment of the NAAQS. The predicted impact on the secondary nonattainment area approximately 7 kilometers away is 1 ug/m^3 for the 24-hour average. This can be considered a minor impact.

The Clean Air Act requires attainment within a reasonable time. EPA regulations, 40 CFR 52.13, Control strategy: Sulfur oxides and particulate matter, require attainment within 3 years unless the State shows that good cause exists for postponing application of the control technology. This depends upon the degree of emission reduction needed and the social, economic, and technological problems involved. The State has shown that good cause exists for postponing application of such control technology and that the influence on the secondary nonattainment area is minor.

Action. Accordingly, EPA is today approving the State submittal. This action is effective March 29, 1984.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in

proceedings to enforce its requirements. (See 307(b)(2).)

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410).)

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

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

PART 52—[AMENDED]

Subpart K—Florida

Section 52.520 is amended by adding paragraph (c)(54) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified. * * *

(54) TSP variance for Jacksonville Kraft Paper Company, submitted on September 2, 1983, by the Florida Department of Environmental Regulation.

[FR Doc. 84-5216 Filed 2-27-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 62

[A-7-FRL 2533-6; EPA Action No. 1460]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Kansas, Missouri, and Nebraska

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: Section 111(d) of the Clean Air Act, as amended, requires states to submit to EPA plans to control emissions of certain pollutants at designated facilities. When there are no existing sources of the pollutant located in a state, the state may submit a negative declaration, i.e., a certification to that effect, in lieu of submission of a plan revision for the control of the pollutant.

EPA has received negative declarations for phosphate fertilizer manufacturing plants from the States of Kansas and Nebraska; for kraft pulp mills from Missouri and Kansas; and for sulfuric acid plants from Nebraska. Today, EPA is taking action to approve these negative declarations.

EFFECTIVE DATE: This action is effective April 30, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Comments should be addressed to Mary C. Carter, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission are available for inspection during normal business hours at the above address and at the following location: Nebraska Department of Environmental Control, Air Pollution Control Division, Box 94877, State House Station, 301 Centennial Mall South, Lincoln, Nebraska 68509

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374-3791, FTS 758-3791.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act requires states to submit plans to control emissions of certain pollutants (designated pollutants) at existing sources (designated facilities) whenever standards of performance have been established under Section 111(b) for those pollutants at new sources of the same type. Designated pollutants do not include those that are already listed under Section 109(a), 108(a), National Ambient Air Quality Standards, or Section 112(b)(1)(A) Hazardous Air Pollutants.

Subpart B of 40 CFR Part 60 establishes procedures to be followed and requirements to be met in the development and submission of state plans for controlling designated pollutants. Part 62 of the Code of Federal Regulations provides the procedural framework for the submission of these plans. When designated facilities are located in a state, the state must develop and submit a plan for the control of the designated pollutant. However, 40 CFR 62.06 provides that if there are no existing sources of the designated pollutant located in a state, a letter of certification to that effect (negative declaration) is all that is required from the state. The negative declaration will be in lieu of a plan.

To date, EPA has published standards of performance for four designated facilities and pollutants. EPA published standards for control of fluoride emissions from phosphate fertilizer plants on August 6, 1975, at 40 FR 33152; standards for control of fluoride emissions from primary aluminum reduction plants on January 26, 1976, at 41 FR 3826; standards for control of sulfuric acid mist from sulfuric acid plants on October 18, 1977, at 42 FR 55796; and standards for control of total reduced sulfur from kraft pulp mills on February 23, 1978, at 43 FR 7568.

The States of Nebraska, Kansas and Missouri have submitted negative declarations for various designated pollutants. The State of Nebraska submitted negative declarations on May 4, 1977, and on December 9, 1977, for phosphate fertilizer plants and for sulfuric acid plants, respectively. On August 2, 1978, and July 17, 1979, the State of Kansas submitted negative declarations for phosphate fertilizer manufacturing facilities and kraft pulp mills, respectively. The State of Missouri submitted a negative declaration for kraft pulp mills on May 14, 1982.

Action: EPA approves the negative declarations discussed in this rulemaking in lieu of Section 111(d) plans.

EPA believes these submissions are noncontroversial and is taking final action to approve them without prior proposal. The public should be advised that this action will be effective April 30, 1984. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), I certify that these negative declarations do not have a significant economic impact on a substantial number of small entities.

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 (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

This notice is issued under the authority of Section 111(d) of the Clean Air Act, as amended.

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: February 17, 1984.

William D. Ruckelshaus,

Administrator.

PART 62—[AMENDED]

Part 62 of Chapter I, Subchapter C, Title 40 of the Code of Federal Regulations is amended by adding new Subparts R, AA, and CC, as follows:

* * * * *

Subpart R—Kansas

Flouride Emissions From Existing Phosphate Fertilizer Plants

Sec.

62.4100 Identification of plan—negative declaration.

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

62.4125 Identification of plan—negative declaration.

* * * * *

Subpart AA—Missouri

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

62.6350 Identification of plan—negative declaration.

* * * * *

Subpart CC—Nebraska

Fluoride Emissions From Existing Phosphate Fertilizer Plants

62.6850 Identification of plan—negative declaration.

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

62.6875 Identification plan—negative declaration.

* * * * *

Authority: Sec. 111(d), Clean Air Act.

Subpart R—Kansas

Fluoride Emissions From Existing Phosphate Fertilizer Plants

§ 62.4100 Identification of Plan—Negative Declaration.

Letter from the Director of the Department of Health and Environment submitted on August 2, 1978, certifying that there are no phosphate fertilizer manufacturing facilities in the State of Kansas.

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.4125 Identification of Plan—Negative Declaration.

Letter from the Director of the Department of Health and Environment submitted on July 17, 1979, certifying that there are no kraft pulp mills in the State of Kansas.

Subpart AA—Missouri

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.63501 Identification of Plan—Negative Declaration.

Letter from the Director of the Department of Natural Resources submitted on May 14, 1982, certifying that there are no kraft pulp mills in the State of Missouri.

Subpart CC—Nebraska

Fluoride Emissions From Existing Phosphate Fertilizer Plants

§ 62.6850 Identification of Plan—Negative Declaration.

Letter from the Director of the Department of Environmental Control submitted on May 4, 1977, certifying that there are no phosphate fertilizer plants in the State of Nebraska.

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

§ 62.6875 Identification of Plan—Negative Declaration.

Letter from the Chief of the Air Pollution Control Division of the Department of Environmental Control submitted on December 9, 1977, certifying that there are no existing sulfuric acid plants in the State of Nebraska.

[FR Doc. 84-5214 Filed 2-27-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-3-FRL 2532-5]

Hazardous Waste Management Program; Pennsylvania; Request for Extension of Phase I Interim Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of Phase I Interim Authorization period.

SUMMARY: The Commonwealth of Pennsylvania recently requested a further extension beyond the February 26, 1984 deadline, previously granted, for continued approval of their Phase I Iterim Authorization under the Resource Conservation and Recovery Act (RCRA), as amended (48 FR 33870, July 28, 1983). EPA is granting the requested extension. A delay in adopting the financial responsibility regulations necessary for approval of Pennsylvania's hazardous waste program under Phase II, Components A, B and C has resulted in the Commonwealth missing the February 26, 1984 deadline for submitting its application. The extension avoids termination on February 26, 1984 of Phase I Interim Authorization which EPA previously granted to Pennsylvania. I am now extending Pennsylvania's Phase I Interim Authorization until January 28, 1985 or the date Pennsylvania receives Final Authorization, whichever is earlier. This extension is based on the State's schedule calling for submission of a complete application for Final Authorization in June 1984.

EFFECTIVE DATE: February 17, 1984.

FOR FURTHER INFORMATION CONTACT: Anthony J. Donatoni, Chief, State Programs Section, Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597-7370.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any, but not all, Phases/Components of Interim Authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. Further, 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) provides that on July 26, 1983, Interim Authorizations terminate except where the State has submitted by that date an application for all Phases/Components of Interim Authorization. Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in that State. However, the Regional Administrator may, for good cause, extend the July 26, 1983 deadline for the submission of a Phase II Interim Authorization application, and the deadline for termination of the EPA approved State program.

Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).

Pennsylvania received Phase I Interim Authorization on May 26, 1981. However, the Commonwealth's ability to apply for Phase II, Components A, B and C Interim Authorization was

delayed by pending review and adoption of financial responsibility regulations. The Commonwealth did, however, on January 31, 1984 submit to EPA a draft application for Final Authorization. In an effort to avoid duplicative work by processing applications for Interim and Final Authorization simultaneously, and to allow sufficient time to fully promulgate the necessary regulations, the Commonwealth has elected to devote its attention entirely to applying for Final Authorization.

Pennsylvania has committed to the following schedule for applying for Final Authorization:

- April 1984—Promulgation of financial responsibility regulations and conforming regulatory amendments.
- May 1984—Hold State public hearing on Final Authorization application.
- June 1984—Submit official Final Authorization application.

Decision

In consideration of the above schedule and Pennsylvania's continued efforts to promulgate RCRA equivalent regulations necessary to obtain Final Authorization, the immediate reversion of Phase I Interim Authorization because of failure to meet the previous deadline, is not in the best interest of the Commonwealth, this Agency, the regulated community, or the citizens of Pennsylvania. I, therefore, find good cause to grant the Commonwealth's request for a further extension beyond the February 26, 1984 deadline previously granted. In order to allow for any unforeseen delays in either the promulgation of the conforming regulatory amendments or the EPA review and approval of the official Final Authorization application, I will allow an extension of Pennsylvania's Phase I approved program until the Commonwealth either receives Final Authorization or until January 26, 1985, whichever is earlier. If the Commonwealth fails to receive Final Authorization by January 26, 1985, the EPA approved State program will terminate automatically and administration of the RCRA hazardous waste management program will revert to EPA.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this extension will not have a significant economic impact on a substantial number of small entities. The extension effectively suspends the applicability of certain Federal regualtions in favor of Pennsylvania's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the Commonwealth. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: February 17, 1984.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 84-5071 Filed 2-27-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Part 21

Involuntary Child and Spousal Support Allotments

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: This rule implements section 172 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). The rule provides specific guidance to States, courts, and the Public Health Service on processing involuntary child or child and spousal support allotments. The provisions of these regulations apply only to PHS commissioned officers. The issuance: (a) Establishes Department of Health and Human Services policy; (b) provides instructions on the service of notice; (c) defines the limitations on the amount of a support allotment; (d) prescribes procedures for officer notification and consultation; and (e) lists the designated officials within the Department of Health and Human Services who will process involuntary support allotments.

There are no substantive differences between the proposed rule and the final rule.

EFFECTIVE DATE: February 28, 1984.

ADDRESS: Office of the Assistant Secretary for Health, Office of Management, Office of Personnel Management, Commissioned Personnel Operations Division, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Betty T. Glassman, 301-443-2626.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

The Department has determined that this rule is not a major rule under Executive Order 12291. Therefore a regulatory impact analysis is not required. Additionally, we certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Information Collection Requirements

The information collection requirements contained in these final regulations have been approved by the Office of Management and Budget under section 3507 of the Paperwork Reduction Act of 1980 and assigned a control number as follows: Section 21.75—OMB control number 0937-0123.

On July 11, 1983, a Notice of Proposed Rulemaking was published in the **Federal Register** (48 FR 31669-31672) with a comment period of 30 days. No public comments were received. Therefore, the NPRM is being adopted without change.

List of Subjects in 42 CFR Part 21

Government employees, Definitions, Appointment.

For the reasons set out in the Summary, 42 CFR Part 21 is amended by adding a new Subpart C, reading as follows:

PART 21—[AMENDED]

Subpart C—Involuntary Child and Spousal Support Allotments

Sec.

21.70 Purpose.
21.71 Applicability and scope.
21.72 Definitions.
21.73 Policy.
21.74 Responsibilities.
21.75 Procedures.

Authorities: 37 U.S.C. 101, 15 U.S.C. 1673, 42 U.S.C. 665.

Subpart C—Involuntary Child and Spousal Support Allotments

§ 21.70 Purpose.

Under references 37 U.S.C. 101, 15 U.S.C. 1673, and 42 U.S.C. 665, this Subpart provides implementing policies governing involuntary child or child and spousal support allotments, assigns responsibilities, and prescribes procedures.

§ 21.71 Applicability and scope.

(a) This Subpart applies to officers in the Public Health Service Commissioned Corps. The term "Public Health Service," hereinafter shall be referred to as Service.

(b) Its provisions pertain to officers of the Service under a call or order to active duty for a period of six months or more.

§ 21.72 Definitions.

(a) *Child Support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with State or local law. This includes, but is not limited to payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children.

(b) *Spousal Support.* Periodic payments for the support and maintenance of a spouse or former spouse in accordance with State or local law. It includes, but is not limited to, separate maintenance, alimony pendente lite, and maintenance. Spousal support does not include any payment for transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouse or former spouse.

(c) *Notice.* A court order, letter, or similar documentation issued by an authorized person, which provides notification that an officer has failed to make periodic support payments under a support order.

(d) *Support Order.* Any order providing for child or child and spousal support issued by a court of competent jurisdiction or by administrative procedures established under State law that affords substantially due process and is subject to judicial review. A court of competent jurisdiction includes Indian tribal courts within any State, territory, or possession of the United States and the District of Columbia.

(e) *Authorized Person.* (1) Any agent or attorney of any State having in effect a plan approved under Part D of title IV of the Social Security Act (42 U.S.C. 651–665), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under a State plan, any official of a political subdivision); and (2) the court which has authority to issue an order against the officer for the support and maintenance of a child, or any agent of such court.

(f) *Active Duty.* Full-time duty in the Service, including full-time training duty.

(g) *Legal Officer.* Shall be an officer of the Service or employee of the Department who is a lawyer and who has substantial knowledge of the regulations, policies, and procedures relating to the implementation of Section 172 of Pub. L. 97–248.

§ 21.73 Policy.

(a) It is the policy of the Department of Health and Human Services to withhold allotments from pay and allowances of commissioned officers on active duty in the Service to make involuntary allotments from pay and allowances as payment of child, or child and spousal, support payments when the officer has failed to make periodic payments under a support order in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person to the designated official of the Department. Such notice shall specify the name and address of the payee to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the support order including amounts for arrearages as well as for current support. However the amount of the allotment, when added to any other amounts withheld from the officer's pay pursuant to a support order, shall not exceed the limits for involuntary allotments from pay as prescribed in section 303 (b) and (c) of the Consumer Credit Protection Act, 15 U.S.C. 1673. An allotment under this Subpart shall be adjusted or discontinued upon notice from any authorized person.

(b) Notwithstanding the above, no action shall be taken to withhold an allotment from the pay and allowances of any officer until such officer has had an opportunity to consult with a legal officer of the Department to discuss the legal and other factors involved with respect to the officer's support obligation and his or her failure to make payments. The Department shall exercise continuing good faith efforts to arrange such a consultation, but must begin to withhold allotments on the first end-of-month payday after 30 days have elapsed since notice of an opportunity to consult was sent to the officer.

§ 21.74 Responsibilities.

(a) The General Counsel, Office of the Secretay, Department of Health and Human Services, shall be the Designated Official for the Department and shall provide guidance to the Service regarding administration of the provisions of these regulations.

(b) The Commissioned Personnel Operations Division, Office of Personnel Management, Office of Management, Office of the Assistant Secretary for Health, shall implement the provisions of these regulations.

§ 21.75 Procedures.

(a) *Service of Notice.* (1) An authorized person shall serve on the designated official of the Department a signed notice including:

(i) Full name of the officer;

(ii) Social security number of the officer;

(iii) Duty station location of the officer, if known.

(iv) A statement that support payments are delinquent by an amount at least equal to the amount of support payable for two months;

(v) A photocopy, along with any modifications, of the underlying support order;

(vi) A statement of the amount of arrearages provided for in the court order and the amount which is to be applied each month toward liquidation of the arrearages, if applicable;

(vii) The full name and address of the payee to whom the allotment will be payable;

(viii) Any limitations on the duration of the support allotment.

(2) The service of notice shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate designated official of the Department. The designated official shall note the date and time of receipt on the notice.

(3) Valid service is not accomplished until the notice is received in the office of the designated official.

(4) If the order of a court or duly authorized administrative agency seeks collection of arrearages, the notice must state that the support allotment qualifies for the additional 5 percent in excess of the maximum percentage limitations found in 15 U.S.C. 1673. Supporting evidence must be submitted to the Department establishing that the support order is 12 or more weeks in arrears.

(5) When the information submitted is not sufficient to identify the officer the notice shall be returned directly to the authorized person with an explanation of the deficiency. However, before

returning the notice, an attempt should be made to inform the authorized person who caused the notice to be served that it will not be honored unless adequate information is supplied.

(6) Upon proper service of notice of delinquent support payments and together with all required supplementary documents and information, the Service shall identify the officer from whom moneys are due and payable. The pay of the officer shall be reduced by the amount necessary to comply with the support order and liquidate arrearages if any, if provided by order of a court or duly authorized administrative agency. The maximum amount to be alloted under the provision together with any other moneys withheld from the officer for support pursuant to a court order may not exceed:

(i) 50 percent of the officer's disposable earnings for any month when the officer asserts by affidavit or other acceptable evidence that he or she is supporting a spouse or dependent child or both, other than a party in the support order. When the officer submits evidence, copies shall be sent to the authorized person, together with notification that the officer's support claim will be honored. If the support claim is contested by the authorized person, the authorized person may refer it to the appropriate court or other authority for resolution. Pending resolution of a contested support claim, the allotment shall be made but the amount of such allotment may not exceed 50 percent of the officer's disposable earnings;

(ii) 60 percent of the officer's disposable earnings for any month when the officer fails to assert by affidavit or other acceptable evidence, that he or she is supporting a spouse or dependent child or both;

(iii) Regardless of the limitations above, an additional five percent of the officer's disposable earnings shall be withheld when it is stated in the notice that the officer is in arrears in an amount equivalent to 12 or more weeks' support.

(b) *Disposable Earnings.* (1) The following moneys, as defined in the U.S. Public Health Service Commissioned Corps Personnel Manual, are subject to inclusion in computation of the officer's disposable earnings:

(i) Basic pay;

(ii) Basic allowances for quarters for officers with dependents and officers without dependents;

(iii) Basic allowance for subsistence;

(iv) Special pay for physicians, dentists, optometrists, and veterinarians;

(v) Hazardous duty pay;

(vi) Flying pay; and

(vii) Family separation allowances (only for officers assigned outside the contiguous United States).

(c) *Exclusions.* The following moneys are excluded from the computation of the officer's disposable earnings. Amounts due from or payable by the United States shall be offset by any amounts:

(1) Owed by the officer to the United States.

(2) Required by law to be deducted from the remuneration or other payment involved including but not limited to:

(i) Amounts withheld from benefits payable under Title II of the Social Security Act when the withholding is required by law;

(ii) FICA.

(3) Properly withheld for Federal and State income tax purposes if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she were entitled. The withholding of additional amounts pursuant to 26 U.S.C. 3402(i) may be permitted only when the officer presents evidence of a tax obligation which supports the additional withholding.

(4) Deducted for the Servicemen's Group Life Insurance coverage.

(5) Advances of pay that may be due and payable by the officer in the future.

(d) *Officer Notification.* (1) As soon as possible, but not later than 30 calendar days after the date of receipt of notice, the Commissioned Personnel Operations Division shall send to the officer at his or her duty station, written notice:

(i) That notice has been served, including a copy of the documents submitted;

(ii) Of the maximum limitations set forth, with a request that the officer submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation;

(iii) That by submitting supporting affidavits or other necessary documentation, the officer consents to the disclosure of such information to the party requesting the support allotment;

(iv) Of the amount of percentage that will be deducted if the officer fails to submit the documentation necessary to enable the designated official of the Service to respond to the legal process within the time limits set forth;

(v) That a consultation with a legal officer is authorized and will be provided by the Department. The name, address, and telephone number of the legal officer will be provided;

(vi) That the officer may waive the personal consultation with a legal officer; however if consultation is waived action will be taken to initiate the allotment by the first end-of-month payday after notification is received that the officer has waived his/her consultation.

(vii) That the allotment will be initiated without the officer having received a personal consultation with a legal officer if the legal officer provides documentation that consultation could not be arranged even though good faith attempts to do so had been made; and

(viii) Of the date that the allotment is scheduled to begin.

(2) The Commissioned Personnel Operations Division shall inform the appropriate legal officer of the need for consultation with the officer and shall provide the legal officer with a copy of the notice and other legal documentation served on the designated official.

(3) If possible, the Commissioned Personnel Operations Division shall provide the officer with the following:

(i) A consultation in person with the appropriate legal officer to discuss the legal and other factors involved with the officer's support obligation and his/her failures to make payment;

(ii) Copies of any other documents submitted with the notice.

(4) The legal officer concerned will confirm in writing to the Commissioned Personnel Operations Division within 30 days of notice that the officer received a consultation concerning the officer's support obligation and the consequences of failure to make payments. The legal officer concerned must advise the Commissioned Personnel Operations Division of the inability to arrange such consultation and the status of continuing efforts to contact the officer.

(e) *Lack of Money.* (1) When notice is served and the identified officer is found not to be entitled to any moneys due from or payable by the Department of Health and Human Services, the Commissioned Personnel Operations Division shall return the notice to the authorized person, and advise in writing that no moneys are due from or payable by the Department of Health and Human Services to the named individual.

(2) Where it appears that moneys are only temporarily exhausted or otherwise unavailable, the Commissioned Personnel Operations Division shall advise the authorized person in writing on a timely basis as to why, and for how long, the moneys will be unavailable.

(3) In instances where the officer separates from active duty, the

authorized person shall be informed in writing on a timely basis that the allotment is discontinued.

(f) *Effective Date of Allotment.* Allotments shall be withheld beginning on the first end-of-month payday after the Commissioned Personnel Operations Division is notified that the officer has had a consultation with a legal officer, has waived his/her right to such consultation, or the legal officer has submitted documentation that a consultation with the officer could not be arranged after good faith attempts to do so were made by the legal officer. The Service shall not be required to vary its normal allotment payment cycle to comply with the notice.

(g) Designated Official: Department of Health and Human Services, General Counsel, Room 5362 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

(Approved by OMB under control #0937–0123)

Dated: February 8, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-4911 Filed 2-27-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

[Circular No. 2541]

Grazing Administration, Exclusive of Alaska

Correction

In FR Doc. 84–4491, beginning on page 6440, in the issue of Tuesday, February 21, 1984, on page 6450, in the third column, in paragraph b. of the amendatory language of § 4110.3–1, the fourth line should read, "beginning of the sentence; removing the word "or" at the end of".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6587]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Dated [1]
REGION I					
Connecticut, Fairfield	Bridgeport, city of	090002D	Aug. 7, 1973, emergency; Oct. 15, 1980, regular; Mar. 1, 1984, suspended..	Sept. 13, 1974, Feb. 11, 1977, Oct. 15, 1980 and Oct. 1, 1983.	Mar. 1, 1984.
REGION II					
New Jersey:					
Monmouth	Belmar, borough of	345283D	Mar. 19, 1971, emergency; May 12, 1972, regular; Mar. 1, 1984, suspended..	May 13, 1972, July 1, 1974, and Feb. 27, 1976.	Do.
Hunterdon	Clinton, township of	340505A	Aug. 26, 1974, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Jan. 31, 1975	Do.
Monmouth	Neptune, township of	340317C	Jan. 14, 1972, emergency; Feb. 16, 1977, regular; Mar. 1, 1984, suspended.	July 19, 1973, Sept. 3, 1976, and Feb. 16, 1977.	Do.
Hudson	Jersey City, city of	340223B	Apr. 4, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	July 25, 1975 and Aug. 13, 1976	Do.
New York:					
Dutchess	Beacon, city of	360217B	May 8, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	July 26, 1974, Aug. 13, 1976, and Jan. 30, 1976.	Do.
Saratoga	Halfmoon, town of	360719C	July 16, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	June 21, 1974, June 18, 1976, and Feb. 4, 1977.	Do.
....do	Corinth, town of	360715C	Aug. 6, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Aug. 2, 1974, and July 9, 1976	Do.
....do	Corinth, village of	360714B	Apr. 28, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Aug. 7, 1974 and May 28, 1976	Do.
....do	Malta, town of	360720B	Nov. 17, 1975 emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Oct. 18, 1974 and Oct. 17, 1975	Do.
Oneida	Vienna, town of	360562B	Aug. 27, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Sept. 13, 1974, and June 25, 1976	Do.
REGION III					
Pennsylvania, Chester	Warwick, township of	421494B	Nov. 28, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Sept. 13, 1974 and July 9, 1976	Do.
REGION IV					
Alabama, Fayette	Fayette, city of	010084	July 17, 1974, emergency; Mar. 1, 1984; and Mar. 1, 1984.	Dec. 19, 1975	Do.
Florida:					
Levy	Cedar Key, city of	120373B	Aug. 6, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Jan. 13, 1978	Do.
....do	Unincorporated areas	120145	Nov. 13, 1970, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Jan. 25, 1975, Dec. 16, 1977, and Oct. 1, 1983.	Do.
Mississippi, Jackson	Ocean Springs, city of	285259C	Aug. 14, 1970, emergency; Sept. 18, 1970, regular; Mar. 1, 1984, suspended.	Sept. 9, 1970, July 1, 1974, and May 14, 1976.	Do.
South Carolina:					
Georgetown	Unincorporated areas	450085C	Feb. 26, 1971, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Jan. 3, 1975, Apr. 7, 1977, and Oct. 1, 1983.	Do.
....do	Georgetown, city of	450087C	Mar. 12, 1971, emergency; Sept. 29, 1978, regular; Mar. 1, 1984, suspended.	June 7, 1974, Mar. 28, 1975, and Sept. 29, 1978.	Do.
REGION V					
Illinois, Whiteside	Lyndon, village of	170917A	Mar. 15, 1979, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Oct. 8, 1976	Do.
Wisconsin:					
Waukesha	Big Bend, village of	550477B	Aug. 19, 1974, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Nov. 30, 1973 and Apr. 16, 1976	Do.
Portage	Plover, village of	550340B	Apr. 23, 1984, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	July 11, 1975 and June 11, 1976	Do.
Monroe	Wyeville, village of	550293C	July 18, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Aug. 23, 1974, June 11, 1976 and Dec. 7, 1979.	Do.
REGION VI					
Louisiana, St. Tammany Parish.	Unincorporated areas	225205B	Dec. 31, 1970, emergency; Apr. 23, 1971, regular; Mar. 1, 1984, suspended..	Apr. 23, 1971, July 1, 1974 and Sept. 17, 1976.	Do.
Texas:					
Jim Wells	Alice, city of	480394C	June 5, 1974, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Dec. 28, 1973, June 25, 1976, and Dec. 6, 1977.	Do.
Harris	Seabrook, city of	485507B	May 29, 1970, emergency; Apr. 23, 1971, regular; Mar. 1, 1984, suspended.	May 26, 1970 and July 1, 1974	Do.
REGION VII					
Iowa, Polk	Unincoporated areas	190901B	Sept. 6, 1978, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Aug. 23, 1977	Do.
REGION VIII					
Colorado, Montrose	Montrose, city of	080125B	Jan. 31, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Feb. 15, 1974 and Apr. 30, 1976	Do.
North Dakota, Dunn	Unincorporated areas	380026A	Mar. 31, 1976, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	Mar. 1, 1984	Do.
REGION IX					
Arizona, Greenlee	Clifton, town of	040035B	Jan. 17, 1975, emergency; Mar. 1, 1984, regular; Mar. 1, 1984, suspended.	June 7, 1974 and Mar. 25, 1977	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: February 17, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–5050 Filed 2–27–84; 8:45 am]

BILLING CODE 6718–03–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1155

[Ex Parte No. 293 (Sub-No. 2)]

Standards for Determining Rail Service Continuation Subsidies in the Northeast-Midwest Region of the United States

AGENCY: Rail Service Planning Office, Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: On June 14, 1983, the Rail Services Planning Office (RSPO) published a Notice of Proposed Rulemaking seeking comments on a proposed method for apportioning Train Supplies and Expenses to branch lines under 49 CFR 1155.8(c)(1)(i). This notice was prompted by a petition filed by the New York Department of Transportation seeking reconsideration or reopening of a decision which allocated Train Supplies and Expenses on a loaded freight car basis. The petition sought the allocation of Train Supplies and Expenses on a car-mile basis. RSPO is now adopting a final method to apportion Train Supplies and Expenses on a composite car-mile and carload basis.

EFFECTIVE DATE: The amendment is effective March 29, 1984.

FOR FURTHER INFORMATION CONTACT: Mike Dalton, 202–275–0829.

SUPPLEMENTARY INFORMATION: At 48 FR 27271, June 14, 1983, RSPO published a NPR seeking comments on a proposed method for allocating Train Supplies and Expenses to the branch line. This notice was prompted by a petition filed by the New York Department of Transportation (NYDOT) seeking reconsideration or reopening of our February 3, 1982 decision which allocated Train Supplies and Expenses on a loaded freight car basis. NYDOT's petition sought the allocation of Train Supplies and Expenses on a car-mile basis, and the adoption of this basis in the ICC abandonment regulations, *Abandonment of Railroad Lines and Discontinuance of Service,* 49 CFR Part 1152.

NYDOT was the only party to file comments on the NPR. They sought clarification of the double counting issue regarding terminal costs and the future adoption of the method into 49 CFR Part 1152. NYDOT remains concerned that the burden of terminal-related costs are being borne solely by the branch line. They state that terminal-related costs are included in the off-branch cost calculations and a large proportion of these costs should accrue to the branch. However, if the Train Supplies and Expenses are included in the one branch cost while at the same time being included in off-branch costs, then a double counting will exist. NYDOT further states that, based on RSPO calculations in the NPR, these terminal-related costs comprise 31 percent of the total cost of Train Supplies and Expenses, and that the terminal portion should not be included in off-branch costs. Finally, NYDOT proposes that the branch should only bear part of the terminal-related burden, and suggest using a 50 percent allocation basis.

The composite car-mile/carload method proposed in the NPR is based on a methodology similar to that used in the Commission's Rail Cost Form A. RSPO proposed this weighted method because it most closely reflects the proper allocation method for the several types of functions associated with the Train Supplies and Expenses accounts; i.e., some functions are mileage related (car-mile basis) while others are trip or time related (carload basis). As mentioned in the NPR, the Train Supplies and Expenses function was combined in a single account, Acct. No. 402, and is now contained in 27 subaccounts as a result of the revised ICC Accounting System for Railroads (Revised 1978). Of these 27 subaccounts, 23 are assigned to the branch on a direct cost basis. Thus, only 4 subaccounts are assigned using the allocation method proposed in the NPR. The portion of this account assigned on a per carload basis, the terminal-related element, as proposed by RSPO, is not 31 percent of *all* Train Supplies and Expenses as thought by NYDOT, but 31 percent of the total in these 4 subaccounts. We have further estimated that these 4 subaccounts constitute approximately 50 to 60 percent of the total costs of Train Supplies and Expenses. Thus, the portion of *total* Train Supplies and Expenses actually allocated on a carload basis is less than 20 percent (i.e. 31 percent of 50 percent). Finally, if a large portion of the terminal-related costs for Train Supplies and Expenses should be borne by the branch, as stated by NYDOT, in order to remove any possibility of double counting, the burden would be to remove the terminal-related costs from the off-branch costing methodology in Rail Form A. Terminal-related costs are incurred at both the originating and terminating points, and are properly assigned to both on-branch and off-branch expenses. Since the amount assigned to the branch using only 4 subaccounts is relatively small, RSPO believes that the possible level of double counting, if any, will be insignificant as well as burdensome to eliminate. This is especially true when weighed against the benefits derived from using the composite method. Therefore, RSPO will amend the Standards to allocate Train Supplies and Expenses based on a composite car-mile/carload method.

With regard to NYDOT's request to adopt the new Train Supplies and Expenses methodology into the National Abandonment Rules (49 CFR Part 1152), we point out that the 1155 rules are under the jurisdiction of RSPO, while the 1152 rules are under the jurisdiction of the full Interstate Commerce Commission. Thus, RSPO has no authority to revise the 1152 rules. However, the Commission is aware of several differences between the allocation methods used in Parts 1152 and 1155, and will be proposing several revisions (including Train Supplies and Expenses) to Part 1152 in a separate Notice of Proposed Rulemaking.

This is not a major federal action significantly affecting the quality of the human environment, or the conservation of energy resources.

Regulatory Flexibility Analysis as Required by 5 U.S.C. 601

This action will alter the basis for the assignment of train supplies and expenses for all rail lines operated under a subsidy agreement pursuant to the regional standards. All shippers, both large and small, located on these subsidized lines will be affected. However, we certify that there will be no increase or changes to the present requirements of business located on these lines. We also certify that amending the basis for determining train supplies and expenses could reduce the overall subsidy amount. However, any reduction would be minimal because

this category of expense constitutes a very small portion of the total cost associated with the operation of a branch line. As a result, we find that this action will not have a significant economic impact on a substantial number of small entities.

Copies of our analysis of the impact of this action are available from the Section of Rail Services Planning, Room 4414, Interstate Commerce Commission, Washington, D.C. 20423.

List of Subjects in 49 CFR part 1155

Railroads, Uniform system of accounts.

This notice is issued under the authority of 49 U.S.C. 10362.

Issued February 23, 1984, by William R. Southard, Director, Rail Services Planning Office.

By the Commission.

James H. Bayne,

Acting Secretary.

49 CFR Part 1155 is amended as follows:

PART 1155—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

1. In § 1155.8, paragraph (c)(1)(i) is revised as follows:

§ 1155.8 Apportionment rules for the assignment of expenses to on-branch costs.

* * * * *

(c) *Transportation*—(1) *Train Operations.*—(i) *Engine Crews-Materials, Account 21–31–56; Train Crews-Materials, Account 21–31–57; Train Inspection and Lubrication-Salaries and Wages, Account 11–31–62; and Train Inspection and Lubrication-Materials, Account 21–31–62.* If the branch is served by a local/way or through train, the costs in these accounts shall be assigned to the branch on the weighted ratio of the loaded freight train cars on the branch to the total system loaded freight train cars, and the loaded and empty car-miles on the branch to the total system loaded and empty car-miles. This shall be calculated as follows:

(A) To determine the car-mile portion of these accounts,

(*1*) Multiply the total amounts in these accounts (from the R–1 Annual Report, Schedule 410) by 69 percent (the ratio of train-mile and running expenses from Rail Form A),

(*2*) Divide the amount in paragraph (c)(1)(i)(A)(*1*) of this section by the total system loaded and empty car-miles, and

(*3*) Multiply the car-mile unit cost factor from paragraph (c)(1)(i)(A)(*2*) of this section by the on-branch car-miles (loaded and empty).

(B) To determine the carload portion of these accounts,

(*1*) Multiply the total amounts in these accounts by 31 percent (the ratio of terminal expenses from Rail Form A),

(*2*) Divide the amount in paragraph (c)(1)(i)(B)(*1*) of this section by the total system carloads, and

(*3*) Multiply the carload unit cost factor from paragraph (c)(1)(i)(B)(*2*) of this section by the on branch carloads.

(C) To determine the total costs assignable to the branch for these accounts, add the amounts developed in paragraphs (c)(1)(i)(A)(*3*) and (c)(1)(i)(B)(*3*) of this section.

[FR Doc. 84–5189 Filed 2–27–84; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 49, No. 40
Tuesday, February 28, 1984

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 426

[Amdt. No. 1]

Combined Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: On Thursday, April 1, 1982, the Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking to amend the Combined Crop Insurance Regulations (7 CFR Part 426) in certain instances. This notice is published to withdraw that notice of proposed rulemaking because some of the proposed actions are no longer necessary due to certain administrative changes with regard to the management of FCIC, and other changes proposed in the publication are incorporated in a similar and updated document published elsewhere in this issue.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: On Thursday, April 1, 1982, FCIC published a notice of proposed rulemaking in the **Federal Register** at 47 FR 13826. The proposed rulemaking was designated as Amendment No. 1 to the Combined Crop Insurance Regulations (7 CFR Part 426). In summary, the document proposed to (1) change the title of FCIC's administrator from "Manager" to "Chairman", (2) increase the level at which the Manager, FCIC, is authorized to take action to grant relief in cases of good faith reliance on misrepresentation from $5,000 to $20,000, and (3) add a subsection to provide for interest rate in the amount of 1½ percent per month on any unpaid premium balance starting with the first day of the month following the month in which the acreage reporting date for the crop occurs.

Subsequent action on the proposed rule was not taken because (1) the title of the FCIC administrator was changed back to "Manager", (2) the level at which the Manager is authorized to take action to grant relied in cases of good faith reliance on misrepresentation has been further increased from $20,000 to $100,000, and (3) upon further review of the proposed provision to attach a 1½ percent interest rate on any unpaid premium balance, it was determined that, to make the interest rate applicable on the first day of the month following the month in which the acreage reporting date occurred, would impose an unjust penalty on policyholders for non-payment of premiums by adding some 3 months additional interest. FCIC amended this provision to provide that a 1½ percent simple interest would apply to any unpaid premium balance starting on the first day of the month following the first premium billing date. Therefore, for the reasons stated above, the notice of proposed rulemaking (Amendment No. 1 to the Combined Crop Insurance Regulations—7 CFR Part 426) published on April 1, 1982, is hereby withdrawn.

Done in Washington, D.C., on January 19, 1984.

Peter F. Cole

Secretary, Federal Crop Insurance Corporation.

Dated: February 17, 1984.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 84-5180 Filed 2-27-84; 8:45 am]

BILLING CODE 3410-08-M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 82-023C]

New Line Speed Inspection System for Broilers and Cornish Hens

February 15, 1984.

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule, correction; extension of comment period.

SUMMARY: On January 20, 1984, the Food Safety and Inspection Service (FSIS) published a proposal to amend the Federal poultry products inspection regulations by establishing an alternative voluntary method of post-mortem inspection for broilers and cornish hens known as the "New Line Speed" (NELS) inspection system. The proposal was erroneous in its description of the new system in that it stated that establishments would be responsible for trimming only certain outside defects on passed carcasses and that readily observable defects would be marked for trim at the inspector's station. It should have stated that establishments would be responsible for trimming certain inside defects as well as outside defects on passed carcasses, and that only those defects not readily observable would require marking for trim. Additionally, the proposed regulation failed to state explicitly that the inspector shall determine which birds shall be condemned.

DATE: Comments on the proposal, as modified by this correction, must be received on or before April 30, 1984.

ADDRESS: Written comments should be sent in duplicate to the Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments may be directed to Dr. John C. Prucha, (202) 447-3219. (See also "Comments" under **SUPPLEMENTARY INFORMATION.**)

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 20, 1984 (49 FR 2473), FSIS published a proposed rule that would establish an alternate, voluntary post-mortem inspection method for broilers and cornish hens known as the "New Line Speed" (NELS) inspection system. The proposed system would require three inspectors on each eviscerating line to inspect the whole carcass of all birds; each inspector inspecting every third bird to determine which birds shall be salvaged, reprocessed, condemned, retained for disposition by a veterinarian, or allowed to proceed down the line as a passed bird subject to reinspection.

Establishment would be responsible for performing the necessary trim of designated defects on the passed carcasses and for operating a quality control program designed to assure that poultry as shipped is wholesome and properly prepared. The proposed rule would also establish staffing and facility requirements for the proposed system based on work measurement data. However, in the preamble and in the text of the regulation, the proposal states that establishments would be responsible for performing trim only of *outside* defects. The NELS inspection system, as tested and as intended to be proposed, would require establishments to trim certain inside defects that do not require condemnation of the carcass in addition to such defects on the outside of the carcass. Interior defects such as non-systemic airsacculitis do not normally require condemnation of the whole carcass, and may be trimmed. This trim, like trim of exterior tissues due to such conditions as bruising and broken wings would, under NELS, be the responsibility of the establishment.

Further, the proposed regulation indicates that the inspector's helper (a plant employee stationed next to the inspector tasked with assisting the inspector) would mark readily observable defects, which would be trimmed by other plant employees further down the line. The NELS system would not require readily observable defects such as bruises and broken wings to be marked. Rather, the helper, under the direction of the inspector, would mark those carcasses having trimmable defects that are *not* readily observable.

In addition, the text of the proposed regulation failed to explicitly state that the inspector shall determine, among other things, which birds shall be condemned, although that was the intent as indicated in the preamble.

Therefore, the preamble to the proposal is corrected as follows:

1. On page 2473, column 1, paragraph 1 (Summary), line 15: remove the word "outside".

2. On page 2474, column 3, paragraph 2, lines 4 and 15: remove the word "outside".

3. On page 2475, column 2, paragraph 3, line 14: remove the words "outside of bird".

The proposed regulation is corrected as follows:

1. On page 2476, column 3, paragraph (b)(4)(i)(*a*), line 18, add the word "condemned," after "reprocessed,".

2. On page 2476, column 3, paragraph (b)(4)(i)(*a*), lines 22–23: remove the words: "obvious, readily observable outside."

3. On page 2477, column 1, paragraph (b)(4)(i)(*a*) (from preceding page), line 8: add to the end of the first full sentence so that it reads: "The helper, under the supervision of the inspector, shall mark such carcasses for trim when the defects are not readily observable."

Done at Washington, D.C., on February 22, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84–5193 Filed 2–27–84; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–ASW–47]

Airworthiness Directives; Bell Helicopter Textron, Inc., Model 47 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This amendment proposes to adopt a new airworthiness directive (AD) that would require replacement of any incorrect AN/NAS standard bolts, installed in certain flight control applications, with the required Bell Helicopter Textron, Inc., standard bolts on all Bell Model 47 helicopters equipped with 37-foot diameter main rotor systems and hydraulic boost in longitudinal and lateral cyclic flight control systems. The proposed AD is needed to prevent failure of the incorrect AN/NAS standard bolts which could cause the loss of a helicopter as a result of inoperative flight controls.

DATES: Comments must be received on or before April 6, 1984.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Regional Counsel, Attention: Docket No. 83–ASW–47, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; or delivered in duplicate to: Office of the Regional Counsel, Southwest Region, Room 100, Building 3B, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

Comments delivered must be marked: Docket No. 83–ASW–47.

Comments may be inspected at Room 100, Building 3B, between 8 a.m. and 4:30 p.m., Monday through Friday.

The applicable alert service bulletin may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101.

A copy of the alert service bulletin is contained in the Rules Docket located at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Room 100, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Tyrone D. Millard, Helicopter Certification Branch, ASW–170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877–2594.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments wil be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket located at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Room 100, Building 3B, 4400 Blue Mound road, Fort Worth, Texas 76106, for examination by interested persons. A report, summarizing each FAA-public contact concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 83–ASW–47." The postcard will be date/time stamped and returned to the commenter.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by

adding the following new airworthiness directive:

PART 39—[AMENDED]

Bell Helicopter Textron, Inc.: Applies to Model 47G–2A, G–2A–1, G–3, G–3B, G–3B–1, G–3B–2, G–4, G–4A, G–5, G–5A, J, J–2, J–2A, and K helicopters with 37-foot diameter main rotor systems and hydraulic boost in longitudinal and lateral cyclic flight control systems, certificated in all categories (Airworthiness Docket No. 83–ASW–47).

Compliance is required within the next 100 hours' time in service after the effective date of this AD.

To prevent critical flight control failure in the main rotor system, accomplish the following:

(a) Inspect for and remove any incorrect AN/NAS standard bolts installed between hydraulic servo and swashplate control plate, P/N 47–150–184–7, which are not listed in the applicable and current illustrated parts breakdown manual. For removal of incorrect AN/NAS standard bolts utilize the applicable maintenance and overhaul instructions.

(b) Install, torque, and safety, required Bell Helicopter Textron, Inc., standard bolts, utilizing applicable and current maintenance and overhaul instructions and illustrated parts breakdown manual.

(c) Inspect flight control system for safety and security.

(d) Any equivalent method of compliance with this AD must be approved by the Manager, Helicopter Certification Branch, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

(e) In accordance with FAR 21.197, flight is permitted to a base where the requirements of this AD may be accomplished.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85.)

Note.—The FAA has determined that this proposed regulation only involves 850 aircraft at an approximate cost of $95 per aircraft. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, Texas, on February 8, 1984.

C. R. Melugin, Jr.

Director, Southwest Region.

[FR Doc. 84–5145 Filed 2–27–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 75

[Airspace Docket No. 83–ASO–42]

Proposed Alteration of Jet Route J–186, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of Jet Route J–186 between Toccoa, GA, and Appleton, OH. The alteration would be a direct route between Toccoa and Appleton. This action would shorten the distance between these points and improve arrival flow into the Atlanta, GA, terminal area.

DATE: Comments must be received on or before April 16, 1984.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83–ASO–42, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASO–42." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of Jet Route J–186 Between Toccoa, GA, and Appleton, OH. J–186 would be realigned as a direct route thereby eliminating the current dogleg in that area. This realignment would shorten the distance between these two points and improve the arrival flow from the high altitude jet route structure, to low altitude airways, into Atlanta, GA, terminal airspace. This action enhances air traffic control operations, improves arrival flow into the Atlanta terminal area, and reduces controller workload. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 75

Airspace, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal

Aviation Regulations (14 CFR Part 75) as follows:

PART 75—[AMENDED]

J-186 [Revised]

From Toccoa, GA; to Appleton, OH.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65.)

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

Issued in Washington, D.C., on February 21, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-5149 Filed 2-27-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-20655; File No. S7-8-84]

Customer Protection Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing amendments to Rule 15c3-3 under the Securities Exchange Act of 1934 ("Act"). Under the rule, the broker-dealer is required to make a weekly computation (or in certain cases a monthly computation), as of the close of business Friday, to determine how much money it is holding which is either customer money or money obtained from use of customer securities (*i.e.*, formula credits). From that amount the broker-dealer subtracts the amount of money it is owed by its cash or margin customers or by other broker-dealers because of customer transactions (i.e., formula debits). If the credits exceed the debits, the broker-dealer must deposit the excess by Tuesday morning in a Reserve Bank Account. If the debits exceed the credits, no deposit is necessary.

The proposed amendments will: (1) Revise the definition of "customer", for purposes of inclusion in the debit items of the Reserve Formula, to exclude household members and other persons related to broker-dealer principals or affiliated in a certain way with a broker-dealer; and, (2) exclude from the debit items the amount by which a broker-dealer's margin accounts receivable (a debit item) with a single customer exceeds ten percent of the aggregate of all such receivables with all customers of the broker-dealer. Such customer's account is considered concentrated and the exclusion can be thought of as a concentration charge. The proposed amendments are designed to assure that customers' funds and securities held by broker-dealers are protected against misuse or insolvency. The net effect of the proposed amendments will be to require that greater deposits be made in the Reserve Bank Accounts of some broker-dealers.

DATE: Comments must be received on or before April 2, 1984.

ADDRESSES: Persons wishing to submit written comments should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. References should be made to File No. S7-8-84. Copies of the submission and of all written comments will be available for public inspection at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, or Steven J. Gray, Division of Market Regulation, 450 5th Street, NW., Washington, D.C. 20549 (202) 272-2904.

SUPPLEMENTARY INFORMATION:

I. Introduction

Rule 15c3-3 was promulgated pursuant to Section 15(c)(3) of the Securities Exchange Act to assure that customers' funds and securities held by broker-dealers are protected against broker-dealer misuse or insolvency. The rule requires, among other things, that a broker-dealer maintain with a bank or banks a "Special Reserve Bank Account for the Exclusive Benefit of Customers" ("Reserve Bank Account") and deposit in this account its reserve requirement as computed in accordance with the Formula for Determination of Reserve Requirement For Brokers and Dealers ("Reserve Formula"), Exhibit A of the Rule. In addition, before making a withdrawal from the Reserve Bank Account, a broker-dealer must make a computation which shows that after the withdrawal there is an amount remaining in the Reserve Bank Account at least equal to that required to be in reserve.[1]

One of the intentions of the Reserve Formula is to ensure that customers' funds held by a broker-dealer are deployed only in areas of the broker-dealer's business related to servicing its customers, (i.e., debit items in the Reserve Formula), or to the extent that the funds are not deployed in these limited areas, that they be deposited in a Reserve Account.[2] Thus, the Reserve Bank Account includes all funds held by a broker-dealer that have as their source customer assets and which have not been utilized to finance the broker-dealer's customer related transactions. Paragraph (e) of the rule makes it unlawful for a broker-dealer to accept or use customer funds to finance any part of its proprietary business activities.[3] This prohibiton applies as well to transactions of principal officers, directors, and general partners ("principals") of a broker-dealer and thereby prevents them from using customer funds to finance their own personal investment activities.

Recent events, particularly the financial failures of two broker-dealers, have caused the Commission to become

[1] The broker-dealer may deposit in the Reserve Bank Account cash or qualified securities as that term is defined in the Rule.

[2] Essentially, customer funds held by a broker-dealer can be used only to finance the broker-dealer's customer-related transactions. Under the Rule, the broker-dealer is required to make a weekly computation (or in certain cases a monthly computation), as of the close of business Friday, to determine how much money it is holding which is either customer money or money obtained from the use of customer securities (i.e., formula credits). From that amount the broker-dealer subtracts the amount of money it is owed by its cash or margin customers or by other broker-dealers because of customers transactions (*i.e.*, formula debits). If the credits exceed the debits, the broker-dealer must deposit the excess by Tuesday morning in a Reserve Bank Account. If the debitsd exceed the credits, no deposit is necessary.

[3] One of the objectives of Rule 15c3-3 is to inhibit the unwarranted expansion of a broker-dealer's business through the use of customer's funds. During the 1969-70 period, many broker-dealers expanded their trading activities and office facilities through the use of customers' funds. Consequently, the rule prohibits the utilization of customers' funds and customer derived funds in areas of a broker-dealer's business such as underwriting, trading and overhead. For a fuller discussion of the use of customers' funds and securities by broker-dealers *see, Study of Unsafe and Unsound Practices of Brokers and Dealers*, House Doc. No. 231, 92nd Cong. First Sess. (1971) pp. 123-144.

aware of activities undertaken by some broker-dealers which seem to be in contravention of the objectives of Rule 15c3–3. It appears that by establishing accounts in the names of close relatives certain firms have been able to accomplish indirectly what Rule 15c3–3 prohibits them from doing directly, because under current Commission interpretations those relatives are considered "customers" under the rule,[4] while general partners, officers and other principals of broker-dealer firms are not.[5] Consequently, certain principals of broker-dealers (as "non-customers") can not use customers' funds held by their firms (*i.e.*, credit items in the Reserve Formula) to finance their securities activities.[6]

By establishing and controlling the accounts of close relatives or other affiliated persons, broker-dealer principals have been able to gain access to customer funds to finance, at least in the case of the firm failures referred to above, their own personal investment activities. A corollary of this financing activity is a reduction or total elimination of the broker-dealer's reserve deposit requirements to the possible detriment of bona fide public customers.

II. Discussion

The Commission believes that these abuses and the potential threat such abuses pose to public customers of a broker-dealer require two remedial revisions to Rule 15c3–3. In addition, the Commission proposes for comment a further "concentration" provision.

First, the Commission proposes to revise Note E of the Reserve Formula by adding an additional paragraph which would provide that the debit balances in the accounts of household members and other persons related to principals of a broker-dealer [7] or affiliated with [8] a broker-dealer are not "customer" debit balances, and therefore should not be included in the Reserve Formula, unless it can be shown that such debit balances are directly related to formula credit items for those same persons. The Commission recognizes that relating particular debit items to particular credit items may be a difficult task but believes that where necessary a firm could establish bank loans separate from the general customer bank loan. The intent of this revision is to prevent broker-dealer principals from utilizing the securities accounts of family members or any other person under their control to circumvent the prohibiton against the use of customers' funds to finance anything other than bona fide customer debits.

The proposed definition of related persons in footnote 7, tracks the definition of "immediate family" used by the National Association of Securities Dealers, Inc., in its rule regarding "Free-Riding and Withholding." The Commission's intent is to allow broker-dealers to apply a definition they may already be familiar with and which would therefore be less burdensome to apply than some other definition. The Commission seeks comments on the appropriateness of the proposed definition of "household members and other related persons" and asks those who comment on this point to suggest alternate definitions.

Second, it is proposed that an earlier interpretation issued in Securities Exchange Act Release No. 9922 regarding the definition of the term "customer" for purposes of Rule 15c3–3 be revised. The interpretation now states, in pertinent part, that "[a] joint account, custodian account, participation in a hedge fund or limited partnership, or [a] similar type account or arrangement by a person who would be excluded from the definition of customer [i.e., a general partner, director or principal officer of a broker-dealer] with persons includible in the definition of customer, is a customer's account." The Commission believes that interpretation should be amended to provide that the foregoing accounts or arrangements *are not* customers' accounts, insofar as debit items are concerned. As with accounts of household members, the broker-dealer may include the debit balances in the formula to the extent they are directly related to formula credit items.

Third, the Commission proposes to revise Note E of the Reserve Formula by adding another paragraph which would provide that debit balances in margin accounts shall be reduced by the amount by which a single customer's debit balance, (i.e. margin account receivable) exceeds 10% of the aggregate of all debit balances in customers' margin accounts included in Item 10 of the Reserve Formula. The intent of this revision is to alleviate potential problems which may exist if margin debt is concentrated with a single customer. The Commission believes it would be imprudent to allow a broker-dealer's financial condition to be ineluctably tied to the credit risk associated with any single customer's margin debit balances.

The concentration provision will apply only to margin accounts. Furthermore, in the interest of minimizing any significant adverse economic impact on small broker-dealers, the Commission is proposing to use $50,000 as a threshold amount below which the concentration provision regarding margin debit balances in any one customer's margin accounts would not be applicable. The Commission is soliciting comment on the appropriateness of using $50,000 as a threshold amount.

III. Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3) and 23(a) thereof, 15 U.S.C. 78o(c)(3) and 78w(a), the Commission proposes to amend § 240.25c3–3 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

IV. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments to Rule 15c3–3. The Analysis notes that the objective

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[4] Paragraph (a)(1) of Rule 15c3–3 defines the term "customer" to mean "any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of such person, but shall not include a broker or dealer, or a general, special or limited partner or director or officer of a broker or dealer, or any person to the extent that such person has a claim for property or funds which by contract, agreement or undertanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer * * *"

[5] In Securities Exchange Act Release No. 9922 (January 22, 1973) the Commission, among other things, issued interpretations further refining the term "customer" as defined in paragraph (a)(1) of the rule. The interpretations further refining the term "customer" provide that a general partner, director or principal officer is not a customer of the broker-dealer in which he is a general partner, director or principal officer. A principal officer is defined to include the president, executive vice president, treasurer, secretary or any other person performing a similar function with such broker-dealer. Any other officer of the broker-dealer is a customer of such broker-dealer.

[6] Under the rule, a broker-dealer must use firm cash and securities to finance the trading activities of its principal officers, directors, and partners. A broker-dealer may not pledge customer securities or use customer funds in any way to finance the proprietary trading activities of these persons.

[7] As proposed, the terms "household members and other related persons" would include parents, mothers-in-law or fathers-in-law, husbands or wives, brothers or sisters, brothers-in-law or sisters-in-law, children, or any relative to whose support the broker-dealer principal or persons related to the broker-dealer principal contributes directly or indirectly.

[8] A person would be deemed to be affiliated with a broker-dealer if that person directly or indirectly controls the broker-dealer or if that person is directly or indirectly controlled by or under common control with the broker-dealer. For purposes of establishing control, ownership or 10% or more of the common stock of the relevant entity will be deemed to be sufficient.

of the proposed amendments is to further the purposes of Rule 15c3–3 which are to assure that customer funds and securities held by broker-dealers are protected against broker-dealer misuse or insolvency. The Analysis states that the proposed amendments will subject small broker-dealers to some additional recordkeeping requirements and may require some broker-dealers to keep more customer money in their Reserve Bank Accounts. The Analysis notes that the Commission is specifically seeking to comment on whether there should be exemptions from the coverage of the proposed amendments in addition to the exemption for debit balances in cash accounts. The Analysis notes that the Commission is also seeking comment on whether the proposed threshold amount of $50,000, below which the concentration provision regarding margin accounts would not be applicable, is appropriate or whether some other amount would be more appropriate.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Steven Joel Gray, Division of Market Regulations, Securities and Exchange Commission, Washington, D.C. 20549 ((202) 272–3113).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

V. Text of the Proposed Amendment

In accordance with the foregoing, it is proposed to amend 17 CFR Part 240 as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By adding paragraphs (a)(11) and (a)(12) to § 240.15c3–3 as follows:

§ 240.15c3–3 Customer protection—reserves and custody of securities.

(a) * * *

(11) The terms "household members and other related persons" includes parents, mothers-in-law or fathers-in-law, husbands or wives, brothers or sisters, brothers-in-law or sisters-in-law, children, or any relative to whose support the broker-dealer principal or persons related to the broker-dealer principal contributes directly or indirectly.

(12) The term "affiliated person" includes any person (including a corporate "person") who directly or indirectly controls a broker-dealer or any person who is directly or indirectly controlled by or under common control with the broker-dealer. Ownership of 10% or more of the common stock of the relevant entity will be deemed sufficient to establish control of that entity.

* * * * *

2. By adding paragraphs 4, 5 and 6 to Note E of § 240.15c3–3a as follows:

§ 240.15c3–3a Exhibit A—formula for determination of reserve requirement for brokers and dealers under § 240.15c3–3.

* * * * *

Note E:

* * * * *

(4) Debit balances in cash and margin accounts of household members and other related persons to principals of a broker or dealer or affiliated with a broker or dealer shall be excluded from the Reserve Formula, unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

(5) Debit balances in margin accounts shall be reduced by the amount by which any single customer's debit balance exceeds 10% (to the extent such amount is greater than $50,000) of the aggregate of all debit balances in the customers' cash and margin accounts included in the formula under Item 10. Related accounts shall be deemed to be a single customer's account for purposes of this provision.

(6) Debit balances of joint accounts, custodian accounts, participation in a hedge fund or limited partnership or similar type accounts or arrangements by a person who would be excluded from the definition of customer with persons includible in the definition of customer shall be excluded from the reserve formula unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

By the Commission.

Dated: February 15, 1984.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–5256 Filed 2–27–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

[Docket No. RM84–7–000]

Impact of Special Marketing Programs on Natural Gas Companies and Consumers; Change of Time of Public Hearing

February 24, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of change of time of public hearing.

SUMMARY: On January 16, 1984, the Federal Energy Regulatory Commission (Commission) issued a Notice of Inquiry in Docket No. RM84–7–000. (49 FR 3193, Jan. 26, 1984). The notice solicits comments to aid in the Commission's further consideration of what actions relating to special marketing programs may be appropriate to promote price competition at the wellhead and among pipelines and distributors. In the notice, the Commission scheduled a public hearing on Thursday, March 1, 1984, beginning at 10:00 a.m. Because of the large number of speakers, the hearing will begin at 9:00 a.m., instead of 10:00 a.m.

DATES: The public hearing will begin at 9:00 a.m. Thursday, March 1, 1984. The agenda for the hearing will be posted in the Commission's Division of Public Information, Room 1000, on Monday, February 27, 1984.

ADDRESS: The hearing will be held in Hearing Room A at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–5492 Filed 2–27–84; 9:59 am]

BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83–12, Notice 3]

Truck Size

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the final network of highways other than the Interstate System for the States of Alabama, Georgia, Florida, Pennsylvania, and Vermont on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act of 1982 (STAA), as amended, may operate. The final network is intended to provide increased productivity for the commercial motor carrier industry which may ultimately result in lower transportation costs to consumers. Proposed final networks for the other 45 States, the District of Columbia, and Puerto Rico were published in the **Federal Register** on September 14, 1983 (48 FR 41276) along with proposed

regulations which would apply to all States.

DATE: Comments on this docket must be received on or before April 13, 1984.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83–12, Notice 3, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Oliver, Office of the Chief Counsel, (202) 426–0825 or Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426–0153, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Sections 411 and 416 of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97–424, 96 Stat. 2097, as amended by Pub. L. 98–17, 97 Stat. 59, require the States to permit certain size vehicles to operate on the Interstate System and those Federal-aid Primary System (FAP) highways designated by the Secretary of Transportation. The Secretary of Transportation has delegated this function to the Federal Highway Administration (FHWA). Section 411(e) of the STAA requires that an interim determination of qualifying highways be made 90 days after enactment of the STAA (April 6, 1983), and that a final designation be issued within 270 days of enactment (October 3, 1983). Pursuant to section 411(e) of the STAA, FHWA published a notice on February 3, 1983 (48 FR 5210), which indicated that FHWA was preparing to designate, on an interim basis, the Interstate System and, at a minimum, all 4-lane divided FAP highways with full control of access. The notice encouraged the States to propose additional FAP routes to satisfy the mandate of the STAA and to facilitate commerce.

On April 5, 1983 (48 FR 14844), FHWA published a notice which designated, on an interim basis, those FAP routes on which commercial motor vehicles authorized by the STAA could operate. The published list for some States included routes in addition to those proposed by the States and included routes beyond the 4-lane divided, full control of access minimum. For example, all States currently permit the operation of large commercial motor vehicles on some 2-lane highways, and the majority of States responding to the February 3 notice included two-lane highway segments for interim designation as highways on which the vehicles authorized by the STAA may operate. In turn, FHWA included some 2-lane segments in making the interim designations. The FHWA additions to State proposals were intended to achieve route continuity essential for geographic coverage and interstate commerce.

In Alabama, Florida, Georgia, Pennsylvania and Vermont a total of 9,600 miles of FAP routes were originally designated. These States brought suits in the U.S. District Courts to enjoin FHWA from including routes on the interim designated system beyond those proposed by the States in response to the February 3, 1983 Notice. One of the allegations in these suits was that the States had not had an opportunity to comment on the primary system routes added by FHWA in making the interim designations. Also, in the litigation challenging the April 5 designations it was alleged that the FHWA February 3 Notice had limited the definition of "qualifying Primary highways" to four-lane divided highways with full control of access. This was never FHWA's intent. The four-lane divided, full control of access criteria were meant to serve as an initial point of reference for the States in proposing their designations.

On April 22, 1983 (48 FR 17347), and May 12, 1983 (48 FR 21317), FHWA additions to the designated routes proposed by these five States were withdrawn and the interim FAP designations in these States were limited to the 740 miles of FAP routes intitially proposed by the States. On August 31, 1983 (48 FR 39592) FHWA published for public comment proposed interim highway networks totaling nearly 3,400 miles for Alabana, Florida, Georgia, Pennsylvania, and Vermont. On February 3, 1984 (49 FR 4203) after the comments received on that proposal, interim networks totaling approximately 3,000 miles for these five States were designated. This 500-mile reduction in what was proposed includes 230 miles in Alabama, 230 miles in Florida, and 40 miles in Vermont.

On September 14, 1983 (48 FR 41276), FHWA published for public comment proposed regulations concerning the National Network for all States and proposed final networks for 45 States and the District of Columbia and Puerto Rico. Proposed final networks for Alabama, Florida, Georgia, Pennsylvania and Vermont were separated from that rulemaking pending the designation of interim networks in those States. The purpose of this notice of proposed rulemaking is to provide the States and the public an opportunity to comment on proposed final networks in those five States as set forth in the Appendix to this proposed rulemaking.

The routes listed in the Appendix are the same as those currently availabel as part of the interim networks, except in Florida and Georgia where additional routes totaling 75 milies are proposed to provide service to Thomasville, Georiga. These routes are marked with an asterisk. It should be clearly understood that the routes marked with an asterisk are listed in the Appendix for comment only and are not part of the interim network.

The FHWA has and will continue to work with the States to develop an acceptable network for final designation. The FHWA seeks comments from all interested parties on the proposed final networks included in this NPRM. Such comments should focus on the following points:

1. Safety—Can these routes safely accommodate the larger vehicles?
2. Interconnectivity—Do these routes provide for continuity of movement within and between States?
3. Service—Does the overall network provide access to major population and industrial centers?

Regulatory Impact

The FHWA considers this proposal to be a supplement to the larger rulemaking effort begun on September 14, 1983 (48 FR 41276), and therefore has determined that it, too, is a major rulemaking action within the meaning of E.O. 12291 and a significant rule under regulatory policies and procedures of the Department of Transportation (DOT).

The agency's determination that this proposed rule is major and significant is based primarily on the substantial savings in transport costs expected to result from implementation of the proposal and on the controversy regarding route designations in selected locations. A regulatory impact analysis, regulatory flexibility analysis and an environmental assessment were prepared to accompany the September 14 truck size and weight rulemaking action. That rulemaking provided proposed final designated networks for 45 States, Washington, D.C. and Puerto Rico, as well as other proposed truck size and weight regulations applicable to all States. Because the proposed actions contained in this NPRM supplement the route designation portions of the September 14

rulemaking, the above-mentioned regulatory impact documents are also being used for this NPRM. These documents are available for inspection in the public docket.

The national impact estimates contained in the regulatory analyses were derived from large scale economic models which cannot be used to directly assess the expected effects of truck size and weight changes in these five States, or on any specific route or highway segment. However, the estimates of nationwide impacts do provide a reasonable basis for evaluating the expected impacts of the route designation proposals for these five States.

The FHWA has initially determined that this proposal will allow the motor carrier industry to realize substantial productivity gains. These gains are expected to provide significant benefits to truckers, shippers, receivers, and consumers. In the absence of conclusive evidence attributing increased safety problems to the operation of the commercial motor vehicles with dimensions authorized by the STAA, the FHWA has initially determined that any safety effects of this proposal will be minimal. Productivity and safety issues are addressed further in the regulatory impact analysis.

With regard to the assessment of the impact this proposal will have on small entities pursuant to the Regulatory Flexibility Act (Pub. L. 96–354), the reasons for, objectives, and legal basis for this proposed action have been previously explained. This proposal does not impose additional reporting, recordkeeping, or other compliance requirements on small entities, nor duplicate, overlap, or conflict with any other Federal rules. This proposal will provide the opportunity for many carriers and shippers to increase productivity through the use of larger vehicles. Comments received on the interim route designations in these five States indicated that some small business entities may be adversely affected because they are not served by routes on the proposed final network. However, the small number of comments received did not indicate that this would result in a significant economic impact on a substantial number of small entities. This determination of no significant impact is further supported by the fact that small entities may seek additions or deletions to the final network. Similarly, because of this flexibility the proposed rule is not expected to have a significant adverse effect on small governmental jurisdictions. In keeping with the intent of the Regulatory Flexibility Act, FHWA encourages small entities to comment on these initial determinations of the impact of the NPRM.

In consideration of the foregoing and under the authority of Sections 133, 411, 412, 413, and 416 of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97–424, 96 Stat. 2097; 23 U.S.C. 315; and 49 CFR 1.48, the FHWA proposes to amend Chapter 1 of Title 23, Code of Federal Regulations, Part 658, by removing § 658.2 and by adding to the Appendix of Part 658 the following final route designations for the States of Alabama, Georgia, Florida, Vermont, and Pennsylvania.

List of Subjects in 23 CFR Part 658

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

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 and former OMB Circular A–95 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: February 22, 1984.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 658—[AMENDED]

The FHWA hereby proposes to amend Chapter I of Title 23, Code of Federal Regulations, Part 658 as follows:

§ 658.2 Interim designated network. [Removed]

1. Part 658 is amended by removing § 658.2.

Appendix [Amended]

2. The Appendix to Part 658 is amended by adding the final route designations for the States of Alabama, Georgia, Florida, Pennsylvania, and Vermont as set forth below:

APPENDIX.—OTHER DESIGNATED ROUTES

Posted route No.	From—	To—
Alabama		
US 431	AL 210 in Dothan	US 431/AL 173 in Headland.
US 431	I–20 Anniston	I–59 Gadsden.
US 431	AL 77 Attalla	AL 79 near Columbus City in Marshall County.
US 431	Co Rd 8 near New Hope in Madison County.	Tennessee St. Line.
US 72	Mississippi St. Line	Jackson County Road 33 near Hollywood.
US 31	AL 152 Montgomery	AL 14 north of Prattville.
US 31	End of I–65 north of Birmingham.	I–65 north of Kimberly.
US 78	Beginning of four-lane west of AL 5 at Jasper in Walker County.	I–59 Birmingham.
US 78	End of I–20 in Irondale.	I–20 west of Leeds.
US 82	Coker (west of Northport).	Eoline (west of Brent).
US 82	AL 206 Prattville	US 31 Prattville.
US 80	AL 14 west of Selma	AL 152 Montgomery.
US 84	AL 92 (east of Daleville).	AL 210 Dothan.
US 84	AL 210 Dothan	End of four-lane east of Dothan.
US 43	I–65 north of Mobile	Sunflower in Washington Co.
US 43	AL 5 near Russellville.	US 72 Tuscumbia.
US 43	US 72 Florence	Tennessee St. Line.
US 29	Fairfax	Georgia St. Line.
AL 20	US 72 Tuscumbia	US 231 Huntsville.
AL 21	US 31 at Atmore	I–65 north of Atmore.
AL 21	US 431 Anniston	Jacksonville.
US 280	US 31 Mountain Brook.	AL 22 at Alexander City.
US 280	I–85 Opelika	Georgia St. Line.
US 98	I–10 Daphne	End of four-lane near Fairhope.
Florida		
US 27	Fla. Turnpike extension.	FL 84 at Andytown.
US 27	South Bay	Leesburg.
US 27/US 441.	Leesburg	Belleview.
US 27/US 301.	Belleview	Ocala.
US 27	US 301 in Ocala	I–75.
US 301	SR 24 in Waldo	I–10.
FL 24	SR 331 in Gainesville	US 301 in Waldo.
FL 263	US 90 west of Tallahassee.	I–10.
FL 331	I–75 (south of Gainesville).	FL 24.
US 41	Big Bend Road (CR 672) near Adamsville.	I–4 Tampa.
CR 672 (Big Bend Road).	US 41 near Adamsville.	I–75 near Adamsville.
FL 202	In Jacksonville from I–95.	FL A–1–A.
Florida Tpk	South end of Homestead extension.	I–75 at Wildwood.
FL 528/FL 407.	I–4 at Orlando	Cape Canaveral.
20th Street Expressway.	In Jacksonville at I–95.	Adams Street.
FL 397	Entrance Eglin AFB	FL 85 Valparaiso.
FL 85	FL 397 Valparaiso	I–10 near Crestview.
US 19*	I–10 near Drifton	Georgia State Line.

NOTE.—Alligator Alley (FL 84) from Golden Gate to Andytown is a designated part of the Interstate system but is unsigned. Access from I–75 to the Golden Gate Toll Plaza will not be available until late 1984.

CR 672—This is not an FAP route. However, this route has been identified by the Florida Department of Transportation as available to the larger vehicles on a temporary basis pending the completion of I–75.

Georgia		
GA 400	I–285, near Atlanta	GA 60.
GA 365	I–85	US 441 near Cornelia.
US 411/US 41.	US 27 at Rome	I–75 near Emerson.
US 129	I–16	North to Gray.
GA 25 Spur	US 17/US 84 near Brunswick.	Northerly to I–95.
US 280	Alabama St. Line	Fort Benning.
US 82	Dawson	I–75 Tifton.
GA 300	US 82 Albany	I–75 near Cordele.
US 25	I–16	North of Statesboro.

APPENDIX.—OTHER DESIGNATED ROUTES—Continued

Posted route No.	From—	To—
GA 316	I-85 easterly	Near Lawrenceville (5 miles).
GA 21	I-95 Monteith	GA 204 Savannah.
GA 14 Spur	I-85/I-285 Interchange.	East of Welcome All Road.
GA 410	Valleybrook Rd	SR 10.
GA 411	End of I-185	South to US 280 near Columbus.
GA 85	I-85	Fayetteville.
GA 2	US 27	I-75.
US 76	I-75	US 411.
GA 85	GA 411	Ellerslie.
US 41	I-75	Near Barnsville.
US 19	US 82	Near Pelham.
GA 247/US 129.	I-75	Warner Robins.
US 84	Waycross	I-95.
US 78/US 29.	GA 138	GA 8 near Athens.
GA 138	I-20	US 78.
GA 53	Rome	I-75 Calhoun.
US 19*	Florida St. Line	US 319 near Thomasville.
US 319*	US 19 near Thomasville.	175 near Tifton.

*This route is not currently available to the large trucks. Comments concerning the feasibility of adding this route to the final network are specifically requested.

Posted route No.	Route description
Pennsylvania	
US 1	From Morrisville to US 13.
US 13	Controlled access segment south from US 1.
US 15	From Pennsylvania Turnpike (I-76) Interchange 17 northeast to Harrisburg Expressway south to Camp Hill.
US 15	From PA 642 in Milton to the White Deer Exit.
US 15	Controlled access segment north of junction with US 220 at Williamsport.
US 22	From I-279 west to the Pennsylvania-West Virginia St. Line east of Steubenville, Ohio.
US 22	From west of PA 100 near Fogelsville east to the Pennsylvania-New Jersey St. Line at Easton.
US 30	Greensburg Bypass south of Greensburg.
US 30	From a junction with PA 462 west of York to a junction with PA 462 east of Lancaster, excluding the 4-mile uncontrolled access segment north of York.
US 119	Limited access Bypass west of Uniontown.
US 119	From Pennsville north to Pennsylvania Turnpike (I-76) Interchange 8 at New Stanton.
US 202	From the south terminus of the West Chester Bypass north and east to I-76 near King of Prussia.
US 219	From vicinity of Pennsylvania Turnpike southeast of Somerset north to US 422 west of Ebensburg.
US 219	From the PA-New York St. Line to just south of Bradford.
US 220	From Pennsylvania Turnpike Interchange 11 north to King.
US 220	From US 15 and the terminus of I-180 in Williamsport west to western terminus of controlled access segment at Linden.
US 220	From just south of Athens north to NY 17 at the Pennsylvania-New York St. Line.
US 222/422	Warren Street Bypass and Extension from Pricetown Road north of Reading west to Wyomissing.
US 322	Commodore Barry Bridge in Chester.
US 422	From eastern terminus of limited access segment southeast of Reading northwest to the Warren Street Bypass.
PA 9	Northeast Extension of Pennsylvania Turnpike from Exit 25 (I-276) southeast of Norristown to Exit 38 at I-81 north of Scranton.
PA 28	From PA 8 near Etna northeast to Creighton, east of the Pennsylvania Turnpike.
PA 33/US 209	From US 22 near Wilson north to I-80 at Interchange 46 near Stroudsburg via US 209 at Snydersville.
PA 60/US 422	From I-80 Interchange 1 southeast of Sharon south to and including the New Castle Bypass.
PA 60	From PA 51 west of Beaver Falls south to US 22, excluding the uncontrolled access segment near the Greater Pittsburgh International Airport.
US 222	From US 30 northeast of Lancaster to Pennsylvania Turnpike (I-76) Interchange 21 near Adamstown.
PA 283	From junction of US 30 north of Lancaster west to I-283 near the Pennsylvania Turnpike Interchange 19. Harrisburg Expressway (LR 767) from I-83 west to US 11 west of Camp Hill. Airport Access Road (LR 1081 Spur A) from PA 283 south to the Harrisburg International Airport at Middletown. Reading Outer Loop (LR 1035) from PA 183 near Leinbachs northeast to US 222 near Tuckerton.
US 6	From the Borough of Conneaut Lake east to just north of Meadville at the terminus of the North-South Bypass.
US 11	From Pennsylvania Turnpike Interchange 16 east to the western terminus of the Harrisburg Expressway near Camp Hill.
US 20	From I-90 Interchange 12 west to North East (PA 89).
US 30	Uncontrolled access segment of York Bypass from North Hills road west to a point one mile north of the junction of PA 74.
US 119	Uncontrolled access segment northeast of Uniontown to Pennsville.
US 119	Uncontrolled access segment from the Pennsylvania Turnpike (I-76) Interchange 8 to the Greensburg Bypass.
US 202	From the PA-Delaware St. Line north to West Chester Bypass.
US 322	From the junction of I-83 and I-283 east to the junction of US 422.
US 422	From the junction of US 322 east to the junction of LR 139 at the west end of Hershey.
PA 3	From West Chester Bypass (US 202) east to Garrett Road at Upper Darby.
US 13	Uncontrolled access segment from PA 413 west of Bristol northeast to the limited access segment just south of US 1.
PA 42	From I-80 Interchange 34 south to Bloomsburg at US 11.
PA 51	From US 119 near Uniontown north to the Monongahela River at Elizabeth.
PA 54	From I-80 Interchange 33 south to Danville at US 11.
PA 60	Uncontrolled access segment in the vicinity of the Greater Pittsburgh International Airport.
PA 61	From US 222 near Tuckerton north to I-78 Interchange 9 at Hamburg.
PA 93	From I-81 Interchange 41 east and south to PA 924 at west end of Hazleton.
PA 114	From US 11 near Hogestown north to I-81 Interchange 18.
PA 132	From I-95 near Cornwells Heights northwest to Pennsylvania Turnpike Interchange 28 via US 1 connection.
PA 924	From junction with PA 93 west to I-81 Interchange 40 near Hazleton.
PA 100	From US 202 near West Chester north to the Budd Company Plant located approximately 1.1 miles north of Pennsylvania Turnpike (I-76) Interchange 23 (Downingtown Interchange).
PA 924	From I-81 west to proposed Ryder/PIE Nationwide terminal near Hazleton.
US 220 Business	From the PA Turnpike (I-70 & 76) Exit 11 at Bedford north to the first interchange of US 220.
US 220	From King north to I-80 Interchange 23 including the overlapping section with US 22 from west of Duncansville to east of Duncansville.
Greenwood Road (LR 07027, Spur E).	From US 220 west to Second Avenue in Altoona.
Second Avenue	From Greenwood Road (LR 07027, Spur E) north to the Ward Trucking Company Terminal in Altoona.

NOTE.—PA 147 and US 220 from I-80 Interchange 31 near Milton north and east to US 15 in Williamsport were approved as part of the Interstate System on September 23, 1983.

Posted route No.	From—	To—
Vermont		
VT 9	I-91 Interchange 3 north of Brattleboro.	New Hampshire St. Line.
US 7	Southern Terminus of the four lane divided highway in the town of Wallingford.	US 4 Rutland City.
US 4	New York St. Line	East Limit of Rutland City.

[FR Doc. 84-5234 Filed 2-27-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications on the Ohio Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Ohio to satisfy conditions of the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA)..

The amendments submitted consist of proposed changes to the Ohio regulations concerning revegetation responsibility and administrative review procedures intended to satisfy conditions (f)(7), (k)(3), (k)(4), and (k)(5). This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the

procedures that will be followed for the public hearing.

DATES: Written comments from the public must be received by 4:30 p.m., March 29, 1984, to be considered in the decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendments has been scheduled for March 26, 1984. Any person interested in speaking at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by March 19, 1984. If no person has contacted Ms. Hatfield by this date to express an interest in the hearing, the hearing will be cancelled. If only one person requests a public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m. in Room 202, Columbus Field Office, 2242 South Hamilton Road, Columbus, Ohio 43227.

Written comments and requests for an opportunity to speak at the hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, at the above address; Telephone (614) 866–0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions—(a), (b), (c), (d), (e), (f)(1)–(f)(10), (g), (h)(1)–(h)(3), (i)(1)–(i)(3), (j) and (k)(1)–(k)(5). Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register**.

In accepting the Secretary's conditional approval, Ohio agreed to correct deficiencies (a), (b), (c), (h)(1) and (k)(1) by August 8, 1983, deficiency (e) by September 16, 1982, and the remaining deficiencies by February 8, 1983.

On January 6, 1983, Ohio submitted materials to OSM intended to satisfy conditions (a), (b), (c), (d), (f), (g), (h), (i) (j) and (k)(1) and (k)(2). On January 21, 1983, OSM published notice in the **Federal Register** announcing receipt of these provisions and inviting public comment.

On February 1, 1983, Ohio requested an extension of the deadline for the State to meet conditions (k)(3), (k)(4), and (k)(5). On February 28, 1983, OSM published notice that it was considering modifying the deadline for Ohio to meet those parts of condition (k), and requested public comment.

On May 24, 1983, OSM published a final rule in the **Federal Register** announcing removal of conditions (b), (d), (f)(1)–(f)(6), (f)(8)–(f)(10), (g), (h)(2), (h)(3), (i), (j), (k)(1), and (k)(2); establishment of an August 8, 1983 deadline for Ohio to satisfy conditions (a), (c), (f)(7), (h)(1), (k)(3), (k)(4), and (k)(5); and imposition of two new conditions (l) and (m) which also carried a deadline of August 8, 1983.

On July 26, 1983, the Chief of the Ohio Division of Reclamation wrote to OSM requesting that Ohio be granted an extension of time to meet conditions (c), (f)(7), (h)(1), (k)(3), (k)(4), (k)(5) and (m).

On October 11, 1983, after providing public notice and an opportunity to comment, OSM announced the Secretary's decision to extend the deadline for Ohio to satisfy these conditions. The Secretary extended the deadline for conditions (f)(7), (h)(1), (k)(3), (k)(4), and (k)(5) until February 8, 1984, and the deadline for conditions (c) and (m) until August 8, 1984.

On August 1, 1983, Ohio submitted a proposed program amendment to satisfy condition (h)(1). Condition (h)(1) is the subject of a separate rulemaking action. OSM announced receipt of the amendment in the October 5, 1983 **Federal Register** (48 FR 45420) and solicited public comment on the adequacy of the amendment. A final decision on the amendment will be announced in a future **Federal Register** notice.

Condition (f)(7) stipulates that Ohio must amend its rule 1501:13–9–15(E)(5) by deleting the word "substantially" to establish the beginning of the period for extended liability consistent with 30 CFR 816.116.

Condition (k)(3) stipulates that Ohio must amend its administrative review provisions to provide for discovery against the Chief or the Division of Reclamation.

Condition (k)(4) stipulates that Ohio must promulgate regulations to allow for intervention in instances provided for in 43 CFR 4.1110(c) (i) and (ii).

Condition (k)(5) stipulates that Ohio must promulgate regulations establishing burden of proof provisions consistent with 43 CFR 4.1171 and 4.1193.

II. Submission of Revisions

By letter dated February 8, 1984, Ohio submitted proposed program amendments consisting of revised regulations to satisfy conditions (f)(7), (k)(3), (k)(4), and (k)(5) due February 8, 1984.

Specifically, Ohio has:

(1) Proposed changes to paragraph (E)(5) of rule 1501:13–9–15 to meet condition (f)(7); and

(2) Proposed to add new paragraphs (J), (K), and (L) to rule 1513–1–01 to meet conditions (k)(3), (k)(4) and (k)(5).

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed amendments. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations and whether the amendments satisfy the conditions of approval. If approved, the amendments will become part of the Ohio program and the conditions to which they pertain will be removed.

III. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions

directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

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

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

Dated: February 24, 1984.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–5274 Filed 2–27–84; 8:45 am]

BILLING CODE 4310–05–M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Public Comment and Opportunity for Public Hearing on Modified Portions of the Tennessee Permanent Regulatory Program

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

ACTION: Proposed rule; notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of proposed amendments to the Tennessee permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments submitted by Tennessee for the Secretary's approval on January 5, 1984, include the following: (1) proposed regulation changes relating to performance standards for blasting and (2) proposed program modifications submitted by the State in satisfaction of a condition of the Secretary's approval of the Tennessee program concerning procedures and forms for permitting, inspection and enforcement.

DATE: Written comments must be received on or before 4:00 p.m. on March 29, 1984 to be considered in the Secretary's decision to approve or disapprove the proposed amendments.

A public hearing on the proposed modifications has been scheduled for 7:00 p.m. on March 8, 1984, at the address listed below under "ADDRESSES." Any person interested in making an oral or written presentation at the hearing should contact Mr. James Curry at the address below by March 1, 1984. If no person has contacted Mr. Curry by this date to express an interest to participate in this hearing, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing will be held starting at 7 p.m. at the TVA Office Complex, Plaza West Towers, Room C–36, 400 West Summit Hill Drive, Knoxville, Tennessee 37901.

Written comments should be mailed or hand-delivered to Mr. James Curry, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902.

Copies of the proposed modifications to the Tennessee program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Headquarters Office, the OSM Tennessee Field Office and the Office of the State Regulatory Authority all listed below, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Field Office, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 523–9523.

Tennessee Department of Public Health and Environment, Division of Surface Mining and Reclamation, 305 W. Springdale Avenue, Knoxville, Tennessee 37917.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Field Office Director, Office of Surface Mining, 530 Gay Street, SW., Knoxville, Tennessee 37902, (615) 673–4504.

SUPPLEMENTARY INFORMATION: The Tennessee surface coal mining regulatory program was conditionally approved by the Secretary on August 10, 1982 (47 FR 34724–34754). The approval was conditioned on the State's correction of 11 minor deficiencies in its program.

Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Tennessee program can be found in the August 10, 1982 **Federal Register** (47 FR 34724–34754).

Submission of Amendments

On January 5, 1984, the Tennessee Division of Surface Mining (DSM) submitted proposed program amendments to OSM for the Secretary's approval. The proposed modifications include:

(1) Proposed regulation changes relating to performance standards for blasting and

(2) Proposed program modifications intended to address condition (i) of the Secretary's approval of the Tennessee program concerning the State's procedures and forms for permitting, inspection and enforcement.

Tennessee previously submitted amendments in satisfaction of condition (i) on November 1 and 10, 1982. Shortly thereafter, the DSM was transferred by executive order of the Governor from the Department of Conservation to the Department of Public Health and Environment. Revision of the amendments submitted by DSM on November 1 and 10, 1982, was necessitated as a result of this transfer. For this reason, the State requested and was granted an extension of the deadline to meet condition (i).

Following a review of these amendments in accordance with the procedures set forth under section 732 of OSM's regulations, OSM determined that the program modifications submitted by Tennessee did not fully satisfy the condition of approval. However, in light of the State's good faith effort to satisfy this condition and in light of other actions taken by the Director pursuant to section 733 of OSM's regulations having a bearing on the State's satisfaction of this condition, the Secretary decided to extend the deadline for the State to satisfy condition (i) until December 30, 1983. More detailed information on the Director's reasons for extending the deadline for the State to meet this condition is contained in the November 9, 1983 **Federal Register** (48 FR 51461–51465). Following is a more detailed

description of the amendments submitted by Tennessee on January 5, 1984:

(1) Proposed modifications to the following sections of the State's blasting regulations:

Surface Section

0400–1–14.03 Blasting signs
0400–1–14.31 Use of Explosives: Pre-blasting Survey
0400–1–14.32 Use of Explosives: Public Notice of Blasting Schedule
0400–1–14.33 Use of Explosives: Surface Blasting Requirements
0400–1–14.35 Use of Explosives: Records of Blasting Operations

Underground Section

0400–1–15.03 Blasting Signs
0400–1–15.29 Use of Explosives: General Requirements
0400–1–15.30 Pre-Blasting Surveys
0400–1–15.31 Use of Explosives: Surface Blasting Requirements
0400–1–15.33 Use of Explosives: Records of Blasting Operations

(2) Proposed modifications to the following sections of the approved State program:

Chapter VII (1) Permitting
Chapter VII (4) Inspection and Enforcement
Chapter VII (5) Enforcing the Administrative, Civil and Criminal Sanctions of State Laws and Regulations
Chapter VII (7) Assessing and Collecting Civil Penalties

The proposed modifications listed under number (2) above were submitted by DSM as amendments to the program provisions DSM submitted to OSM on April 30, 1983, in satisfaction of condition (i) of the Secretary's program approval.

Condition (i) requires Tennessee to submit additional documentation for Chapters VII (1), (4), (5), (6), (7), (8), (9), (15), and (16) of the Tennessee program concerning procedures and forms for permitting, inspection, and enforcement, to provide a full description of the State's intended methods of implementing the program.

As noted previously, OSM determined that the program modifications submitted by Tennessee on April 30, 1983, did not fully satisfy condition (i) and, therefore, the Secretary extended the deadline for the State to satisfy this condition until December 30, 1983.

In determining whether Tennessee has satisfied condition (i), OSM will review the program provisions submitted by Tennessee on April 30, 1983, together with the amendments to those provisions submitted January 5, 1984. These documents are contained in the OSM administrative record under numbers TN–667 and TN–742.

OSM is seeking comment on the following:

(1) The adequacy of the provisions submitted to OSM Tennessee on April 30, 1983, as amended with the provisions submitted January 5, 1984, in satisfaction of condition (i) of the Secretary's approval of Tennessee's program, listed at 30 CFR 942.11(i); and

(2) the adequacy of the regulatory amendments submitted to OSM by Tennessee on January 5, 1984, pertaining to the State's blasting performance standards.

Copies of all documents are available for review at the OSM administrative record offices listed above.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement would need to be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 942

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

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: February 22, 1984.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–5273 Filed 2–27–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140 and 142

[CGD 79–077]

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; correction and extension of comment period.

SUMMARY: This document corrects certain portions of the preamble to the proposed rule concerning personal protection equipment and general working conditions on Outer Continental Shelf facilities. The Regulatory Evaluation and Paperwork Reduction Act sections of the preamble published on January 9, 1984 (49 FR 1085) were those of an earlier, incomplete draft. Because of this correction and several requests for additional time to comment on the proposed rule, the deadline for receipt of comments on the proposal is extended to April 9, 1984.

DATE: The deadline for receipt of comments on the proposal is extended to April 9, 1984.

ADDRESSES: Comments may be mailed to Commandant (G–GMC/44)(CGD 79–077), U.S. Coast Guard, Washington, DC 20593. Comments will be available for inspection or copying from 7:30 am to 4:00 pm on Monday through Fridays at the Marine Safety Council (G–GMC) Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593, (202) 426–1477.

FOR FURTHER INFORMATION CONTACT: LCDR A. J. Cross, G–MVI–4, (202) 426–2307.

In consideration of the foregoing, the preamble to the proposed rule is amended by removing the sections entitled "Regulatory Evaluation" and "Paperwork Reduction Act" at 49 FR 1085 and inserting in their place, respectively, the following:

* * * * *

Regulatory Evaluation

These proposed regulations are considered to be non-major under

Executive Order 12291 and non-significant under "Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations," (DOT Order 2100.5 of May 22, 1980). A draft evaluation has been prepared and placed in the docket and may be inspected or copied at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593.

The Outer Continental Shelf Lands Act Amendments of 1978 specifically require that the Secretary of the Department in which the Coast Guard is operating "promulgate regulations or standards applying to unregulated hazardous working conditions related to activities on the Outer Continental Shelf when he determines such regulations are necessary."

These proposed regulations are an initial effort by the Coast Guard as part of a continuing program to address problems of the workplace on OCS facilities. This proposed rulemaking concerns the use of certain personal protection equipment meeting existing industry standards and the application of certain general working practices. In 1979, the Coast Guard conducted a review to assess the safety of OCS working conditions. Using a number of different sources, data for workplace injuries and fatalities was obtained for a three year period. This study showed that the fatality rates associated with offshore drilling were significantly above those associated with heavy construction. Further, it showed that the majority of deaths and injuries occurring in the Offshore Oil and Gas Industry resulted from falls, lack of suitable personal safety equipment, improper maintenance and repair procedures, and inadequate first aid equipment. Though these injuries and fatalities may, in part, be attributable to inexperience, carelessness, or equipment failure, this initial proposed rulemaking seeks only to address the need to provide and use certain personal protection equipment and to apply certain safety-oriented workplace practices in response to some of the problem areas identified in the Coast Guard study. Other causes of accidents, such as inadequate training, could be treated under separate rulemaking actions.

These proposed requirements should not impose substantial costs on industry. Costs per facility would vary depending upon the number of persons on board, the nature of the activities conducted, and the degree to which the facility already complies with these proposals.

The total initial cost for the proposed personal protection equipment, eyewash equipment, and respiratory training for a mobile drilling unit with a 50 person crew would be approximately $12,000. The total initial cost for a manned fixed facility with a 25 person crew would be $5,000. Based upon 200 mobile drilling units and 600 manned fixed facilities, the maximum initial industry cost would be $5,400,000 with a maximum annual cost of $900,000. In actuality, these costs would most likely be substantially less. Discussions with industry representatives indicate that many offshore companies already include some personal protection equipment and training as elements of their safety program. Because of the level of compliance which already exists, industry should have minor difficulty adjusting to these proposed requirements.

These proposals are intended to reduce the incidence of injury and fatality associated with failure to use personal protection equipment and training as elements of their safety program. Because of the level of compliance which already exists, industry should have minor difficulty adjusting to these proposed requirements.

These proposals are intended to reduce the incidence of injury and fatality associated with failure to use personal protection equipment and workplace practices by requiring that certain industry recommended standards be applied on all units. Furthermore, these proposals would encourage employers to actively promote the use of proper safety equipment and workplace practices by workers on board the unit. Because of numerous variables and limited data, it is difficult to determine the reduction in the number of injuries and deaths that would result if these proposals are placed into effect. However, it is believed that the estimated annual saving of four lives and $5.9 million in costs of injuries in the draft evaluation is conservative.

Additionally, compliance with these proposed requirements may reduce industry operating costs for insurance premiums and worker compensation by reducing the frequency and severity of injuries.

The Coast Guard is specifically requesting comments on potential benefits, as well as the estimated initial and annual costs for equipment.

These rules would not affect state or local government and would have a negligible effect on costs to consumers.

* * * * *

Paperwork Reduction Act

This rulemaking contains no information collection or record keeping requirements.

* * * * *

Dated: February 21, 1984.

Clyde M. Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84-5167 Filed 2-27-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-4-FRL 2516-4]

Standards of Performance for New Stationary Sources Proposed Alternative Performance Test Requirement for Alumax of South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to establish an alternative air emissions testing frequency requirement for Alumax of South Carolina's primary aluminum reduction plant in Mount Holly, South Carolina as provided in 40 CFR 60.195(b). Rather than conduct monthly flouride emissions performance tests on the anode bake plant, this source would be allowed to test it once a year. This action is necessary based on previous flouride emission data provided by the company through the State Air Pollution Control Agency. This action should have no effect on the National Ambient Air Quality Standards.

DATE: Written comments must be received on or before March 29, 1984.

ADDRESS: Comments should be submitted in writing to Joe Riley, Air Management Branch, Air and Waste Management Division, EPA, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365. Background information and comments received on the proposal will be available for public inspection at the same address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joe Riley at the above address, telephone 404/881-4901 (FTS 257-4901).

SUPPLEMENTARY INFORMATION: On January 26, 1976 (41 FR 3828), EPA promulgated Standards of Performance for New Primary Aluminum Reduction Plants as Subpart S of 40 CFR Part 60, pursuant to the provisions of section 111

of the Clean Air Act. Under the original standards, the affected source was required to conduct a performance test on startup and on any other occasion the Agency might require a test under section 114 of the Clean Air Act. On June 30, 1980 (45 FR 44207), EPA revised 40 CFR 60.195 to require performance testing at least once per month for the life of a new primary aluminum plant. At the same time, however, the Agency provided that alternative test requirements could be established for the primary control system or an anode bake plant if the source could demonstrate that emissions have low variability during day-to-day operations.

On October 19, 1976, the Environmental Protection Agency (EPA) delegated to the South Carolina Department of Health and Environmental Control (SCDHEC) authority to administer Subpart S of 40 CFR Part 60. Under the terms of the delegation, performance tests were to be scheduled and performed in accordance with the procedures set forth in 40 CFR Part 60 unless alternate methods or procedures are approved by the EPA Administrator. Accordingly, SCDHEC has transmitted to EPA for its approval a petition for alternative test requirements submitted by Alumax of South Carolina, Mount Holly plant.

Alumax is requesting a change in the testing requirements established for primary aluminum plants by 40 CFR Part 60. Specifically the source wishes to be allowed to change the frequency of testing the anode bake plant from once a month to once a year. EPA had earlier denied such a request by Alumax [see 48 FR 22919 (May 23, 1983)] because adequate supporting information was lacking.

On the basis of the supporting information submitted, EPA now proposes to grant this request since it meets the requirements of 40 CFR 60.195(b). Actual emissions from the anode bake plant systems are far below the allowable emissions. Day-to-day variations in the anode bake plant emissions are not great enough to cause emissions in excess of the standard for fluorides.

This alternative requirement would not preclude the Agency or SCDHEC from requiring performance testing at any time. Finally, it could be withdrawn at any time that the Administrator found it was not adequate to assure compliance with the emission standards applicable to this source.

The public is invited to participate in this rulemaking by submitting written comments on the proposed alternative test requirements. After carefully considering all pertinent comments received, the Administrator will take final action on Alumax of South Carolina's petition under 40 CFR 60.195(b).

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities since it affects only one entity.

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

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

(Secs. 111 and 301(a) of the Clean Air Act (42 U.S.C. 7411 and 7601(a))

Dated: October 31, 1983.

John A. Little,

Acting Regional Administrator.

[FR Doc. 84-2724 Filed 2-27-84; 8:45 am]

BILLING CODE 6560-50-M

LEGAL SERVICES CORPORATION

45 CFR Part 1600

Definitions

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises certain of the definitions of terms used in these regulations and adds new ones to bring the definitions into conformance with more recent legislative changes and increasingly complex relationships within the national legal services program.

DATE: Comments must be received on or before March 29, 1984.

ADDRESS: Comments may be submitted to the Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 612, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Richard N. Bagenstos, Assistant General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: The definitions issued pursuant to the Act have not been revised since they were published on May 5, 1976. The Corporation and recipient relationships have grown dramatically in complexity since that time. Thus, the definitions are no longer as explanatory as they should be, nor do they reflect changes in authorizing legislation or clarify Congressional intent.

These proposed definitions do clarify the previously-issued regulations in three general ways: (1) They refer to the reauthorization legislation which was adopted in 1977; (2) they acknowledge additional legislative direction given through continuing resolution and appropriations language by referring to "other applicable law"; and (3) they acknowledge the complex organizational nature of legal services grantees by specifically including additional descriptive designations such as "subrecipients."

In addition, the proposed regulations are internally consistent stylistically and conform to clear wording in the Act. Terms which are included in the proposed definitions and which were not defined previously in either the Act or the regulations are "financial assistance," "lobbying," and "political."

List of Subjects in 45 CFR Part 1600

Legal services.

For the reasons set out in the preamble, 45 CFR Part 1600 is proposed to be revised as follows:

PART 1600—DEFINITIONS

§ 1600.1 Definitions

As used in these regulations, Chapter XVI, unless otherwise indicated, the term—

"Act" means the Legal Services Corporation Act as Amended 1977, Pub. L. 93-355, Pub. L. 95-222, 88 Stat. 378, 42 U.S.C. 2996-29961.

"Appeal" means any appellate proceeding in a civil action as defined by law or usage in the jurisdiction in which the action is filed.

"Attorney" means a person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction where assistance is rendered.

"Corporation" means the Legal Services Corporation established under the Act.

"Director of a recipient" means a person directly employed by a recipient in executive capacity who has overall day-to-day responsibility for management of operations by a recipient.

"Eligible client" means any person financially unable to afford legal assistance and determined to be eligible for legal assistance under the Act, or other applicable law.

"Employee" means a person employed by the Corporation or by a recipient, or a person employed by a subrecipient whose salary is paid in whole or in major part with funds provided by the Corporation.

"Fee generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client from public funds or from an opposing party.

"Financial assistance" means annualized funding from the Corporation granted under 1006(a)(1)(A) for the direct delivery of legal assistance to eligible clients.

"Legal assistance" means the provisions of any legal services consistent with the purposes and provisions of the Act or other applicable law.

"Lobbying" means efforts to influence the action of a public official when that proposed action is not necessary in connection with a particular application, claim, or case on behalf of an eligible client and any activity which would require one to register as a lobbyist under applicable federal or state law.

"Outside practice of law" means the provisions of legal assistance to a client who is not eligible to receive legal assistance from the employer of the attorney rendering assistance, but does not include, among other activities, teaching, consulting, or performing evaluations.

"Political" means that which relates to engendering public support for or opposition to policy positions, candidates for public office, or political parties, and would include publicity or propaganda used for that purpose.

"President" means the President of the Corporation.

"Public funds" means the funds received directly or indirectly from the Corporation or directly from a Federal, State, or local government or instrumentality of a government.

"Recipient" means any grantee or contractor qualifying to receive and receiving financial assistance from the Corporation under Section 1006(a)(1)(A) of the Act.

"Staff attorney" means an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation or is received from a recipient, subrecipient, grantee, or contractor that limits its activities to providing legal assistance to clients eligible for assistance under the Act.

"Tribal funds" means funds received from an Indian tribe or from a private foundation for the benefit of an Indian tribe.

(Pub. L. 93–355, 88 Stat. 378, 42 U.S.C. 2996–2996*l*)

Dated: February 23, 1984.

Donald P. Bogard,

President.

[FR Doc. 84–5277 Filed 2–27–84; 8:45 am]

BILLING CODE 6820–35–M

Notices

Federal Register
Vol. 49, No. 40
Tuesday, February 28, 1984

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.

CIVIL AERONAUTICS BOARD

Las Vegas—Alberta Service Case; Prehearing Conference

[Docket 41987]

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 14, 1984, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge.

Ronnie A. Yoder,
Administrative Law Judge.

[FR Doc. 84-5272 Filed 2-27-84; 8:45 am]
BILLING CODE 6320-01-M

Silvas Air Lines Fitness Investigation; Assignment of Proceeding

[Docket 41996]

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated: Washington, D.C., February 22, 1984.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 84-5270 Filed 2-27-84; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41988]

Texas-Alberta-Alaska Service Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on March 15, 1984, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

Order 84-2-36 defines the issues to be considered in this proceeding. In order to facilitate the conduct of the conference, however, parties are instructed to submit one copy to each party and two copies to the Judge of (1) proposed stipulations; (2) proposed requests for information and evidence; (3) statements of positions; and (4) proposed procedural dates. The Bureau of International Aviation will circulate its material on or before March 5, 1984, and the other parties on or before March 12, 1984. The submissions of the other parties shall be limited to points on which they differ with the Bureau and shall use the marking and lettering used by the Bureau to facilitate cross-referencing. The March 5 and March 12 dates are for actual delivery of material, rather than mailing dates.

Dated at Washington, D.C., February 22, 1984.

John M. Vittone,
Administrative Law Judge.

[FR Doc. 84-5271 Filed 2-27-84; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended February 17, 1984

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tenative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 17, 1984	42002	China Airlines, Ltd., c/o George C. Pendleton, Anderson & Pendleton, 1000 Connecticut Ave. NW., suite 707, Washington, D.C. 20036. Application of China Airlines, Ltd., pursuant to Section 402 of the act and Subpart Q of the Board's Procedural Regulations requests an amendment to its foreign air carrier permit to authorize it to engage in the foreign air transportation of persons, property and mail in scheduled and non-scheduled service beyond the coterminal New York, New York, to Amsterdam, Netherlands. With this amendment, Applicant's permit would authorize Applicant to engage in foreign air transportation with respect to persons, property and mail as follows: Between the coterminal points Taipei and Kaohsiung, Taiwan; intermediate points in the Pacific, and the cotermial points Guam; Honolulu, Hawaii; Seattle, Washington; Los Angeles and San Francisco, California; New York, New York; and beyond to Amsterdam, Netherlands. Answers may be filed by Mar. 16, 1984.
Do	42006	Florida West Airlines, Inc., c/o Harry A. Bowen, Bowen and Atkin, suite 350, 2020 K Street NW., Washington, D.C. 20006. Application of Florida West Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate under Section 401 of the act authorizing FWA to engage in scheduled foreign air transportation of persons, property, and mail between all points in the United States, its territories, and possessions and: a. The Cayman Islands: and b. any point or points in the Bahamas, Haiti, the Dominican Republic and Jamaica. Conforming Applications, Motions to Modify Scope and Answers may be filed by Mar. 16, 1984.
Do	42008	Flight Line, Inc., c/o Elisabeth M. Pendleton, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036. Application of Flight Line, Inc., pursuant to Subpart Q of the Board's Procedural Regulations requests that the Board transfer the Section 418 all-cargo certificate of its parent company, Miller-Wills, Aviation, Inc., to Flight Line, Inc.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-5269 Filed 2-27-84; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Alaska Advisory Committee; Agenda and Notice of 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 meeting of the Alaska Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m., on March 23, 1984, at the Anchorage Westward Hilton, Portage Room, 500 West Third Avenue, Anchorage, Alaska 99501. The purpose of the meeting is to discuss future planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Donald Peter at (907) 272–9531 or the Northwestern Regional Office at (206) 442–1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 23, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–5219 Filed 2–27–84; 8:45 am]

BILLING CODE 6335–01–M

New York 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 meeting of the New York Advisory Committee to the Commission will convene at 4:30 p.m. and will end at 6:30 p.m., on March 22, 1984, at the Summit Hotel, Van Buren Suite, 51st Street and Lexington Avenue, New York, New York, 10022. The purpose of this meeting is to discuss the monitoring of civil rights activities in New York State.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Robert J. Mangum, at (212) 420–3935 or the Eastern Regional Office at (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 23, 1984.

John I. Binkley,

Advisory Committee Management, Officer.

[FR Doc. 84–5285 Filed 2–27–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.
Title: Distribution License Procedure.
Form numbers: Agency—EAR 373.3(d) et al.; OMB—0625–0052.
Type of request: Revision of a currently approved collection.
Burden: 700 respondents; 1,411 reporting hours.
Needs and uses: The Distribution License Procedure is a "bulk-type" licensing procedure designed to facilitate the export of commodities under larger scale international marketing programs. The procedure is being amended to prevent illegal diversion of commodities.
Affected Public: Businesses or other for-profit organizations, small businesses or organizations.
Frequency: On occasion, monthly, quarterly.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: National Bureau of Standards.
Title: Energy-Related Invention Evaluation Request Form.
Form numbers: Agency—NBS–1014.
Type of request: Existing collection is use without an OMB control number.
Burden: 2,000 respondents; 200 reporting hours.
Needs and uses: Section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 requires NBS to evaluate all energy-related inventions submitted by individuals and small companies for the purpose of obtaining a grant. The information is used to assist in the evaluation of the inventions submitted for financial support.
Affected public: Individuals or households, businesses or other for-profit organizations, small businesses or organizations.
Frequency: On occasion.
Respondent's obligations: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: National Bureau of Standards.
Title: National Voluntary Laboratory Accreditation Program Application.
Form numbers: Agency—NBS 1144; OMB—0652–0003.
Type of request: Revision of a currently approved collection.
Burden: 250 respondents; 375 reporting hours.
Needs and uses: Information is required of testing laboratories applying for accreditation under the National Voluntary Laboratory Accreditation Program. This information is used to determine if the qualifications of the applicant laboratory meet the criteria for accreditation.
Affected public: State of local governments; businesses or other for-profit organizations, federal agencies or employees, non-profit institutions, small businesses or organizations.
Frequency: Annually.
Respondent's obligations: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: National Oceanic and Atmospheric Administration.
Title: Certificates of Exemption Renewal.
Form number: Agency—N/A; OMB—0648–0078.
Type of request: Reinstatement of a previously approved collection for which approval has expired.
Burden: 300 respondents; 750 reporting hours.
Needs and uses: The Endangered Species Act of 1973 prohibits the interstate sale of products composed in whole or in part of any officially designated endangered species of fish or wildlife, unless the seller possesses a valid Certificate of Exemption. The information collected is for the purpose of granting such a certificate.
Affected public: Businesses or other for-profit organizations, small businesses or organizations.
Frequency: On occasion, quarterly.
Respondent's obligation: Mandatory.
OMB desk officer: Ken Allen, 395–3785.

Agency: National Oceanic and Atmospheric Administration.
Title: Social and Economic Surveys of Fisheries.
Form numbers: Agency—N/A; OMB—0642–0093.
Type of request: Revision of a currently approved collection.
Burden: 120 respondents; 60 reporting hours.
Needs and uses: Data from shrimp processors on shrimp size, species and

input source by product will be used to measure and forecast regulatory impacts of actions taken under the Magnuson Fishery Conservation and Management Act.

Affected public: Businesses or other for-profit organizations, small businesses or organizations.

Frequency: One-time only.

Respondent's obligation: Voluntary.

OMB desk officer: Ken Allen, 395–3785.

Agency: Office of the Secretary.

Title: Prohibition of Discrimination Against the Handicapped in the Department's Grant Programs.

Form numbers: Agency—N/A; OMB—0605–0006.

Type of request: Reinstatement of a previously approved collection for which approval has expired.

Burden: 10,018 respondents; 5,095 reporting hours.

Needs and uses: Collection is needed to comply with Section 504 of the Rehabilitation Act of 1973. The Department provides financial assistance to a variety of recipients. Such recipients are prohibited from discriminating on the basis of a handicap. Information is used by the grant recipient for self-evaluation and modification of any policies/or practices which do not meet the requirements of the Act.

Affected Public: State or local governments.

Frequency: On occasion.

Respondent's obligation: Required to obtain or retain a benefit.

OMB desk officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-5287 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–346. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Recirculating Emulsifier. Manufacturer: Reprosurf HB, Sweden. Intended use: See notice at 48 FR 52619.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument makes and recirculates emulsion droplets of uniform size to optimize protein film formation. The National Institutes of Health advises in its memorandum dated January 12, 1984 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-5170 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Los Alamos National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–347. Applicant: Los Alamos National Laboratory, Los Alamos, NM 87545. Instrument: Soft X-ray Streak Camera with Demountable Photocathode Manipulator and Accessories. Manufacturer: John Hadland Photonics Ltd., United Kingdom. Intended use: See notice at 48 FR 53589.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (July 13, 1983).

Reasons: The foreign instrument provides time-resolved, high-information-density, spectral and/or imaging data from ultra short-lived (down to 30 picoseconds) plasmas with a minimum spectral sensitivity range of 100 eV to 10,000 eV. The National Bureau of Standards advises in its memorandum dated January 18, 1984 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured in the United States at the time the foreign instrument was ordered.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-5172 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Los Alamos National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–353. Applicant: Los Alamos National Laboratory, Los Alamos, NM 87545. Instrument: Soft X-Ray Streak Camera. Manufacturer: Hamamatsu Photonics, Japan. Intended use: See notice at 48 FR 56094.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (June 7, 1982).

Reasons: The foreign instrument provides time-resolved, high-information-density, spectral and/or imaging data from ultra short-lived (down to 30 picoseconds) plasmas with a minimum spectral sensitivity range of 100 eV to 10,000 eV. The National Bureau of Standards advises in its memorandum dated January 23, 1984 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-5173 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Mount Sinai School of Medicine; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-335. Applicant: Mount Sinai School of Medicine, New York, NY 10029. Instrument: Voltage Clamp Amplifier for Voltage Clamp and Constant Current Sending Mode with Accessories. Manufacturer: Vertrieb Biomedizinischer, West Germany. Intended use: See notice at 48 FR 51676.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of automatically monitoring changes in the resistance of implanted microelectrodes. The National Institutes of Health advises in its memorandum dated January 12, 1984 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose; and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-5171 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Pectin From Mexico; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of suspension agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on pectin from Mexico. The review covers the period December 7, 1982, through March 31, 1983.

As a result of the review, the Department has preliminarily determined that the signatory, Pectina de Mexico, S.A., the only known exporter of pectin to the United States, has complied with the terms of the suspension agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Victoria Marshall or Joseph Black, Office of Compliance, B099, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 54987) a notice of suspension of countervailing duty investigation regarding pectin from Mexico, and announced its intent to conduct an administrative review. The petitioner requested that the investigation be continued and on April 4, 1983, the Department published in the **Federal Register** (48 FR 14418) a notice of final affirmative countervailing duty determination. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Mexican pectin, used as an ingredient in food and drugs. Such merchandise is currently classifiable under item 455.0400 of the Tariff Schedules of the United States Annotated.

The review covers the period December 7, 1982 through March 31, 1983, and eight programs: (1) CEDI, (2) FOMEX, (3) CEPROFI, (4) FONEI, (5) FOGAIN, (6) State Tax Incentives, (7) Import Duty Reductions and Exemptions, and (8) NIDP Preferential Price Discounts. Pectina de Mexico, S.A., is the only known manufacturer and exporter of Mexican pectin to the United States.

Analysis of Programs

1. CEDI

The Certificado de Devolucion de Impuesto ("CEDI") is a certificate issued by the Government of Mexico in an amount equal to a percentage of the value of exported goods. The CEDI certificates may be used to pay a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties). The CEDI rate was 15 percent for the period January 1, 1982 through August 25, 1982, and zero after the Mexican government suspended the CEDI program for all exports on or after August 26, 1982. Pectina, therefore, could not receive CEDI benefits during the period of review.

2. FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program since August 1, 1983. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters of goods for two purposes: pre-export (production) financing and export financing. We consider both export and pre-export FOMEX loans export subsidies since these loans are given only on merchandise destined for export. Pectina received no such loans during the period of review.

3. CEPROFI

Certificates of Fiscal Promotion ("CEPROFI") are tax certificates which are used to promote the goals of the

National Industrial Development Plan and are granted in conjunction with investments in designated industrial activities and geographic regions. CEPROFI certificates can be used to pay a wide range of federal tax liabilities. Pectina received no benefits under this program during the period of review.

4. Other Programs

We also examined the following programs and preliminary find that Pectina did not use them during the period of review.

(A) State Tax Incentives
(B) Fund for Industrial Development ("FONEI")
(C) Guarantee and Development Fund for Medium and Small Industries ("FOGAIN")
(D) Import Duty Reductions and Exemptions
(E) National Industrial Development Plan (NIDP) Preferential Discounts

Preliminary Results of Review

As a result of the review, we preliminary determine that Pectina has complied with the terms of the suspension agreement for the period December 7, 1982 through March 31, 1983.

The agreement can remain in force only so long as shipments covered by the agreement account for at least 85 percent of exports of pectin to the United States. Our information indicates that Pectina accounted for 100 percent of United States imports of pectin from Mexico during the review period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a) (1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated February 20, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration

[FR Doc. 84-5175 Filed 2-27-84; 8:45 am]
BILLING CODE 3510-DS-M

[C-484-015]

Tomato Products From Greece; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On December 19, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on tomato products from Greece. The review covers the period January 1, 1981 through December 31, 1981.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 56098) the preliminary results of its administrative review of the countervailing duty order on tomato products from Greece (37 FR 6360, March 28, 1982). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Greek tomato paste and sauce, peeled tomatoes and tomato juice. Such merchandise is currently classifiable under items 141.6520, 141.6540, 141.6600 and 166.3000 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1981 through December 31, 1981 and one program: "production aid" to processors of tomatoes.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the total bounty or grant during 1981 to be as shown in the appendix to this notice.

The Department will instruct the Customs Service to assess coutervailing duties as indicated in the appendix on all shipments exported on or after January 1, 1981 and on or before December 31, 1981.

The Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided for in section 751(a)(1) of the Tariff Act, in the amounts shown in the appendix on any shipment of Greek tomato products entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: February 20, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

Appendix

For January 1, 1981 through December 31, 1981

(1) Tomato Paste and Sauce:

Concentration (percent)		Drachmas per gross kilogram (packing size)				
Not less than	But less than	More than 1.5 kg	From 1.5 to 0.7 kg	From 0.7 to 0.25 kg	From 0.25 to 0.15	0.15 and less
12	14	7.64	8.95	9.68	11.73	13.20
14	16	8.36	9.78	10.58	11.49	14.41
16	18	9.04	10.60	11.47	13.89	15.63
18	20	9.76	11.44	12.38	15.00	16.87
20	22	10.46	12.27	13.27	16.08	18.08
22	24	11.17	13.09	14.16	17.16	19.30
24	26	11.87	13.92	15.06	18.24	20.52
26	28	12.57	14.74	15.95	19.32	21.73
28	30	13.28	15.57	16.84	20.40	22.95
30	32	13.98	16.39	17.73	21.48	24.17
32	34	14.69	17.22	18.63	22.57	25.38
34	36	15.39	18.04	19.52	23.65	26.60
36	38	16.09	18.87	20.41	24.73	27.81
38	40	16.81	19.71	21.32	25.83	29.05
40	42	17.51	20.54	22.21	26.91	30.27
42	93	18.22	21.36	23.11	27.99	31.49
93	100	51.79	51.79	51.79	51.79	51.79

(2) Tomato Juice: 4.57 drachmas per gross kilogram

(3) Peeled Tomatoes:

San Marzano Variety—7.39 Drachmas Per Gross Kilogram

Roma and Similar Varieties—5.55 Drachmas Per Gross Kilogram

[FR Doc. 84-5174 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration Indiana University; Disposition of Application for Duty-Free Entry of Scientific Article

We have discontinued processing of Docket Number 84-13 because the instrument to which the application relates is entitled to duty waiver under tariff item 851.65, which requires no application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-5169 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

Montana State University; Disposition of Application for Duty-Free Entry of Scientific Article

We have discontinued processing of Docket Number 82-00323. The instrument we liquidated as a dutiable entry on August 27, 1982. No protest was filed within the year period for protesting the liquidation. A decision on the instrument's eligibility for duty-free treatment would therefore serve no purpose.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director Statutory Import Programs Staff.

[FR Doc. 84-5168 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-609-039]

Canned Bartlett Pears From Australia; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on canned Bartlett pears from Australia. The review covers the two known exporters of this merchandise to the United States and the period March 1, 1982, through February 28, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to waive the requirement of cash deposits of estimated antidumping duties on future entries of this merchandise.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Doug Shaddix or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-0666/1130.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 40677-78) the final results of its last administrative review of the antidumping finding on canned Bartlett pears from Australia (38 FR 7566, March 23, 1973) and announced its intent to conduct immediately the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of canned Bartlett pears from Australia currently classifiable under item 148.8600 of the Tariff Schedules of the United States Annotated. The review covers the two known exporters of Australian canned Bartlett pears to the United States, S.P.C. Limited and Ardmona Fruit Products, and the period March 1, 1982, through February 28, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of the Review

Since there were no shipments during the period of review, and there have been no shipments since September 1973, we preliminarily determine to waive the requirement of cash deposits of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on any shipment of Australian canned Bartlett pears entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: February 14, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-5205 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-048]

Expanded Metal of Base Metal From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 28, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on expanded metal of base metal from Japan. The review covers the 27 known manufacturers and/or exporters of this merchandise to the United States and the period January 1, 1982, through December 31, 1982.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Doug Shaddix or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-1130.

SUPPLEMENTARY INFORMATION:

Background

On November 28, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 53594-53595) the preliminary results of its administrative review of the antidumping finding on expanded metal of base metal from Japan (39 FR 1979, January 16, 1974). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of expanded metal of base metal manufactured in three types (standard, flattened and grating) and various thicknesses. Such merchandise is currently classifiable under item 652.8000 of the Tariff Schedules of the United States Annotated.

The review covers the 27 known manufacturers and/or exporters of Japanese expanded metal of base metal to the United States and the period January 1, 1982, through December 31, 1982.

The Department has determined that the expanded metal of base metal exported to the U.S. by Allis-Chalmers is not within the scope of the finding. If Allis-Chalmers begins exporting the covered merchandise to the United States, we shall treat it as a new exporter.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review remain unchanged from the preliminary results of the review, and we determine that the following weighted-average margins exist for the period January 1, 1982, through December 31, 1982:

Manufacturer/exporter	Percent (margin)
Alton Trading Co.	[1] 0
Daitoku Trading Co., Ltd.	[1] 4.00
Eiko Co., Ltd.	[1] 3.80
Hanwa Co., Ltd.	[1] 0
Kanematsu-Gosho, Ltd.	[1] 3.80
Kansai Tekko/Fuji Shoko Co., Ltd.	0.84
Kansai Tekko/Mitsubishi Corp./Kawamoto Co., Ltd.	0.48
Kansai Tekko/Nissho Iwai & Co./Friends Union Enterprises, Ltd.	0
Kansai Tekko/Nichimen Co., Ltd.	3.59
Kansai Tekko/Okura & Co., Ltd.	0.07
Kawamoto Co., Ltd.	0.48
Kawashige Kozai Co.	[1] 4.90
Kawatetsu Steel/Kawasho Corp./Taisei International	[1] 1.92
Kawatetsu Steel/Okura & Co.	1.25
Kobayashi Metals, Ltd.	[1] 3.80
Marubeni Corp.	[1] 0
Midorigaoka Co., Ltd.	[1] 4.90
Mitsui & Co., Ltd.	[1] 4.90
Nakaumi Kogyo, Ltd.	[1] 4.90
Nippon Steel Products Co., Ltd.	[1] 0.33
Nittetsu Shoji Co., Ltd.	[1] 0
Ogawa & Co., Ltd.	[1] 0.30
Okaya & Co., Ltd.	[1] 0.33
Shibamoto & Co., Ltd.	[1] 0
Sumitomo Corp. (Sumitomo Shoji Kaisha)	[1] 3.80
Tomiyasu & Co., Ltd.	[1] 4.90
Toyo Menka Kaisha, Ltd.	[1] 0

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Japanese expanded metal of base metal from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Since the margins for Kansia Tekko/Mitsubishi Corp./Kawamoto Co., Ltd., Kansai Tekko/Okura & Co., Kawamoto Co., Ltd., Nippon Steel Products Co., Ltd., Ogawa & Co., Ltd., and Okaya & Co., Ltd. are less than 0.5 percent and therefore *de minimis* for cash deposit purposes, the Department shall waive the deposit requirement for shipments of expanded metal of base metal from these firms. For future entries from a new exporter not covered in this or prior reviews, whose first shipments occurred after December 31, 1982 and who is unrelated to any reviewed firm, a cash deposit of 3.59 percent shall be required.

These deposit requirements and waivers shall remain in effect until publication of the final results of the next administration review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: February 20, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-5206 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-423-074]

Perchlorethylene From Belgium; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and tentative determination to revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on perchlorethylene from Belgium. The review covers the one known exporter of this merchandise to the United States, Solvay & CIE, and the period May 1, 1982, through May 18, 1983. There were no known shipments of this merchandise to the United States

during the period and there are no known unliquidated entries.

As a result of the review, the Department has tentatively determined to revoke the finding. There have been no shipments of this merchandise to the United States for four years. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3813/1130.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 56376) the final results of its last administrative review of the antidumping finding on perchlorethylene from Belgium (44 FR 29045, May 18, 1979) and announced its intent to conduct immediately the next review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of perchlorethylene, including technical grade and purified grade perchlorethylene. Perchlorethylene is a clear water-white liquid at ordinary temperature with a sweet odor and is completely capable of being mixed with most organic liquids. It is a chlorinated solvent used mainly for the drycleaning of clothing, but is also used in other applications such as the vapor degreasing of metals. Such merchandise is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of Belgian perchlorethylene to the United States, Solvay & CIE, and the period May 1, 1982, through May 18, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of Review and Tentative Determination To Revoke

Solvay & CIE requested revocation of the finding. As provided for in § 353.54(e) of the Commerce Regulations, Solvay & CIE has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding (as an order) if circumstances develop which indicate that perchlorethylene produced by Solvay & CIE and thereafter exported by Solvay & CIE into the United States is being sold by Solvay & CIE at less than fair value. There have been no shipments of this merchandise to the United States since the date of the finding, a period of four years.

Therefore, we tentatively determine to revoke the finding on perchlorethylene from Belgium. If this revocation is made final it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: February 20, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-5200 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-015]

Unprocessed Float Glass From Mexico; Suspension of Countervailing Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of suspension of countervailing duty investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving unprocessed float glass (float glass) from Mexico. The basis for the suspension is an agreement to renounce completely all benefits provided by the government of Mexico which we find to constitute bounties or grants on float glass exported to the United States.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins, 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) 377-1756.

SUPPLEMENTARY INFORMATION:

Case History

On September 16, 1983, we received a petition in proper form from PPG Industries, a manufacturer of float glass, on behalf of the U.S. Industry producing float glass. Petitioner alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Traiff Act of 1930, as amended ("the Act"), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Mexico of float glass exported to the United States.

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Because the product under investigation is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on October 6, 1983, we initiated an investigation (48 FR 47039).

On October 21, 1983, we presented a questionnaire concerning the allegations to the government of Mexico at the Mexican Embassy in Washington, D.C. On November 23, 1983, we received the response to the questionnaire.

We issued an affirmative preliminary determination on December 12, 1983 (48 FR 56095). We preliminarily determined that there was reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of the Act are being provided to manufacturers, producers, or exporters in Mexico of float glass. We preliminarily determined the net bounty or grant was 1.63 precent *ad valorem*. The program preliminarily determined to bestow countervailable benefits was the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).

We directed the U.S. Customs Service to suspend liquidation of all entries of the product under investigation which were entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or the posting of a

bond on this product in an amount equal to the estimated net bounties or grants.

We verified information provided by the government concerning both companies in Mexico during the week of January 8–14, 1984.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We did not receive a timely request for a public hearing. Both petitioner and respondent submitted written comments subsequent to our preliminary determination.

On January 23, 1983, we initialed *ad referendum*,, in accordance with section 704 of the Act, a proposed suspension agreement. Petitioner had 30 days in which to submit comments regarding the proposed suspension agreement. We have taken those comments into consideration.

Scope of Investigation

The product covered by this investigation is unprocessed float glass. The merchandise is currently classifiable under item numbers 543.2100 through 543.6900 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Two companies were identified by the government of Mexico as being manufacturers, producers, or exporters of the product under investigation. They are Vitro Flotado, S.A., and Vidrio Plano de Mexico, S.A.

The period for which we are measuring bounties or grants January through September, 1983.

Changes Since the Preliminary Determination

Loans to the U.S. Importers

The Department received an allegation in another case shortly before the preliminary determination in this case was due, that U.S. importers can receive FOMEX loans to finance purchases of certain merchandise from Mexico. Allegedly, the U.S. customer obtains, for a fee, a line of credit from a U.S. bank. The customer can then draw on the line of credit as purchases are made, and the U.S. bank accepts the draft. Mexican banks accept the same draft and extend a loan to the customer. The same draft is accepted by FOMEX. Repayment is due within 180 days at 6 percent *per annum* interest.

We verified from Mexican government records and certified statements by U.S. importers that they have not used importer financing through FOMEX.

Certificates of Fiscal Promotion (CEPROFIs)

We preliminarily determined that neither float glass company received CEPROFIs for investment in "priority" industrial activities during the period for which we were measuring bounties or grants. During verification we learned that the Mexican government issued CEPROFIs for investment in "priority" industrial activities to Vitro Flotado during our period of investigation. Vitro Flotado records CEPROFIs in its books as income on the date the company becomes eligible to receive CEPROFIs benefits. Although the company was eligible to receive the CEPROFIs prior to our period of investigation, some CEPROFIs were actually granted by the Mexican government during our period of investigation.

Commemts

Petitioner made the following comments, based upon the draft suspension agreement that we initiated on January 23, 1984.

Comment 1

Petitioner contends that the proposed suspension agreement should also cover Vitro S.A., the holding company for both float glass companies; and Fomento Comercio Exterior, the company that performs marketing services for both float glass companies.

DOC Position

In accordance with section 704(b)(1) of the Act, Vitro Flotado and Vidrio Plano de Mexico, which account for all known imports of the product which is the subject of the investigation, agreed to eliminate the subsidy completely with respect to the merchandise exported directly or indirectly to the United States. Neither the holding company nor the trading company, which is 2 percent owned by the float glass companies, takes title to, or possession of, the merchandise for exportation to the United States.

We verified that the float glass companies pay both Vitro, S.A., and Fomento Comercio Exterior for services provided. With regard to the trading company, which performs certain marketing services for the float glass companies, the petition contained an allegation that Fomento Comercio Exterior receives "extra-CEDIs," which in turn provides bounties or grants to the float glass companies. At verification we found no evidence of such a program (*see* our response to Comment 3). Since it was not until after verification that petitioner alleged that the trading company receives countervailable CEPROFIs, we could not verify this allegation.

We believe the terms of the suspension agreement and the monitoring mechanisms it provides are effective against potential circumvention of the agreement through Vitro, S.A., or Fomento Comercio Exterior. Because we received the additional allegation regarding Fomento Comercio Exterior too late to consider it in this investigation, we will reexamine the question whether Fomento Comercio Exterior receives countervailable CEPROFIs benefits which flow through to the float glass companies in the first section 751 administrative review.

Comment 2

Petitioner recommends that the companies agree to pay Petroleos Mexicanos (PEMEX) list prices for natural gas to industrial users for as long as PEMEX maintains a single price to industrial users. If, in the future, PEMEX were to decide to grant different prices to certain customers, the companies should agree that they would not pay less than the average price to industrial users.

DOC Position

The purpose of a suspension agreement is to eliminate the effect of a bounty or grant completely or to offset completely the amount of the net bounty or grant found to exist on the subject product. In this investigation we did not find any countervailable benefits flowing from PEMEX prices for natural gas. Should we subsequently determine that PEMEX grants preferential prices for natural gas and that these prices confer a bounty or grant, will notify the exporting companies. We will require the exporting companies to provide details of their participation in the program, and will in all respects enforce the suspension agreement.

Comment 3

Petitioner contends that the agreement should also include "extra-CEDIs", allegedly a tax credit to exporting companies.

Petitioner suggests that the companies should not be permitted to apply for or receive any benefits known as "extra-CEDIs" or their equivalent with respect to shipments of the subject product exported and entered, or withdrawn from warehouse, for consumption in the United States on or after the effective date of this agreement. All outstanding "extra-CEDIs" (or their equivalent) would not be used and would be returned to the Government of Mexico

unused within 30 days of the date of this agreement.

DOC Position

Despite careful and sustained inquiry, during verification we did not discover the existence of any program known as "extra-CEDIs." Petitioner has not provided, and we have not found, any evidence substantiating the existence of an "extra-CEDI" program. Should we determine at a later date that "extra-CEDIs" exist and confer a bounty or grant, we will notify the exporting companies of our decision. We will require the exporting companies to provides details of their participation in the program, and will in all respects enforce the suspension agreement.

Comment 4

Petitioner commented that the agreement seems only to require the companies to forego CEPROFIs with repect to shipments to the United States. The companies must agree to forego countervailable CEPROFIs altogether unless the CEPROFI can be specifically tied to a product other than unprocessed float glass.

DOC Position

Because CEPROFIs provide domestic bounties or grants, thus benefiting all sales of float glass equally, we agree that they cannot necessarily be linked to specific export sales of float glass. Therefore, we incorporated this suggestion in section B.3 of the Agreement.

Comment 5

Petitioner has sought judicial review of the Department's decision not to initiate an investigation of certain alleged programs (*see* our "Preliminary Affirmative Countervailing Duty Determination: Unprocessed Float Glass from Mexico," (48 FR 56095)). Petitioner proposes that the first sentence of paragraph 5 of the proposed agreement should be modified to read: "The companies will not apply for or receive benefits with respect to shipments of the subject product exported and entered, or withdrawn from warehouse, for consumption, in the United States on or after the effective date of a determination under any other program subsequently determined by the Department in a final determination in this investigation, a re-determination of the amount of the net subsidy published pursuant to a notice of a decision of the United States Court of International Trade published pursuant to section 516A(c)(1), or an adminstrative review of this agreement under section 751 of the Act to constitute countervailable bounties or grants under the Act to the subject product."

DOC Position

We have incorporated the petitioner's proposed modification in paragraph B.5 of the agreement.

Comment 6

Petitioner argues that without segregation of the accounts between U.S. export sales and other sales, there is no way to prevent the subsidies still received on other sales from benefitting U.S. export sales.

DOC Position

Petitioner's argument assumes that a subsidy on a particular product, exported to a particular market, actually benefits all products for all markets of the recipient company. Using petitioner's proposed approach, not only would we allocate benefits on other products and markets to United States sales, we would also allocate any subsidies received on United States sales of the product under investigation to all other products and markets of the companies in question.

We disagree with the assumption underlying the argument stated above. We believe the statute requires us to allocate fully to United States exports of the products investigated any subsidies tied to their export to the United States. Furthermore, it would distort and be inconsistent with the intent of the statute, as reflected in its legislative history, to allocate to United States exports of the products under investigation any portion of benefits tied to other products or markets. Conversely, we cannot allocate to other products or markets subsidies tied to United States exports of the product under investigation. To allocate tied subsidies fully to the products and markets to which they are tied and simultaneously to allocate any part of the same subsidies to other products and markets would result in double-counting, which would be inconsistent with the Act and the Subsidies Code.

The suspension agreement resolves the issue. An export subsidy provides a competitive advantage and therefore encourages sales to the particular market. A countervailing duty equal to the subsidy neutralizes this incentive. Likewise, by eliminating subsidies on exports to the United States, the suspension agreement has effectively removed any incentive to export to the United States arising from countervailable benefits.

Comment 7

Petitioner argues that the Department should monitor the price of float glass to all markets to ensure that all subsidies on float glass exported to the United States have been eliminated.

DOC Position

We cannot agree that monitoring prices is an effective way to monitor a suspension agreement. The countervailing duty statute requires us to impose a duty equal to the amount of the net subsidy or permits us to suspend an investigation if exporters who account for substantially all of the imports of the merchandise eliminate the subsidy completely. The statute nowhere indicates that we are to ensure that a price change equal to the subsidy countervailed or eliminated ensues.

It is clear that the absence of a rise in the price of the subject merchandise exported to the United States is not conclusive evidence that a company has not renounced all subsidies on this product, nor that a rise in price equal to the net subsidy indicates the opposite. Companies price merchandise according to a variety of factors—cost of production, desired profit, competition, past experience, position in the marketplace, etc. In addition, the imposition of a countervailing duty order may or may not induce a company to change its prices to take the countervailing duties into account. Thus, our intent in the suspension agreement is to ensure that the companies have completely eliminated all subsidies on float glass exported to the United States and we believe the attached agreement does this effectively.

Comment 8

Petitioner contends that each company should notify the Department in writing if and when it participates in the FICORCA program, and should describe in detail its participation.

DOC Position

We verified that Vitro Flotado and Vidrio Plano de Mexico did not reschedule debt through FICORCA during the period under investigation and that eligibility for this program ended October 25, 1983. In our administrative review of this suspension agreement, we will determine whether the float glass manufacturers, as they stated to us, did not take advantage of this program after the period of investigation (i.e., between October 1 and October 25, 1983). We will also determine, if appropriate, whether they received benefits under any newly established program for debt

rescheduling. Further, we believe that the clause in section C.4(4) of the agreement clearly requires that the companies inform us promptly of any new or equivalent benefits for float glass. We urge the companies involved to inform us of any proposed change in their financial structure if they are unsure whether we would consider such a change to confer a bounty or grant.

Comment 9

Petitioner suggested that additional data be reported to the Department by the exporting companies for monitoring compliance with the agreement.

DOC Position

Pursuant to our position as stated above and the changes we have made in the agreement, we have determined that section C.1–4 of the agreement, as written, will enable us to monitor the agreement effectively.

Suspension of Investigation

We consulted with the petitioner and considered the comments submitted with respect to the proposed agreement. We determined that the agreement, as modified in light of those comments, will: (1) Eliminate or offset completely the net bounty or grant with respect to the subject merchandise exported directly or indirectly to the United States; (2) can be monitored effectively; and (3) is in the public interest. Therefore, we find that the criteria for suspending an investigation under section 704 of the Act have been met. The terms and conditions of the agreement, signed February 23, 1983, are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, we hereby terminate the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of unprocessed float glass from Mexico, effective December 19, 1983, pursuant to our "Preliminary Affirmative Countervailing Duty Determination; Unprocessed Float Glass from Mexico" (48 FR 56095). Any cash deposits on entries of float glass from Mexico pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), we hereby give notice that we are commencing an administrative review of this agreement on February 28, 1984.

Notwithstanding the agreement, we will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Dated: February 22, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

Annex I—Suspension Agreement: Unprocessed Float Glass From Mexico

Pursuant to the provisions of section 704 of the Tariff Act of 1930, as amended (the Act) and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) and Vitro Flotado, S.A. and Vidrio Plano de Mexico, S.A. (the companies) enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its countervailing duty investigation initiated on October 17, 1983 (48 FR 47039) with respect to unprocessed float glass from Mexico. The agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The agreement applies to unprocessed float glass, a type of flat glass produced by floating molten glass over a bed of molten tin, exported directly or indirectly from Mexico, currently classifiable in item numbers 543.2100 through 543.6900 of the *Tariff Schedules of the United States Annotated* (hereinafter referred to as the subject product).

B. Basis of the Agreement

1. The companies are the only know manufacturers and exporters of the subject product, accounting for over 85 percent of exports of the subject product from Mexico to the United States.

2. The companies will not apply for or receive, directly or indirectly, any new pre-export or export loans or loan guarantees from the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) with respect to shipments of the subject product exported and entered, or wiithdrawn from warehouse, for consumption in the United States on or after the effective date of this agreement. Any FOMEX financing outstanding as of the date of this agreement shall be repaid by its original due date or by the thirtieth day from the date of this agreement, whichever comes first.

3. The companies will not apply for or receive, directly or indirectly, any benefits that the Department has determined to be countervailable from the Certificates of Fiscal Promotion (CEPROFI) program with respect to the subject product on or after the effective date of this agreement. Any countervailable CEPROFIs which have been applied for but not yet received or received but not entirely used shall not be accepted or used and shall be returned to the Government of Mexico unused within 30 days of the date of this agreement.

4. Effective August 25, 1982, the Certificado de Devolucion de Impuesto (CEDI) program discountinued the eligibility of all products, including unprocessed float glass, from Mexico for CEDI tax rebates. The companies will not apply for or receive directly or indirectly any countervailable benefits under this program, with respect to shipments of the subject merchandise exported and entered, or withdrawn from warehouse, for consumption in the United States on or after the effective date of this agreement, if eligibility for CEDI is reinstated. Any outstanding CEDIs shall not be used and shall be returned to the Government of Mexico unused within 30 days of the date of this agreement.

5. The companies will not apply for or receive, directly or indirectly, countervailable benefits with respect to the subject product under any of the following programs on or after the effective date of this agreement: FOGAIN, FONEI, State Tax Incentives, import duty reductions and exemptions, NIDP preferential energy price discounts or loans under Article 94 (section II-category 12) of the Banking Law on or after the effective date of this agreement. Further, the companies will not apply for or receive, directly or indirectly, benefits with respect to shipments of the subject product exported and entered, or withdrawn from warehouse, for consumption in the United States on or after the effective date of a determination under any other program subsequently determined by the Department in a final determination in this investigation, a re-determination of the amount of the net subsidy published pursuant to a notice of a decision of the United States Court of International Trade published pursuant to section 516A(c)(1) of the Act, or an administrative review of this agreement under section 751 of the Act to constitute countervailable bounties or grants under the Act to the subject product. If any program under which benefits have been received in the past but eliminated in this agreement is ultimately found not to constitute a bounty or grant under the Act in a final determination or an administrative

review of this agreement under section 751 of the Act, then this agreement will no longer apply to such program.

6. The Department shall officially notify the companies, in writing, of any determination made with respect to paragraph B.5.

7. The companies agree that they will not apply for nor receive directly or indirectly any new or equivalent benefits for the subject merchandise as a substitute for any benefit renounced by the agreement.

8. The companies shall notify the Department, at least thirty days before taking any action, if they decide to alter or terminate their obligation with respect to any of the terms of this agreement.

9. Renunciation of the receipt of these benefits does not constitute an admission by the companies that such benefits are bounties or grants within the meaning of the United States countervailing duty law or any other United States law.

C. Monitoring of the Agreement

1. The companies agree to supply to the Department any information and documentation which the Department deems necessary to demonstrate that they are in full compliance with the agreement. The companies agree to permit such data collection and verification as the Department deems necessary in order to monitor this agreement.

2. The Department will request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act. Any impediment to the Department's ability to collect and verify such data shall be grounds for terminating the agreement.

3. The companies shall certify to the Department within 15 days after the last day of each three-month period beginning on April 1, 1984:

a. Whether they continue to be in compliance with the agreement by eliminating completely the net bounty or grant in accordance with the requirements of paragraphs B.2–5; and

b. The value and volume of exports of the subject product to the United States. The first certification shall include the period from the effective date of this agreement through March 31, 1984.

4. The companies will notify the Department in writing within thirty days if they: (1) Transship float glass to the United States through third countries or have knowledge that foreign purchasers in third countries are transshipping this product to the United States; (2) alter their position with respect to any terms of this agreement; (3) apply for or receive, directly or indirectly, the benefits of the programs described in paragraphs B.2–5 of this agreement for the manufacture, production, or exportation of the subject product; or (4) apply for or receive, directly or indirectly, any new or equivalent benefits on the subject product.

D. Violation or Termination of the Agreement

1. If either company withdraws from this agreement, or if the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

2. Additionally, should the companies' annual exports to the United States account for less than 85 percent of the subject product imported into the United States from Mexico, directly or indirectly, the Department may terminate this agreement and reopen the investigation or issue a countervailing duty order, as appropriate under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all exporters of the subject product as if the affirmative preliminary determination were made on the date that the Department terminated this agreement.

E. Effective Date

The effective date of the agreement is February 28, 1984.

Signed on this 22 day of February, 1984, for Vitro Flotado, S.A. and Vidrio Plano de Mexico, S.A.

Irwin P. Altschuler,

Special Counsel, Vitro Flotado, S.A. and Vidrio Plano de Mexico, S.A.

I have determined, pursuant to section 704(b) of the Act, that the provisions of paragraph B completely eliminate the bounties or grants being provided in Mexico with respect to unprocessed float glass exported directly or indirectly from Mexico to the United States. Furthermore, I have determined that suspension of the investigation is in the public interest, that the provsions of paragraph C ensure that this agreement can be monitored effectively, and that the agreement meets the requirements of section 704(d) of the Act.

Dated: February 22, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administrator, United States Department of Commerce.

[FR Doc. 84–5203 Filed 2–27–84; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Federal Consistency Appeal Northwestern Pacific Railroad Co. from California Coastal Commission Objection

AGENCY: National Oceanic and Atmoshperic Administration, Commerce.

ACTION: Notice of appeal.

SUMMARY: On February 10, 1984, the Secretary of Commerce received an appeal by the Northwestern Pacific Railroad Company (NWP), a subsidiary of the Southern Pacific Transportation Company, from an objection by the California Coastal Commission (Commission) to NWP's certification that its proposed abandonment of 165 miles of rail line located in Mendocino, Humboldt and Trinity Counties, California, is consistent with the California Coastal Zone Management Program. This appeal has been filed pursuant to Subparagraph (A) of Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A), and implementing regulations at 15 CFR 930 Subpart H.

In accordance with 15 CFR 930.125, the appellant, NWP, has requested and has been granted an extension until April 2, 1984, to which the Commission has agreed, to submit the required statement in support of its position. Along with supporting data and information. Upon receipt by the Secretary of the appellant's information in support of its appeal, public notice will be provided indicating the schedule for receiving comments from interested persons and whether a public hearing will be held pursuant to 15 CFR 930.129.

FOR FURTHER INFORMATION CONTACT: David Drake, Attorney Adviser, Office of the Assistant General Counsel for Ocean Services, 300 Whitehaven Street, NW., Room 270, Washington, D.C. 20235, (202) 634–3245.

SUPPLEMENTARY INFORMATION: Northwestern Pacific Railroad Company (NWP) has applied to the Interstate Commerce Commission (ICC) for a certificate of public convenience and necessity which, if issued, would authorize abandonment of 165 miles of rail line, commonly known as the Eel River Line. The Eel River line runs from milepost 142.5 near Outlet, Mendocino County, to milepost 284.1 near Eureka, Humboldt County, California. The abandonment would include three appurtenant branches: the Carlotta (5 miles in length); the Korblex (11 miles);

and the Samoa (8 miles). Approximately 33 miles of the right-of-way are located within the coastal zone, in the Eureka to Fortuna area. The project includes cessation of service, cessation of maintenance, track removal, and disposition of the right-of-way.

On January 11, 1984, the California Coastal Commission (Commission) objected to NWP's consistency certification for the abandonment of the Eel River Line and appurtenant branches.

NWP appealed to the Secretary of Commerce (Secretary) on February 10, 1984. National Oceanic and Atmospheric Administration regulations at 15 CFR Part 930 Subpart H authorize the Secretary to find that the proposed rail line abandonment as described in NWP's application to the ICC may be federally approved notwithstanding the objection of the Commission that the abandonment is inconsistent with the California Coastal Management Program if the activity meets one of two tests. To meet the first test, four criteria must be satisfied: (a) The activity furthers one or more of the competing national objectives or purposes contained in Sections 302 or 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activiity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the state management program. To meet the second test, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed. If the Secretary does not find that the activity meets either of these two tests, the Federal agency shall not approve the activity.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: February 17, 1984.

Robert J. McManus,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84-5252 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Accufiber Corporation, having a place of business at Vancouver, Washington, an exclusive right to manufacture, use, and sell products embodied in the invention, "Optical Fiber Thermometer," U.S Patent Application Serial No. 6-525,771. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license 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 license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springlield, VA 22151.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, Department of Commerce, National Technical Information Service.

[FR Doc. 84-5239 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Licensing System for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

February 23, 1984

The Chairman of the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April; 1, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377-4212.

Background

The Governments of the United States and the People's Republic of China have exchanged letters establishing an export licensing system to replace the export visa system currently in effect. (See 45 FR 51872). Effective on April 1, 1984, commercial shipments of textile and apparel products subject to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, which are exported on and after that date will be accompanied by a textile export license/commercial invoice with a stamped marking issued by an authority of the Government of the People's Repulic of China. A blue license will accompany merchandise in categories covered by specific limits under the agreement; the license for non-specific limit categories will be green. The stamped marking will be circular in form, in blue ink, and will appear on the front of the license. It will include a number, the signature of an official from an authorized issuing authority, and the correct category and quantity in the shipment in applicable category units. A list of the issuing authorities and facsimiles of the export license and stamped marking are published as enclosures to the letter to the Commissioner of Customs which follows this notice.

Except as noted below shipments exported on and after April 1, 1984 which are not accompanied by a valid and correct license and stamped marking in accordnce with the foregoing provisions will be denied entry for consumption or withdrawal from warehouse for consumption in the United States. Entry will not be denied in instances in which the quantity indicated on the license and stamped marking is more than that of the shipment. Appropriate charges will be made to agreement levels according to the quantity of such shipments. Commercial shipments valued at U.S. $250 or less will not require an export license or stamped marking but will be charged to agreement levels. Merchandise exported before April 1, 1984 which is visaed in accordance with previously established visa procedures will not be denied entry.

Interested persons are advised to take all necesssary steps to ensure that cotton, wool and man-made fiber textiles and apparel, produced or manufactured in China and exported on and after April 1, 1984, which are to be entered or withdrawn from warehouse

for consumption in the United States will meet the new requirements.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

February 23, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of August 1, 1980, as amended, which directed you to prohibit, effective on August 20, 1980 and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of certain specified categories of cotton, wool and man-made fiber textiles and textile products, produced or manufactured in the People's Republic of China.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 1, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 300–369, 400–469 and 600–669, produced or manufactured in China and exported on and after April 1, 1984 from China or any other country of exportation, for which the Government of the People's Republic of China has not issued an appropriate export license, fully described below.

A blue export license will accompany merchandise in categories covered by specific limits under the bilateral agreement; the license for non-specific limit categories will be green. A circular stamped marking in blue ink will appear on the front of the license. It will include a number, the signature of an official from an authorized issuing authority listed in the enclosure to this letter, and the correct category and quantity in the shipment in applicable category units. Facsimiles of the export license and stamped marking are also enclosed.

Entry is not to be denied in cases in which the quantity indicated on the license and stamped marking is more than that of the shipment; however charges are to be made to applicable levels according to the quantity of such shipments. Commercial shipments valued at U.S. $250 or less will not require an export license or stamped marking but are to be charged to the appropriate category limits. Merchandise exported before April 1, 1984 which is visaed in accordance with previously established visa procedures should not be denied entry. You are further directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton, wool and man-made fiber textiles and textile products, produced or manufactured in China, notwithstanding the designated shipment or shipments do not fulfill the aforementioned visa requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton, wool and man-made fiber textile products from China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Stamp Authorized by the Government of the People's Republic of China for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Exported to the United States

BILLING CODE 3510-DR-M

纺织品出口许可证/商业发票
TEXTILE EXPORT LICENCE/COMMERCIAL INVOICE

正　本
ORIGINAL

1出口人(名称和地址) Exporter (name & address)	2许可证号码 LICENCE NO 4 CN 100001	
	3协议年度 Agreement year	4类别号 Category No
	5发票号码 Invoice No	
6收货人(名称和地址) Consignee (name & address)	7装运地、装运期及目的地 Place & time of shipment, destination	
	8中国港口离岸价值 Value of FOB Chinese port	

9唛头—包装件数—商品名称 Marks & numbers - number of packages - DESCRIPTION OF GOODS	10数量 Quantity	11单价 Unit price	12总值 Amount

13出口人签章 Exporter's stamp and signature	14发证当局签章 Issuing authorities stamp and signature
日期 Date	

BILLING CODE 3510-DR-C

Agencies of Issuing Authority

1. Foreign Trade Administration of the Ministry of Foreign Economic Relations and Trade of the People's Republic of China
2. Beijing Foreign Economic Relations and Trade Commission
3. Shanghai Foreign Economic Relations and Trade Commission
4. Tianjin Foreign Economic Relations and Trade Commission
5. Hebei Foreign Economic Relations and Trade Department
6. Shanxi Foreign Economic Relations and Trade Department
7. Neimenggu Foreign Economic Relations and Trade Department
8. Liaoning Foreign Economic Relations and Trade Commission
9. Jilin Foreign Economic Relations and Trade Department
10. Heilongjian Foreign Economic Relations and Trade Department
11. Shaanxi Foreign Economic Relations and Trade Department
12. Xinjiang Foreign Economic Relations and Trade Department
13. Shandong Foreign Economic Relations and Trade Department
14. Jiangsu Foreign Economic Relations and Trade Department
15. Zhejiang Foreign Economic Relations and Trade Department
16. Anhui Foreign Economic Relations and Trade Department
17. Jiangxi Foreign Economic Relations and Trade Department
18. Fujian Foreign Economic Relations and Trade Commission
19. Henan Foreign Economic Relations and Trade Department
20. Hubei Foreign Economic Relations and Trade Department
21. Hunan Foreign Economic Relations and Trade Department
22. Guangdong Foreign Trade Bureau
23. Guangxi Foreign Economic Relations and Trade Department
24. Sichuan Foreign Economic Relations and Trade Department
25. Yunnan Foreign Economic Relations and Trade Department
26. Chongqing Foreign Economic Relations and Trade Bureau

[FR Doc. 84-5207 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DR-M

Establishing Import Limits for Certain Cotton and Wool Textile Products Exported From the People's Republic of China

February 23, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 28, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377-4212.

Background

On December 8, 1983 notices were published in the **Federal Register** (48 FR 55017 and 55019) which, among other things, established import restraint limits for cotton sheeting in Category 313 and men's and boys' wool suit-type coats in Category 433, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on November 30, 1983 and extends through February 27, 1984. The notices also stated that the People's Republic of China is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, if no mutually satisfactory solution is reached on levels for these categories during consultations, to limit its exports during the twelve-month period following the ninety-day consultation period to 38,771,418 square yards and 6,211 dozen, respectively.

The United States Government has decided, pending further consultations concerning this category, to control imports of cotton textile products in Categories 313 and 433, exported during the twelve-month period at the levels described above. The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limits established for the ninety-day period have been exceeded, such excess amounts, if they are allowed to enter, will be charged to the levels established for the twelve-month period.

A description of the textile cagegories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements

February 23, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 28, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 313 and 433, produced or manufactured in the People's Republic of China and exported during the twelve-month period beginning on February 28, 1984 and extending through February 27, 1985, in excess of the following levels:

Category	12-mo level [1]
313	38,771,418 square yards.
433	6,211 dozen.

[1] The levels have not been adjusted to account for any imports exported before Feb. 28, 1984.

Textile products in Category 313 and 433, which have been exported to the United States prior to November 30, 1983 shall not be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 1924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton and wool textile products from China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-5208 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Category 652

February 23, 1984.

ACTION: On February 16, 1984, the Government of the United States requested consultations with the

Government of Hong Kong with respect to Category 652 (man-made fiber underwear). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 652, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1984, and extends through December 31, 1984. The Government of the United States also reserves the right to control imports of this category at the established limit.

Any party wishing to comment or provide data or information regarding the treatment of Category 652 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this Category is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be sumbitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementaiton of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-5209 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DR-M

Establishing an Import Limit for Certain Cotton Textile Products Exported From Indonesia

February 23, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 28, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377-4212.

Background

On February 14, 1984 a notice was published in the **Federal Register** (49 FR 5649) which, established an import restraint limit for cotton printcloth in Category 315, produced or manufactured in Indonesia and exported during the ninety-day period which began on November 30, 1983, and extends through February 27, 1984. The notice also stated that the Government of the Republic of Indonesia is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended, if no mutually satisfactory solution is reached on a level for this category during consultations, to limit its exports during the period which began on November 30, 1983, and extends through June 30, 1984, to a prorated limit of 6,563,019 square yards. This limit may later be adjusted to include carryforward of 393,781 square yards, raising it to 6,956,800 square yards.

A description of the textile categories in terms of T.S.U.S.A. number was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

February 23, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of 1956, as amended (U.S.C. 1854); pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended, between the Governments of the United States and the Republic of Indonesia and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 28, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 315, produced or manufactured in Indonesia and exported during the period which began on November 30, 1983 and extends through June 30, 1984, in excess of 6,563,019 square yeards.[1]

Textile products in Category 315 which have been exported to the United States during the ninety-day period which began on November 30, 1983 and extends through February 27, 1984 shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Indonesia and with respect to imports of cotton textile products from Indonesia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-5210 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DR-M

Adjusting Import Limits for Certain Cotton Textiles and Cotton Textile Products Exported From Brail

February 23, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 28, 1984. For further information contact

[1] The limit has not been adjusted to reflect any imports exported after November 29, 1983.

Diana Bass, International Trade Specialist (202) 377–4212.

Background

The Government of the United States and the Federative Republic of Brazil have agreed to amend further the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, as amended, between them, effecting the following changes:

(1) Converting from designated consultation levels to specific limits the levels established for cotton yarn in Category 300/301, and gowns in Category 350, increasing those levels from 7,173,913 pounds dressing to 7,391,304 pounds in the case of Category 300/301 and from 39,216 dozen to 45,098 dozen in the case of Category 350.

(2) Converting to specific limits former consultation levels for Categories 338 and 339, merged as category 338/339 (knit shirts and blouses) at an increased limit of 388,889 dozen; Categories 347 and 348, merged as Category 347/348 (trousers) at an increased limit of 280,899 dozen, and for Category 363 (terry and other pile towels) at an increased limit of 10,800,000 numbers; and controlling imports in those categories at the new limits;

(3) Converting from a minimum consultation level to a designated consultation level for the current agreement year only (April 1, 1983–March 31, 1984) the level for Category 361 (sheets) increasing it from 161,290 numbers to 290,323 numbers and controlling imports in the category at the new level.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

February 23, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of March 11, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry of cotton and man-made fiber textiles and textile products in certain specified categories, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1983, in excess of designated levels of restraint.

Effective on February 28, 1984, paragraph 1 of the directive of March 11, 1983 is hereby further amended to include the following levels:

Category and Twelve-Month Levels of Restraint [1]

300/301—7,391,304 pounds
338/339—388,889 dozen
347/348—280,899 dozen
350—45,098 dozen
361—290,323 numbers
363—10,800,000 numbers

Textile products in Categories 338/339, 347/348, 361, and 363 which have been exported to the United States prior to April 1, 1983 shall not be subject to this directive.

Textile products in Categories 338/339, 347/348, 361, and 363 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-5266 Filed 2-27-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The levels have not been adjusted to reflect any imports exported after March 31, 1983.

CONSUMER PRODUCT SAFETY COMMISSION

Public Hearing Concerning Export Policy Under the Consumer Product Safety Act and Federal Hazardous Substances Act

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Consumer Product Safety Commission will hold a public hearing on the issue of whether to extend the recently announced export enforcement policy issued under the Flammable Fabrics Act (FFA) to the Consumer Product Safety Act (CPSA) and the Federal Hazardous Substances Act (FHSA). Under the FFA export policy products that fail to comply with an applicable flammability standard issued under the FFA may be exported, provided that all conditions set forth in section 15 of the FFA are met, without regard to whether the goods have been in domestic commerce.

DATES: The hearing will begin at 10:00 a.m. on Friday, March 16, 1984. Requests from interested persons who wish to make presentations and a written copy of the testimony or summary thereof must be received by the Office of the Secretary not later than March 12, 1984. Additional written comments will be accepted until Friday, March 23, 1984.

ADDRESS: The hearing will be in the third floor conference room, 1111 18th Street NW., Washington, D.C. Written comments should be sent to Sadye E. Dunn, Office of the Secretary, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: For information about the hearing or to request an opportunity to make a presentation at the hearing, contact Sadye E. Dunn, Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission will conduct a public hearing on Friday, March 16, 1984, to obtain views from all interested persons on the issue of whether to extend the recently announced policy decision concerning export of noncomplying products subject to an applicable flammability standard issued under the FFA. That policy decision was set forth in a Memorandum Decision and Order, *In the Matter of Imperial Carpet Mills, Inc.* (CPSC Docket No. 80–2), issued by majority vote of the Commission [1] on July 6, 1983.

One part of that decision and order stated that items which fail to comply with an applicable standard of flammability issued under the FFA may be exported, provided that all conditions set forth in section 15 of the FFA (15 U.S.C. 1202) are met, without regard to whether the goods have been in domestic commerce. The Commission's export policy decision and reasons for that decision begin on page 22 of the Memorandum Decision and Order.

The Commission is considering extending the FFA export policy to the

[1] Commissioner Edith Barksdale Sloan voted against issuance of the Memorandum Decison and Order, and issued a dissenting opinion in this case. The Memorandum Decision and Order and Commissioner Sloan's dissenting opinion are available for inspection in the Commission's public reading room, 8th Floor, 1111 18th Street NW., Washington, D.C., or by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800.

CPSA and FHSA. If extended, firms that distribute in domestic commerce for use in the United States products that fail to comply with an applicable safety standard or banning regulation issued under the CPSA and FHSA would be permitted to subsequently export those products provided that the products were properly labeled, presented no unreasonable risk to consumers in the United States and the export notification provisions were followed. The relevant satutory provisions are found at section 18 of the CPSA, 15 U.S.C. 2067, sections 5(b), 6(a) and 14(d) of the FHSA, 15 U.S.C. 1264(b), 1265(a) and 1273(d).

At some date after the hearing, the Commission intends to decide its export policy under the CPSA and FHSA.

Interested persons who wish to make presentations at the March 16 hearing should call or write Sadye E. Dunn, Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6800, not later than March 12, 1984.

Presentations should be limited to approximately 20 minutes. Persons wishing to make presentations should submit either the written text or a summary of their presentations to the Office of the Secretary, not later than March 12, 1984.

The Commission reserves the right to impose further time limitations on all presentations and to impose further restrictions to avoid duplication of presentations.

The record of the hearing will remain open until March 23, 1984. Interested persons are invited to submit written comments not later than that date.

The public hearing will begin at 10:00 a.m. on Friday, March 16, 1984 and will conclude on the same day.

Dated: February 23, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-5258 Filed 2-27-84; 8:45 am]

BILLING CODE 6355-01-M

Chronic Hazard Advisory Panel on Formaldehyde; Invitation To Submit Recommendations for Scientists to Serve as Members

AGENCY: Consumer Product Safety Commission.

ACTION: Invitation to submit recommendations for scientists to serve as members of advisory panel.

SUMMARY: This notice invites recommendations for expert scientists to serve as members of the Commission's Chronic Hazard Advisory Panel on Formaldehyde. The seven-member panel will be selected by the Commission from a list of 21 nominees chosen by the National Academy of Sciences and will provide scientiffic advice to the Commission concerning potential chronic hazards associated with exposure to formaldehyde released from certain consumer products. This Notice also contains information about the function and composition of the panel, the criteria for membership, and the procedures for recommending candidates for membership. The Commission emphasizes that, although the selection of panel members is the first step toward a decision whether to take any action concerning the use of formaldehyde in consumer products, the Commission has not decided whether to begin any rulemaking. The Commission does, however, consider this type of independent review of the available information to be valuable because of the existing controversy over certain of the potential chronic health effects of formaldehyde.

DATE: Recommendations for membership should be submitted no later than March 29, 1984.

ADDRESS: Membership recommendations should be sent to Ann Hamann, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Sandra Eberle, Chemical Hazards Program, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6957.

SUPPLEMENTARY INFORMATION:

A. Background

In 1976, the Commission began to investigate reports of adverse effects received from residents of homes where urea-formaldehyde foam insulation (UFFI) had been installed. The reported effects were attributed to the irritant and other acutely toxic effects of formaldehyde given off by the UFFI during and after installation. On October 16, 1979, while the Commission continued to investigate the acute effects of exposure to formaldehyde from UFFI, representatives of the Formaldehyde Institute, an industry trade association, informed the Commission that preliminary results from a study by the Chemical Industry Institute of Toxicology (CIIT) indicated that some rats exposed to 14.3 ppm of formaldehyde gas developed nasal squamous cell carcinoma. Ultimately, 103 of the 240 rats exposed to 14.3 ppm of formaldehyde in the CIIT study developed nasal cancer. That formaldehyde can cause nasal cancer in rats has since been confirmed by studies at New York University.

In order to evaluate the long-term human health implications of exposure to formaldehyde, the Commission with the cooperation of the National Toxicology Program, established a panel of sixteen senior scientists from various government agencies, which was called the Federal Panel on Formaldehyde. Among other findings, the Panel concluded that formaldehyde is mutagenic, that the CIIT study is valid and showed that formaldehyde was carcinogenic to rats when inhaled, that the available human epidemiological studies were not adequate to show whether or not formaldehyde was a human carcinogen, and that formaldehyde should be presumed to pose a carcinogenic risk to exposed humans.

Following a series of regional hearings, several days of public hearings in Washington, and several years of staff investigation, the Commission issued a ban of UFFI based on the irritant, sensitizing and carcinogenic effects of exposure to the formaldehyde gas given off by UFFI.[1] The ban went into effect on August 10, 1982 (16 CFR Part 1306; 47 FR 14366; April 2, 1982). However, the U.S. Court of Appeals for the Fifth Circuit, on judicial review of the ban, set it aside effective August 25, 1983, based in large part on concern about the precision of the data used to quantify both carcinogenic and other risks. A majority of the Commission disagreed with the court's findings and the Commission voted to seek an appeal to the Supreme Court.[2] The Solicitor General of the United States, however, decided not to appeal the Fifth Circuit decision to the Supreme Court. See *Gulf South Insulation* v. *CPSC*, 701 F. 2d 1137 (5th Cir. 1983).

As part of its continuing investigation of formaldehyde, the Commission has authorized the creation of a Chronic Hazard Advisory Panel to evaluate the chronic hazards associated with exposure to formaldehyde given off by UFFI and other consumer products.

Other sources of formaldehyde, including particleboard, plywood, and textiles, have generated concerns about possible formaldehyde exposure to humans. Some pressed wood products are known to give off formaldehyde gas

[1] Commissioner Stuart M. Statler dissented (document available from the Office of the Secretary) from the agency's decision to ban urea formaldehyde foam insulation in February 1982.

[2] Neither Commissioner Statler nor Commissioner Terrence M. Scanlon, who became a member of the Commission subsequent to the agency ban on UFFI, agreed with the decision to seek an appeal.

that can be inhaled by consumers. Some textiles may release formaldehyde, resulting in exposure of the skin. The Commission's staff is currently investigating the amount of formaldehyde exposure that is attributable to these products and the risk that may be associated with such exposures.

B. Purpose of Panel

The Commission has decided to convene a Chronic Hazard Advisory Panel (CHAP) on formaldehyde because of concern that current use of formaldehyde in consumer products may result in substantial exposure of consumers to a substance that is known to cause cancer in animals and that also has been shown to be genotoxic in various test systems. Also, amendments to the Consumer Product Safety Act (CPSA) in 1981 require the Commission to establish a Chronic Hazard Advisory Panel (CHAP) before starting certain rulemaking activities related to chronic risks associated with consumer products, 15 U.S.C. 2077, as amended. The Commission must consider the panel's report and incorporate it into any advance notice of proposed rule making and final rule. 15 U.S.C. 2080(c).

A CHAP is a seven-member panel of expert scientists that reviews scientific data and other relevant information regarding any potential risks of cancer, birth defects, or gene mutations from the presence of a chemical in consumer products. 15 U.S.C. 2080(b). The panel is to determine if the chemical under consideration is a carcinogen, mutagen, or teratogen and, if feasible, estimate the probable harm to human health that will result from consumer exposure to that substance.

Additional information has become available since the Federal Panel on Formaldehyde evaluated the available information on the carcinogenicity of formaldehyde. In addition, the decision of the Court in *Gulf South Insulation vs CPSC*, discussed above, may raise doubt in the minds of the public as to the continued validity of the Federal Panel's conclusions. Therefore, one purpose of convening a CHAP on formaldehyde is to provide the opinion of an expert and impartial panel concerning chronic hazards associated with formaldehyde, especially the hazard of cancer. Additionally, the major issues relating to formaldehyde's toxicity, exposure and risk have been discussed at the recent Formaldehyde Consensus Conference. Many aspects of these issues were not resolved to the point of consensus. The present panel, making use of old and new data, may be able to resolve some of these questions.

The Panel's report would have relevance for UFFI if the market for residential installations revives, because in that event the Commission will have to again consider whether regulatory action to control or limit the installation of UFFI is appropriate. Similarly, although the Commission at this time has no plans for regulatory activity with respect to other products using formaldehyde, a need for such action may become apparent at some time in the future. If regulatory action with respect to the chronic hazards associated with formaldehyde is found to be necessary in the future, the rulemaking process will be shortened if the CHAP report is already completed or in preparation. This provides an additional reason for convening a CHAP on formaldehyde in consumer products at this time.

The Commission wishes to emphasize, however, that the establishment of a CHAP on formaldehyde does not necessarily mean that the Commission will regulate any consumer products containing formaldehyde. However, since the CPSA requires that such a panel must advise the Commission before a rulemaking proceeding can begin, the Commission is establishing a panel now as a preliminary step. If the panel's advice and other available information are later found to support a regulatory action concerning a consumer product containing formaldehyde, the Commission will then decide whether to begin a rulemaking proceeding.

The Commission will ask the CHAP to review staff-prepared and other documents relating to the general areas of the carcinogenicity, mutagenicity, metabolism, and assessment of the risk to human health from exposure to formaldehyde. The panel may also request information, through the Commission, from other federal agencies, states, industry or other private sources and may review any other medical and scientific information that it finds relevant. To the extent feasible, the Commission will indicate to the CHAP the degree of exposure that is throught to be associated with various consumer products containing formaldehyde. The Commission will ask the panel to consider questions such as the following:

1. With regard to the number of animals, the study design, the level and variation of exposure and similar issues, does the CIIT bioassay provide an adequate basis for a quantitiative carcinogenic risk assessment? What use can be made of the New York University study in this regard?

2. Do other studies support the CIIT study?

3. What conclusions, if any, can be reached from the available data about the mechanism by which formaldehyde causes nasal tumors in animals, especially considering the ability of formaldeyde to reach a target, and the role of genotoxicity? What is the relevance of the observed tissue damage/cytotoxicity? What is the relevance to humans?

4. Is there evidence that formaldehyde is a mutagen or a teratogen?

5. Is there sufficient information to provide an adequate quantitative risk assessment for any chemical hazard other than cancer?

6. What is the significance of the benign tumors observed in the CIIT study? Can they to be used as a basis for risk assessment? Should they be so used?

7. Is there direct evidence (i.e., from epidemiological studies) that formaldehyde is or is not a human carcinogen? How should this evidence be weighted? What is the statistical strength of this evidence?

8. Should formaldehyde be regarded as a potential human carcinogen?

9. Is the nose the only potential target tissue for tumors or other chronic hazards following gaseous formaldehyde exposure?

10. Is formaldehyde likely to be carcinogenic by the dermal route?

11. Considering the available data on the carcinogenicity, metabolism, and mechanism of action of formaldehyde, is the use of the linearized multistage model and the upper 95% confident limit a useful descriptor of the risk to humans? Are there other models that are preferable?

12. Determine, if feasible, what carcinogenicity, mutagenicity or teratogenically risks result from consumer exposure to formaldehyde at various exposure levels.

13. Based on your experience and the information under review, evaluate the carcinogenic, mutagenic and teratogenic potency of formaldehyde.

C. Membership and Selection

The Consumer Product Safety Act specifies that panel members must be scientists who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans to toxic substances or as demonstrated by the exposure of animals to such substances. 15 U.S.C. 2077, as amended. Members may not be officers or employees of the United States or receive compensation from or have any

substantial financial interest in any manufacturer, distributer, or retailer of a consumer product. The Act provides that the President of the National Academy of Sciences (NAS) shall nominate 21 individuals from which the Commission is to appoint a seven-member panel.

To provide for the broadest possible consideration of qualified scientists, the Commission, with the concurrence of the NAS, is soliciting recommendations for nominees for the formaldehyde panel. The Commission will forward recommendations that it receives to the NAS, without evaluation. In cases of apparent conflict of interest, the Commission will return the recommendation to the submitting individual with an explanation. The NAS, in the preparation of its list of nominees to be submitted to the Commission, will not be limited to the recommendation submitted in response to this public notice.

The panel will meet at least twice for two-day sessions in Washington, D.C. over a 120-day period, beginning approximately in May, 1984. Travel expenses are reimbursable in accordance with Federal regulations. Members will receive compensation of $100 for each day (including travel time) during meetings of the panel.

D. Format for Membership Recommendations

Scientists interested in serving on the formaldehyde panel may recommend themselves for membership, and others may recommend the names of scientists who may be willing to serve on the panel. In either case, the recommendation for each scientist should include the following information, if feasible.

1(1) Name of scientist recommended for panel membership.

(2) Home address and telephone number, including area code.

(3) Employment affiliation (if any):

a. Current position and description of duties.

b. Employer's name, address, and telephone number (include area code), and type of organization, e.g. health care, manufacturing, educational, testing laboratory, governmental, public interest, retail, etc., including if self-employed.

c. Consulting work (if so, specify kind of consulting work, for whom, and if paid or volunteer).

(d) CPSC contract work or grant (if so, specify contract title, number and involvement).

4. Experience/Expertise: Specify and describe any education, experience, publications related to assessing chronic hazards, particularly from exposure to formaldedyde. A résumé or curriculum vitae may be submitted.

E. Privacy Act Notice

The information requested in section D may become part of a Privacy Act system of records and will be used to evaluate candidates for the Chronic Hazard Advisory Panel. There are no penalties for not submitting the information requested above, except for possibly preventing evaluation, and therefore selection, of a candidate. The authority for collecting the information is sections 28 and 31(f) of the Consumer Product Safety Act, 15 U.S.C. 2007, 2080(f), as amended.

Applications should be submitted no later than March 29, 1984 to Ann Hamann, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207.

Dated: February 23, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-5259 Filed 2-27-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army Corps of Engineers

Intent to Prepare Draft Environmental Impact Statement (DEIS); Proposed Maintenance Dredging and Confined Dredge Disposal at Indiana Harbor and Ship Canal, in Lake County, Indiana

AGENCY: Army Corps of Engineers, Chicago District, DOD.

ACTION: Notice of intent to prepare a draft Environmental Impact Statement (EIS).

SUMMARY: 1. The proposed project involves the construction, operation, and maintenance of a confined disposal facility to contain dredgings classified as polluted or unsuitable for open lake disposal from the Indiana Harbor and Ship Canal. The amount of material to be disposed of during a ten-year maintenance period includes 819,000 cubic yards of backlog dredging, 1,031,000 cubic yards of maintenance dredging, and 150,000 cubic yards of private dredging, or a total of 2,000,000 cubic yards. The preferred site for the confined disposal of the 2,000,000 cubic yards of material is located in Lake Michigan, south of the Inland Steel Company plant and east of Jeorse Park, in East Chicago, Indiana. Filtered effluent from the disposal facility will be piped to the Grand Calumet River. Concurrence on the use of the site will be sought from the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources, the U.S. Environmental Protection Agency, and the Indiana Pollution Control Board.

2. The alternatives considered are as follows:

a. No action.

b. Four alternative disposal sites which were investigated in detail. The sites under consideration are: (1) Site 11, a 95-acre water-filled gravel pit bordered by the Penn Central Railroad and Industrial Highway in East Chicago; (2) site 12 (preferred site), a 43-acre lake site, in Lake Michigan south of the Inland Steel Company plant and east of Jeorse Park in East Chicago; (3) site 14b, an 83-acre land site northeast of the intersection of 141st Street and the East-West Indiana Tollroad in Hammond; (4) site 15, a 52-acre lake site, in Lake Michigan just northeast of the Hammond Filtration Plant in Hammond.

3. Coordination regarding the selection of the site for the confined disposal facility and other aspects of the project has been undertaken with the U.S. Environmental Protection Agency, Indiana State Board of Health, U.S. Fish and Wildlife Service, Indiana Pollution Control Board, Indiana Department of Natural Resources, City of East Chicago, City of Hammond, and Lake County Board of Commissioners.

4. Significant issues to be analyzed include a detailed characterization of the physical and chemical nature of the sediments to be confined in the disposal facility, the potential for degradation of the quality of groundwater, impacts on fisheries and water quality, and a determination of the future use of the disposal facility.

5. No scoping meeting will be held. The scoping process has been undertaken as part of the on-going public participation and interagency coordination program.

6. The DEIS is expected to be available to the public in August 1984.

7. Questions about the proposed action and DEIS can be answered by Mr. Keith Ryder, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 South Dearborn Street, Chicago, Illinois 60604. Mr. Ryder's telephone number is (312) 353-7795.

Dated: February 17, 1984.

Christos A. Dovas, P.E.,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 84-5179 Filed 2-27-84; 8:45 am]

BILLING CODE 3710-HN-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

[File No.: IPChg-1]

Implementation of Customer Charge in BPA IP-83 Wholesale Power Rate

AGENCY: Bonneville Power Administration (BPA), Department of Energy.

ACTION: Notice.

SUMMARY: BPA's current Industrial Firm Power Rate (IP-83 rate schedule) includes a customer charge designed to assure a given level of revenue recovery should the loads of BPA's direct-service industries (DSI's) fall below expected levels. The rate schedule specifies that the customer charge will be $7.34 per kilowatt-month of billing demand, not to fall below a fixed threshold.

The IP-83 rate schedule specifies that the level of billing demand for the demand component of the customer's monthly power bill shall be based on power consumption during the on-peak hours of 7 a.m. to 10 p.m., Monday through Saturday. The IP-83 rate does not specify whether demand levels for the purpose of establishing the customer charge will be set during these on-peak hours, or on some other basis.

BPA intends to establish DSI demand levels for the purpose of the customer charge on the basis of on-peak demand. Publication of this notice provides that BPA will implement this method of assessing the customer charge.

Responsible Official: Thomas M. Noguchi, Director, Division of Customer Service.

DATE: BPA will assess the customer charge as described herein on March 9, 1984, effective for the entire 1983 rate period.

ADDRESS: Address any comments on this matter to Ms. Donna L. Geiger, BPA Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503-230-3478. Oregon callers outside of Portland may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensignton, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

Background

BPA established its 1983 rate schedules through a formal ratesetting process culminating in the publication of BPA's 1983 rate wholesale power schedules, which were confirmed and approved by the Federal Energy Regulatory Commission on December 21, 1983 (48 FR 56365). BPA's 1983 rates are effective from November 1, 1983 to July 1, 1985. Rates to the DSI's are assessed under the IP-83 Industrial Firm Power Rate. One element of that rate is a customer charge.

BPA included a customer charge in the IP-83 rate schedule in order to enhance revenue stability from the DSI's and prevent a recurrence of the revenue underrecovery that was experienced by BPA during the 1982 rate period when DSI loads fell significantly below expected levels. (See Administrator's Record of Decision: 1983 Final Rate Proposal. September 1983, pp. 244-254.)

BPA initiated off-peak relief of charges based on billing demand in its 1979 rates, to promote advantages which occur when loads are encouraged during hours when BPA's system is not fully utilized. This relief has applied to all sales of firm power, not just those to the DSI's.

Revenues to be Recovered Through Customer Charge

BPA's IP-83 rate schedule specifies that the customer charge is $7.34 per kilowatt-month. The customer charge has been set such that it is based on the higher of 89.4 percent of the DSI's Monthly Operating Demand (a fixed threshold) or the DSI's actual billing demand. By designing the charge in this way, BPA's revenues from the DSI's are expected to be more stable.

Application of Customer Charge

BPA intends to apply the term "billing demand" for the purpose of the customer charge as the demand during the on-peak period, i.e., 7 a.m. to 10 p.m., Monday through Saturday. This application is consistent with application of the demand charge, and with application of unauthorized increase charges, which are assessed only during those on-peak hours for all customer classes, including the DSI's.

The above implementation would not apply to the extent that customers which purchase power from other sources seek to vary such purchases between on-peak and off-peak hours so as to reduce the billing demand on which the customer charge is based.

Effect of the Proposal

Assessing the DSI's billing demand based on demand during on-peak hours may encourage some DSI's to increase demand during off-peak hours at night and on Sundays. If such increases represented additional power consumption which would not otherwise occur, such consumption would increase BPA power sales and BPA revenues. If such increases reflected lower power consumption during on-peak hours, BPA revenues could be lower than otherwise.

Some 90 percent of all DSI power consumption is used to produce aluminum. Aluminum reduction requires a very stable level of operation, which limits any such variations in load. Therefore, the impacts of this method of assessing the customer charge are expected to be primarily related to changes in load by DSI aluminum product fabrication and by the non-aluminum DSI's, (excluding Hanna, which operates under a special rate). These loads comprise less than 300 MW when operating at full capacity, and are currently operating at about 200 MW.

Alternatives

The only other methods of assessing the customer charge identified by BPA to date are: (1) To assess the charge on the basis of combined on- and off-peak demand levels; or (2) to assess the charge on the basis of the highest daily demand. However, there is no mechanism in the IP-83 rate schedule for assessing overrun charges above billing demand during off-peak hours. Also, option 1 would reduce and option 2 would remove any incentive for increased DSI power consumption during off-peak hours.

Application of the customer charge under the IP-83 rate schedule does not limit BPA's future consideration of any other alternatives in future rate cases.

Application

BPA will implement this method of assessing the customer charge on March 12, 1984, effective for the entire 1983 rate period.

Issued in Portland, Oregon, on February 21, 1984.

Peter T. Johnson,

Administrator.

[FR Doc. 84-5435 Filed 2-27-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board, Light Water Reactor Safety R&D Panel; Open Meeting

Notice is hereby given of the following meeting:

Name: Light Water Reactor R&D Panel of the Energy Research Advisory Board (ERAB).

Date and time: March 16, 1984 from 9 a.m. to 5 p.m.

Place: Electric Power Research Institute, 3412 Hillview Avenue, Executive Conference Room, Building 1, Second floor, Palo Alto, CA 94303.

Contact: Milton Klein, Electric Power Research Institute, Palo Alto, CA 94303, Telephone: 415/855-2680.

Purpose of the Parent Board

To advise the Department of Energy on the overall research and development conducted in DOE and to provide longrange guidance in these areas to the Department.

Tentative Agenda

- Discuss the first draft of a report on Light Water Reactor R&D.
- Public Comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Milton Klein at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 22, 1984.

Ira M. Adler,

Deputy Director of Management, Office of Energy Research.

[FR Doc. 84-5204 Filed 2-27-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 7307-000, *et al.*]

Hydroelectiric Applications, City of Grafton, West Virginia, et al.; Applications

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: License (over 5 MW).

b. Project No.: 7307-000.

c. Date Filed: May 23, 1983.

d. Applicant: The City of Grafton, West Virginia.

e. Name of Project: Tygart Dam Project.

f. Location: At the U.S. Army Corps of Engineers' Tygart Dam on the Tygart River in Taylor County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. Contact Person: Jeffrey M. Kossak, Suite 2501, 1700 Broadway, New York, New York 10019 and Ms. Peggy Poe, City Building, West Main Street, Grafton, West Virginia 26354.

i. Comment Date: April 20, 1984.

j. Competing Application: Project No. 7399-000, Date Filed, June 24, 1983

k. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Tygart Dam and would consist of: (1) A new intake structure to convey water to one of the two existing 15-foot-diameter penstocks; (2) a new 14.75-foot-diameter and 350-foot-long penstock connected to the same existing penstock; (3) a new powerhouse with 2 turbine-generator units with a total capacity of 20 MW; (4) a new 1-mile-long and 138-kV transmission line; and (7) other appurtenances. Applicant estimates an average annual generation of 85,000 MWh.

l. Purpose of Project: Project energy would be sold to Monongahela Power Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

2a. Type of Application: License (over 5 MW).

b. Project No.: 7399-000.

c. Date Filed: June 24, 1983.

d. Applicant: NOAH Corporation.

e. Name of Project: Tygart Dam Project.

f. Location: At the U.S. Army Corps of Engineers' Tygart Dam on the Tygart River in Taylor County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. Contact Person: Howard M. Hickey or James B. Price, NOAH Corporation, P.O. Drawer 640, Aiken, South Carolina 29801.

i. Comment Date: April 20, 1984.

j. Competing Application: Project No. 7307-000, Date Filed: May 23, 1983.

k. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Tygart Dam and would consist of: (1) New trashracks in the 2 existing 15-foot-diameter penstocks; (2) 2 new 15-foot-diameter and 110-foot-long penstock sections connected to the downstream end of the 2 existing penstocks; (3) a new powerhouse with 3 turbine-generator units with a total capacity of 75 MW; (4) a new tailrace; (5) a new switchyard; (6) a new 1.4-mile-long and 138-kV transmission line; and (7) other appurtenances. Applicant estimates an average annual generation of 144,000 MWH.

l. Purpose of Project: Project energy would be sold to Monongahela Power Company.

m. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

3a. Type of Application: Major License (Under 5 NW).

b. Project No: 7046-000.

c. Dated Filed: February 1, 1983, and revised May 17, 1983.

d. Applicant: Jamaica Waterpower Company.

e. Name of Project: Jamaica Project.

f. Location: On the West River, near the Town of Jamaica, in Windham County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. David F. Buckley, 18 Bridge Street, Bellows Falls, Vermont 05101.

i. Comment Date: April 23, 1984.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Ball Mountain Flood Control Project and would consist of: (1) A new steel penstock, 11.5 feet in diameter and 80 feet long, lining and extending the existing outlet works which would be pressurized for hydroelectric operations; (2) a new 8 feet in diameter steel bypass to branch from the new penstock; (3) a new steel bifurcation, one branch 6.9 feet in diameter and one 4.4 feet in diameter;

(4) a new outlet valve house; (5) a new 60 by 45 by 38-foot powerhouse containing two vertical Francis turbines, one rated at 3,300 kW and one at 1,440 kW; (6) a permanent inclined elevator down the face of the dam; (7) a new step-up transformer; (8) a new 12.47-kV transmission line 2,500 feet long; and (9) appurtenant facilities.

The proposed project boundary would enclose 103.2 acres of government land.

k. Purpose of Project: It is anticipated that the 11.5 million kWh of annual generation would be sold to the Central Vermont Public Service Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

4.a Type of Application: Major License (more than 5MW).

b. Project No.: 4312–001.

c. Date Filed: April 14, 1983.

d. Applicant: Watersong Resources.

e. Name of Project: Canyon Creek Water Power Project.

f. Location: On Canyon Creek, within the Mt. Baker-Snoqualamie National Forest, near Glacier Township, Whatcom County, Washington.

g. Filed Pursuant to: Water Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William L. Devin, President, W.L.D. Glacier Energy Company, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, Washington 98266.

i. Comment Date: April 20, 1984.

j. Description of Project: The proposed project would consist of: (1) A 9-foot-high, 60-foot-long concrete diversion structure at elevation 2,220 feet; (2) a 21,800-foot-long, 60-inch-diameter pipeline; (3) a 3,190-foot-long, 60-inch-diameter steel penstock; (4) a powerhouse containing two generating units with a total installed capacity of 12,200 kW; (5) a 150-foot-long tailrace; (6) a switch yard; and (7) a 3,200-foot-long, 55-kV transmission line connecting to an existing Puget Power and Light Company transmission line. The Applicant estimates the average annual energy production to be 54.44 million kWh. The cost to construct the project is estimated to be $21,313,000, in 1986 dollars.

k. Purpose of Project: The project power would be sold to the Puget Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B and C.

5a. Type of Application: Major License under 5 MW.

b. Project No.: 7748–000.

c. Date Filed: October 24, 1983.

d. Applicant: Power Authority of the State of New York.

e. Name of Project: Waterford Project.

f. Location: On the Hudson River in Saratoga and Rensselaer Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Stephen L. Baum, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

i. Comment Date: April 20, 1984.

j. Description of Project: The proposed project would consist of: (1) The existing Waterford Dam and Lock C–1 structure, a concrete gravity structure in three sections, a ogee-crested spillway section 19.5 feet high and 602.5 feet long; a section of sixtainter gates 17.0 feet high and 356 feet long, and a non-overflow section 36 feet high and 70 feet long; (2) an impoundment with a surface area of 400 acres, a storage capacity of 5,000 acre-feet and a normal water surface elevation of 28.3 feet NGVD; (3) a new intake channel, 60 feet wide and 54 feet long with side slopes of 4:1; (4) new trashracks; (5) a new ice-deflector structure; (6) a new powerhouse containing 2 new generating unit having a total capacity of 3,000 kW; (7) a new tailrace channel 160 feet long; (8) a new switchyard; (9) a new 34.5-kV transmission line 1.9 miles long; (10) a new access road; and (10) appurtenant facilities. The existing dam is owned by the NYS Department of Transportation. The Applicant estimates the average annual generation would be 21,500,000 kWh.

k. Purpose of Project: All project power would be used by the Applicant to displace the energy produced by the oil-fired plants in the State of New York.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

6a. Type of Application: Exemption (5MW or less).

b. Project No: 7981–000.

c. Date Filed: January 12, 1984.

d. Applicant: Merrill and Mary Lou Bates and Dan and Debbie Bates.

e. Name of Project: Deer Creek Project.

f. Location: On Deer Creek in Tulare County, California, near the town of California Hot Springs.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Dan and Debbie Bates, P.O. Box 6, California Hot Springs, California 93217; and Merrill and Mary Lou Bates, Route 4, Box 214, Portervill, California 93257.

i. Comment Date: March 30, 1984.

j. Description of Project: The proposed project would consist of: (1) A 5.5-foot-high diversion structure at elevation 2,751 feet; (2) a 2,200-foot-long existing conduit; (3) a 24-inch-diameter, 2,800-foot-long penstock; (4) a powerhouse containing a single generating unit with a rated capacity of 450 kW, operating under a head of 270 feet; and (5) a 12-kV, 250-foot-long transmission line connecting the project with an existing Southern California Edison Company's (SCE) transmission line northeast of the powerhouse.

k. Purpose of Project: The estimated 1.06 million kWh of project energy would be sold to SCE.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

7a. Type of Application: Preliminary Permit.

b. Project No: 7943–000.

c. Date Filed: January 3, 1984.

d. Applicant: Mercer Companies, Inc.

e. Name of Project: Saugerties..

f. Location: Esopus Creek in Village of Saugerties, Ulster County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. William Bantz, Mercer Companies, Inc., 330 Broadway, Albany, New York.

i. Comment Date: April 23, 1984.

j. Description of Project: Applicant proposes to redevelop a formerly operative mill site by evaluating two development alternatives. Either plan would utilize: (1) The existing 346-foot-long, 32-foot-high concrete gravity dam which is owned by Houseboat Realty Company; and (2) the existing 140 acre surface area reservoir. The alternatives differ as follows:

Alternative 1 would have the powerhouse located 125 feet downstream of the dam and would consist of: (1) The replacement of the existing 72-inch-diameter, 100-foot-long, steel penstock with a new 12-foot-diameter, 100-foot-long, concrete pipe; (2) a proposed powerhouse containing one turbine/generator unit with an installed capacity of 2,500 kW, operating under a head of 40 feet; (3) a proposed 480-volt, 4,000-foot-long transmission line; (4) a proposed tailrace; and (5) appurtenant facilities. The estimated average annual energy would be 13,500 MWh.

Alternative 2 would have the powerhouse located 3,000 feet downstream of the dam and would consist of: (1) The existing 150-foot-long by-pass channel; (2) a proposed 12-foot-diameter, 1,100-foot-long, concrete penstock; (3) a proposed powerhouse containing one turbine/generator unit with an installed capacity of 3,500 kW, operating under a head of 65 feet; (4) a proposed 480-volt, 1,600-foot-long transmission line; (5) a proposed

tailrace; and (6) appurtenant facilities. The estimated average annual energy would be 19,000 MWh.

k. Purpose of Project: Project energy would be sold to Central Hudson Gas and Electric Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $55,000.

8a. Type of Application: Preliminary Permit.

b. Project No: 7800–000.

c. Date Filed: November 2, 1983.

d. Applicant: Turlock Irrigation District and Modesto Irrigation District.

e. Name of Project: Golden Rock Project.

f. Location: On South Fork Tuolumne River and Middle Fork Tuolumne River, near Town of Groveland, within Stanislaus National Forest, in Tuolumne County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ernest Geddes, General Manager, Turlock Irrigation District, P.O. Box 949, Turlock, California 95381.

i. Comment Date: April 20, 1984.

j. Description of Project: The proposed project would consist of: (1) A 235-foot-high, 750-foot-long dam on South Fork Tuolumne River with crest elevation at 3670 feet; (2) a 20-foot-long concrete diversion structure on Middle Fork Tuolumne River; (3) a 16,000-foot-long trapezoidal diversion channel; (4) a 5-foot-diameter, 1,500-foot-long power conduit; (5) a 6.5-foot-diameter, 6,800-foot-long power tunnel; (6) a 5-foot-diameter, 500-foot-long penstock; (7) a powerhouse with a total installed capacity of 10.0 MW; and (8) a 3-mile-long, 13.2 kV transmission line connected to an existing Hetch-Hetchy Mocassin transmission line. The Applicant estimates the average annual energy production at 35 GWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $500,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

9a. Type of Application: Preliminary Permit.

b. Project No: 7768–000.

c. Date Filed: October 31, 1983.

d. Applicant: Richard R. Gresham.

e. Name of Project: Nancy No. 3.

f. Location: Partially on U.S. lands administered by the Bureau of Land Management, on Flume Creek, near Metaline Falls, in Pend O'Reille County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Richard R. Gresham, 3420 East Pinehill Drive, Coeur d'Alene, Idaho 83814.

i. Comment Date: April 23, 1984.

j. Description of Project: The proposed project would consist of: (1) Two 200-foot-long, 24-inch-diameter perforated culverts buried 6 feet beneath streambed gravel and acting as intakes at elevation 2,320 feet; (2) a concrete collection/settling box; (3) a 1600-foot-long, 20-inch-diameter penstock; (4) a powerhouse containing two generators, each having a rated capacity of 100 kW and a combined annual energy production of 1.5 GWh at elevation 1,920 feet; and (5) a 1,100-foot-long 2.2-kV transmission line to an existing line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $7,700.

k. Purpose of Project: Power may be marketed to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2

10a. Type of Application: Preliminary Permit.

b. Project No: 7952–000.

c. Date Filed: January 3, 1984.

d. Applicant: Idaho Natural Energy, Inc.

e. Name of Project: Long Canyon Creek Water Power Project.

f. Location: In the Kaniksu National Forest, on Long Canyon Creek, near Porthill, in Boundary County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Jeff Burt, Bingham Engineering, 165 Wright Brothers Drive, Salt Lake City, Utah 84116.

i. Comment Date: April 23, 1984.

j. Description of Project: The proposed project would consist of: (1) A 9-foot-high diversion structure at elevation 3200 feet; (2) a 13,500-foot-long, 5-foot-diameter penstock; (3) a powerhouse at elevation 1,880 feet containing generating equipment with a rated capacity of 6.5 MW and an annual power generation of 19 GWh; and (4) a 1-mile-long transmission line to an existing line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24 month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary. The estimated cost of permit activities is $200,000.

k. Purpose of Project: Power may be marketed to Washington Water Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

11a. Type of Application: Preliminary Permit.

b. Project No: 7762–000.

c. Date Filed: October 25, 1978.

d. Applicant: Kanaskat Associates.

e. Name of Project: Gary P. Williams Hydropower Project.

f. Location: At the existing Army Corps of Engineers Howard A. Hanson Dam on Green River, near Tacoma, in King County, Washington..

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Joel Kirk Rector, Kanaskat Associates, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: April 20, 1984.

j. Description of Project: The proposed project would consist of: (1) A new intake, near the 675-foot-long Howard A. Hanson Dam, at elevation 1,230 feet; (2) a 14,870-foot-long 12-foot-diameter penstock; (3) a powerhouse containing two generating units with a combined capacity of 8.3 MW and an annual energy production of 53.6 GWh at elevation 904 feet; and (4) a 200-foot-long, 110–kV transmission line to an existing Puget Sound Power and Light Company line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an

application for a license to construct and operate the project. Applicant has stated that no new roads are necessary. The estimated cost of permit activities is $125,000.

k. Purpose of Project: Power will be marketed to local municipalities.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

12a. Type of Application: Exemption (5 MW or less).

b. Project No.: 6839–002.

c. Date Filed: November 9, 1983.

d. Applicant: Piedmont Camp Fire Council and Lake Vera Mutual Water Company.

e. Name of Project: Camp Fire Hydroelectric.

f. Location: On Rock Creek and Meyers Ravine in Nevada County, California.

g. Filed Pursuant to: Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Mr. Milton D. Redford, Jr., 170 Woodland Way, Piedmont, CA 94611; and Mr. Joseph Hannon, 4161 65th St., Sacramento, CA 95820.

i. Comment Date: April 2, 1984.

j. Description of Project: The proposed project would consist of two developments sharing a single powerhouse, containing two generating units, to be located on the south bank of the Yuba River Development No. 1 comprises: (1) The Applicant's existing 10-foot-high Lake Vera dam, on Rock Creek, with crest elevation of 2,378 feet; (2) the Applicant's existing Lake Vera with surfact area of 15 acres and gross storage capacity of 136 acre-feet; (3) an intake structure, either within the Lake or downstream of the existing outlet; (4) a 32-inch-diameter, 6,000-foot-long pipeline; (5) a 30-inch-diameter, 1,000-foot-long penstock; and (6) a 2,130–kW generating unit operating under a head of 800 feet. Development No. 2 comprises: (1) A 2-foot-high diversion structure on Meyers Ravine; (2) a 12-inch-diameter, 1,000-foot-long pipeline; (3) a 12-inch-diameter, 500-foot-long penstock; and (4) a 260–kW generating unit operating under a head of 600 feet. The powerhouse would be connected via a 2,000-foot-long transmission line to an existing Pacific Gas and Electric Company (PG&E) 69–kV transmission line, east of the powerhouse.

k. Purpose of Project: The project's estimated 7.7 million kWh of energy would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

13a. Type of Application: Major License (Under 5 MW).

b. Project No: 6694–000.

c. Date Filed: September 21, 1982.

d. Applicant: Crown Zellerbach Corporation.

e. Name of Project: State Dam Site I.

f. Location: On the Black River in the Village of Carthage, Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Raymond L. Witter, Crown Zellerbach Corporation, 6363 Airport Way South, Seattle, Washington 98108.

i. Comment Date: March 30, 1984.

j. Competing Application: Project No. 4636–001, *Date Filed:* January 4, 1982; Project No. 5923–000, *Date Filed:* January 28, 1982; Project No. 6368–000, *Date Filed:* May 25, 1982.

k. Description of Project: The proposed project would consist of: (1) Minor repairs and modifications to the existing State Dam, which is 795 feet long and from 2 to 8 feet high, and is owned by the State of New York; (2) the existing reservoir with a surface area of 690 acres; (3) the removal of an existing sluiceway; (4) two proposed diversion dams having the following dimensions, West Dam—65 feet long and up to 10 feet high, East Dam—22 feet long and up to 10 feet high; (5) a proposed powerhouse with an installed capacity of 1.6 MW; (6) a proposed 160-foot-long transmission line; and (7) appurtenant facilities. The estimated average annual generation would be 6,300 MWh.

1. Purpose of Project: Project energy would be utilized at the Crown Zellerbach mill. Excess power would be sold to Niagara Mohawk Corporation.

m. This notice also consists of the following standard paragraphs: A4, B, C and D1.

14a. Type of Application: Preliminary Permit.

b. Project No: P–7860–000.

c. Date Filed: November 18, 1983.

d. Applicant: O'Connell Management Company, Inc.

e. Name of Project: Bethlehem Project.

f. Location: On the Lower Ammonoosuc River in Grafton County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Peter F. O'Connell, President, O'Connell Management Company, Inc., One Heritage Drive, North Quincy, Massachusetts 02171.

i. Comment Date: April 23, 1984.

j. Description of Project: The proposed project would consist of : (1) The existing Bethlehem Dam, a reinforced concrete structure, 29 feet high (with 9 feet of flash boards) and 282 feet long; (2) an impoundment having a surface area of 5.5 acres, a storage capacity 22 acre-feet and normal water surface elevation of 1134.6 feet m.s.l. with flash boards in place; (3) a new head gate 7 feet wide and 19.5 feet deep; (4) a new waste gate 8 feet wide and 19.5 feet deep; (5) a new 7-foot-diameter steel penstock 2,100 feet long; (6) a new powerhouse containing one new generating unit with an installed capacity of 900 kW; (7) a new tailrace; (8) a new 4.16 kV transmission line 700 feet long; and (9) appurtenant facilities. The dam and existing project facilities are owned by the Applicant. The Applicant estimates the average annual generation would be 3.5 million kWh.

k. Purpose of Project: All project power would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would investigate the engineering, economic, and environmental aspects of the project. Depending on the outcome of the studies, the Applicant would decide whether to proceed with an application for license or exemption from licensing. Applicant estimates the cost of the studies under the permit would be $25,000.

15a. Type of Application: Preliminary Permit.

b. Project No: 7899–000.

c. Date Filed: December 5, 1983.

d. Applicant: Renewable Resources Development and the Jungert Corporation.

e. Name of Project: French Creek Water Power Project.

f. Location: On French Creek, within U.S. lands administered by the Bureau of Land Management, near Riggins, in Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl L. Myers, P.E., 750 Warm Springs Avenue, Boise, Idaho 83712.

i. Comment Date: April 27, 1984.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high concrete diversion structure at elevation 3,000 feet; (2) a 17,000-foot-long, 56-inch-diameter steel penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 15,545 kW; and (4) a 15-mile-long, 34.5-kV transmission line connecting to an existing Idaho Power Company transmission line. The Applicant estimates the average annual

energy production to be 37.15 million kWh.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $80,000.

k. Purpose of Project: The project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

16a. Type of Application: Major License (Under 5 MW).

b. Project No: 6695–000.

c. Date Filed: September 21, 1982.

d. Applicant: Crown Zellerbach Corporation.

e. Name of Project: State Dam Site II.

f. Location: On the Black River in the village of Carthage, Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Raymond L. Witter, Crown Zellerbach Corporation, 6363 Airport Way South, Seattle, Washington 98108.

i. Comment Date: March 30, 1984.

j. Competing Application: Project No. 4636–001, *Date Filed:* January 4, 1982; Project No. 5923–000, *Date Filed:* January 28, 1982; Project No. 6368–000, *Date Filed:* May 25, 1982.

k. Description of Project: The proposed project would consist of: (1) Minor repairs and modifications to the existing State Dam, which is 795 feet long and from 2 to 8 feet high, and is owned by the State of New York; (2) the existing reservoir with a surface area of 690 acres; (3) the removal of approximately 80 feet of existing intake channel wall; (4) a proposed 120-foot-long intake channel wall; (5) a proposed 35-foot-wide, 400-foot-long intake channel; (6) a proposed powerhouse with an installed capacity of 1.89 MW; (7) a proposed 600-foot-long transmission line; and (8) appurtenant facilities. The estimated average annual generation would be 6,820 MWh.

l. Purpose of Project: Project energy would be utilized at the Crown Zellerbach mill. Excess power would be sold to Niagara Mohawk Corporation.

m. This notice also consists of the following standard paragraphs: A4, B, C and D1.

17a. Type of Application: Preliminary Permit.

b. Project No: 7887–000.

c. Date Filed: November 30, 1983.

d. Applicant: E.S.I. Hydropower Co., Inc.

e. Name of Project: Minnewawa Project.

f. Location: Minnewawa Brook in the Town of Marlborough, Cheshire County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Denise R. Diesen, E.S.I. Hydropower Co., Inc., 1 Rockefeller Plaza, Suite 1715, New York, New York 10020.

i. Comment Date: April 23, 1984.

j. Description of Project: The proposed project would consist of: (1) The existing Minnewawa Dam, a concrete structure 60 feet high and 200 feet long; (2) an impoundment with a surface area of 10 acres, a storage capacity of 120 acre-feet, and a normal water surface elevation of 1,068 feet NGVD; (3) a new 42-inch wood stave penstock on trestles and piers 5,776 feet long; (4) a new powerhouse containing one generating unit having a capacity of 938 kW; (5) a new tailrace; (6) a new transmission line 100 feet long; and (7) appurtenant facilities. The Dam and existing project facilities are owned by the Applicant. The Applicant estimates the average annual generation would be 3.5 million kWh.

k. Purpose of Project: All project power would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time, Applicant would investigate the engineering, economic environmental aspects of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for license or exemption from licensing.

The Applicant estimates the cost of the studies under the permit would be $50,000.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectic exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intented allows an interest person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by

the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

b. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR §§ 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub.

L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: February 22, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–5144 Filed 2–27–84; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed; Week of January 27 Through February 3, 1984

During the Week of January 27 through February 3, 1984, the applications for exception or 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, D.C. 20585.

February 16, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 27 through February 3, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 30, 1984	Sky Oil Co., Cleveland, Ohio	HEE-0085	Exception to the Reporting Requirements. If granted: Sky Oil Company would not be required to file form EIA-782B "Reseller/Retailers' Monthly Petroleum Product Sales Report."
Jan. 31, 1984	Pester Corporation, Washington, D.C.	HRD-0200	Motion for Discovery. If granted: Discovery would be granted to Pester Corporation in connection with the Statement of Objections submitted in response to the August 12, 1983, Proposed Remedial Order (Case No. HRO-0195) issued to Pester Corporation.
Feb. 2, 1984	Atlantic Richfield Company, Washington, D.C.	HRR-0082	Request for Modification/Rescission. If granted: The February 1, 1983, Decision and Order (Case No. HRZ-0120) issued to Atlantic Richfield Company would be modified regarding access to certain documents containing information from the DOE's imported crude oil transfer pricing data base.
Do	Marathon Oil Co., Washington, D.C.	HRR-0080	Request for Modification/Rescission. If granted: The February 1, 1983, Decision and Order (Case No. HRZ-0121) issued to Marathon Oil Company would be modified regarding access to certain documents containing information from the DOE's imported crude oil transfer pricing data base.
Do	Murphy Oil Corporation, Washington, D.C.	HRR-0081	Request for Modification/Rescission. If granted: The February 1, 1983, Decision and Order (Case No. HRZ-0122) issued to Murphy Oil Corporation would be modified regarding access to certain documents containing information from the DOE's imported crude oil transfer pricing data base.
Do	San Joaquin Oil Company, Los Angeles, CA	HRR-0079	Request for Modification/Rescission. If granted: The December 20, 1983, Decision and Order (Case No. HRD-0076) issued to San Joaquin Oil Company would be modified regarding the firm's September 22, 1982, motion for discovery.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of January 27 through February 3, 1984]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 3, 1984	Office of Special Counsel, Washington, D.C.	HRZ-0189	Interlocutory Order. If granted: Texaco Inc. would be compelled to produce additional discovery in response to the September 19, 1983 discovery request submitted by the Office of Special Counsel.

NOTICES OF OBJECTIONS RECEIVED

[Week of January 27 through February 3, 1984]

Date	Name and location of applicant	Case No.
Jan. 30, 1984	Commonwealth Oil Refining Co., Inc., Washington, D.C.	HEE-0025

REFUND APPLICATIONS RECEIVED

[Week of January 27 through February 3, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Feb.1, 1984	Belridge/Virginia	RQ8-49
Do	Palo Pinto/Puerto Rico	RQ5-50
May 12, 1984	Amoco/Pens Lincoln Amoco.	RQ21-12269
Feb. 3, 1984	Fagadau-Texas	RQ32-51
	Loveladdy/Texas	RQ33-52

[FR Doc. 84-5280 Filed 2-27-84; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of January 30 Through February 3, 1984

During the week of January 30 through February 3, 1984, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

James Menzi d.b.a. Atkins Brothers Union 76, 1/30/84, BRO-1506

James Menzi d.b.a. Atkins Brothers Union 76 filed a Statement of Objections to a Proposed Remedial Order (PRO) issued to Atkins Brothers Union 76 on December 23, 1980. In the PRO the Economic Regulatory Administration found that during the period December 29, 1978 through April 24, 1980 Menzi received $33,307.75 in excess of the maximum lawful selling price for retail sales of gasoline in violation of 10 CFR 212.10 and 212.93. The DOE rejected Menzi's legal and factual objections and issued the PRO as a Final Remedial Order. The remedial provisions were modified, however, to require payment of the overcharges plus interest into an escrow account to be distributed through special refund procedures, pursuant to 10 CFR Part 205, Subpart V.

Motion for Discovery

Thomas P. Reidy, Inc., 2/3/84, HRD-0062, HRH-0062

Thomas P. Reidy, Inc. filed a Motion for Discovery and a Motion for an Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order (PRO) issued to the firm on May 3, 1982. In its Motion for Discovery, the firm sought the answers to inerrogatories and the production of various documents relating to a number of issues including the following: (1) the audit; (2) the manner in which the firm computed its weighted average cost of product in inventory; (3) proper treatment of non-product cost increases and transportation cost increases; (4) the "transaction" definition; (5) proper accounting methods and pricing intervals for computing increased product costs; (6) voluntary refunds; and (7) the imposition of interest on overcharges. In the Motion for an Evidentiary Hearing, Reidy sought to present testimony relating to most of the issues set forth in its Motion for Discovery.

In considering the Motion for Discovery, the DOE determined that the contested issues related to disputes about legal interpretations as opposed to factual matters.

In considering Reidy's request for an Evidentiary Hearing, the DOE determined that the matters about which Reidy requested to present oral testimony were legal issues and not factual matters in dispute. Accordingly, Reidy's request to present oral testimony of these matters was denied.

Interlocutory Order

Economic Regulatory Administration/ Westport Petroleum Corporation, 2/1/84, HRZ-0188

The Economic Regulatory Administration filed a Motion to join Westport Petroleum Corporation (Westport Energy) to an enforcement proceeding pending against Westport Petroleum Corporation (Westport). *Westport Petroleum Corp.*, Case No. HRO-0177. Neither Westport Energy nor Westport filed responses to the ERA motion. In considering the motion, the DOE found that Westport Energy and Westport constitute a single firm under the DOE price regulations and that Westport Energy could be held liable for regulatory violations allegedly committed by Westport. The motion was therefore granted.

Supplemental Order

Husky Oil Company, 2/2/84, BCX-0182

The Federal Energy Regulatory Commission (FERC) directed the Office of Hearings and Appeals to review two orders concerning exception relief granted in 1979 and 1980 to Husky Oil Company, the working interest owner of a crude oil producing property, but denied to the royalty interest owners. The FERC requested that the DOE consider (i) whether in light of a 1980 amendment to 10 CFR 212.74 our Order required Husky in using its exception relief to take action in violation of the rights of the royalty owners and (ii) whether the lease agreement between Husky and the royalty owners was abrogated and if so whether abrogation of the lease agreement was necessary to accomplish the objectives of the Emergency Petroleum Allocation Act. In considering the FERC's questions, the DOE found that the Orders did not abrogate the lease agreement, but merely eased the application of price controls which had already operated to suspend Husky's obligation under the lease agreement to obtain market prices for all crude oil production from the lease. The DOE also found that the amendment to 10 CFR 212.74 did not apply retroactively and since the exception standards had been properly applied in the 1979 and 1980 Orders, there was no reason to extend exception relief to the royalty owners. The Decision was transmitted to the FERC for its use in further proceedings involving Husky Oil Company.

Refund Applications

Standard Oil Company (Indiana)/Chicago Housing Authority, 2/3/84, RF21-11847

The DOE issued a Decision and Order concerning an Application for Refund filed by the Chicago Housing Authority (CHA). The application was filed in connection with purchases of Amoco residual fuel oil for ultimate consumption. All volumes were purchased directly from Amoco. In considering the application, the DOE applied the presumption established in previous cases that consumers of various Amoco refined products who purchased directly from Amoco are entitled to receive 100 percent of the per-gallon volumetric refund amount. *See, e.g., Standard Oil Co. (Indiana)/Metropolitan Sanitary District of Chicago*, 11 DOE ¶ 85,067 [1983]. Accordingly, the DOE concluded that CHA should receive a refund based on 100 percent of its eligible purchse volumes. The refund granted in this proceeding is $60,709.

Standard Oil Company (Indiana)/Sun Company, Inc., 1/30/84, RF21-10397

The DOE issued a Decision and Order concerning an Application for Refund filed by Sun Oil Company in connection with its purchases of Amoco aviation gasoline. In considering the application, the DOE concluded that Sun should receive a refund based upon the volume of its eligible Amoco aviation gasoline purchases. The refund granted in this proceeding totals $728.

Dismissals

The following submissions were dismissed:

Name	Case No.
Halliburton Company	HRR-0078.
Lunday-Thagard Oil Co.	HEF-0473.
Petroleum Products Corp. No. 2	RF21-9918.
Tripp Oil Company	RF21-12240.
Walls & Marshall Fuel Co.	RF21-9288.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 21, 1984.

[FR Doc. 84-5281 Filed 2-27-84; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Period of January 2 Through February 3, 1984

During the period of January 2 through February 3, 1984, 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, D.C. 20585.

February 16, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Petrade International, Inc., Houston, Texas, HRO-0208

On February 3, 1984 Petrade International, Inc., 11 Greenway Plaza, Suite 1710, Houston, Texas 77046, filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston, Texas District Office fo Enforcement issued to the firm on January 19, 1984. In the PRO the Houston, Texas District found that during April 1978 through December 1978, Petrade resold crude oil at unlawful prices in violation of 10 CFR 212.86; 210.62(c); 205.202; and 212.183. According to the PRO the Petrade violation resulted in $4,414,728.62 of overcharges.

Texas Armada Refining Co., Euless, Texas, HRO-0207

On February 3, 1984, Texas Armada Refining Co. (TARCO), 12625 Callaway Cemetary Road, Euless, Texas 76039 filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to the firm on December 16, 1983. In the PRO the Dallas District found that during February 1, 1976 to December 31, 1979, TARCO claimed increased non-product costs in excess of the levels permitted by 10 CFR Part 212, Subpart E. According to the PRO TARCO was charged with pricing violations of $5,864,289.

[FR Doc. 84-5279 Filed 2-27-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-10-FR 2532-6]

Action on Permit Number PSD-X82-05; Northwest Alaskan Pipeline Co.

Notice is hereby given that on February 14, 1984, the Environmental Protection Agency (EPA) denied a request for extension of Prevention of Significant Deterioration (PSD) permit Number PSD-X82-05 for construction of a gas conditioning facility at Prudhoe Bay, Alaska.

As originally issued, the permit required the Company to commence construction of the plant within 18 months from the permit issue date of March 12, 1982. The resultant effect of this action is that the Company's failure to commence construction by September 12, 1983 has allowed the permit to become void, as provided by the conditions of said permit. The Company requested an extension of this permit but was unable to provide a factual basis to support the request. The request was therefore denied and the permit is void.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the documents pertaining to this action are available for public inspection upon request at the following locations:

Environmental Protection Agency, region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle, Washington 98101

Environmental Protection Agency, Alaska Operations Office, Room E556, Federal Building, 701 C Street, Anchorage, Alaska 99513

Environmental Protection Agency, Alaska Operations Office, 3200 Hospital Drive, Suite 101, Juneau, Alaska 99801

FOR FURTHER INFORMATION CONTACT: Clark Gaulding, (206) 442-1941.

Dated: February 14, 1984.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 84-5255 Filed 2-27-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[General Dockets 82-334 and 79-188]

Establishment of a Spectrum Utilization Policy for the Fixed and Mobile Services' Use of Certain Bands Between 947 MHz and 40 GHz; Order Requesting Additional Comments

AGENCY: Federal Communications Commission.

ACTION: Petitions for reconsideration; Order requesting additional comments.

SUMMARY: The Federal Communications Commission extends time to file Oppositions and Replies to the Petitions for Reconsideration (Public Notice published December 22, 1983 on page 48 FR 56640) in General Dockets 82-334 and 79-188 with respect to the 18 GHz consensus channeling plan proposed by several of the Petitioners and a Commentor. This action is being taken to solicit additional comments on this specific issue.

DATES: Oppositions March 12, 1984, Replies March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Draper Campbell, Office of Science and Technology, 2025 "M" Street, NW., Washington, DC 20554 202-658-8177.

Order Requesting Additional Comments on Specific Technical Matters in re Petitions for Reconsideration

In the Matter of Establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 947 MHz and 40 GHz, General Docket 82-334, and Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules to Allocate Spectrum at 18 GHz for, and to Establish other Rules and Policies Pertaining to, the Use of Radio in Digital Termination

Systems and in Point-to-Point Microwave Radio Systems for the Provision of Digital Electronic Message Services, and for other Common Carrier, Private Radio, and Broadcast Auxiliary Services; and to Establish Rules and Policies for the Private Radio Use of Digital Termination Systems at 10.6 GHz. General Docket 79-188.

Adopted: February 17, 1984.
Released: February 21, 1984.

By the Chief Scientist.

1. In response to the Commission's Second Report and Order in General Docket 79-188 and First Report and Order in General Docket 82-334 (rules of which became effective on December 1, 1983 and December 6, 1983, respectively) the Commission has received timely filed Petitions for Reconsideration from the following:

Association of Maximum Service Telecasters, Inc. (AMST); Ericsson, Inc. (ERICSSON); Gill Industries, and Western Communications, Inc. (GILL); Harris Corporation—Farinon Division (HARRIS); Hughes Aircraft Company—Microwave Communications Products (Hughes-MCP); M/A-COM Inc. (MA/-COM); Microband Corporation of America (MICROBAND); National Association of Broadcasters (NAB); National Cable Television Association, Inc. (NCTA); and Tymnet, Inc. (TYMNET).

2. The issues raised in these Petitions can be divided into three general categories: (1) 10 GHz DTS issues, (2) 18 GHz technical issues, and (3) 12 GHz reaccommodation issues. With respect to the 18 GHz technical issues, several petitioners and one commenter suggested that changes should be made in the adopted channeling plan for 18 GHz and included proposals for revised plans. The suggested revisions pertained to adjusting the magnitude of separation between transmit and receive frequencies and to providing a contiguous set of channels for cable television distribution purposes.

3. On January 16, 1984, NCTA, HUGHES-MCP, HARRIS, M/A-COM and ERICSSON filed a Joint Motion for Extension of Time requesting that the time to file Replies to Oppositions to Petitions for Reconsideration be extended. These parties indicated that since several of the proposed alternative channeling plans were in conflict, they had been meeting to consider whether a channeling plan might be designed to satisfy the concerns of each of them while also meeting the public policy objectives of the Commission. They requested the additional time in order to determine whether agreement could be reached and, if so, to work out the details for a joint proposal, which would be included in the parties' Replies. We determined that such information, if forthcoming, would be useful in our handling of the Petitions for Reconsideration, and on January 18, 1984 extended the date for filing Replies to February 2, 1984.

4. In their Replies, NCTA, HUGHES-MCP, HARRIS, M/A-COM and ERICSSON indicated that they have reached consensus on a channel plan that they believe will best serve microwave users and the largest public interest. They urged that the Commission replace the plan of the Report and Order with the one which they have developed. However, no other parties, including those who filed Petitions for Reconsideration on this and other issues, have had an opportunity to comment on the proposed plan.

5. The Commission wishes to solicit the views of these and other interested parties on this issue. All interested parties will be offered the opportunity to be heard, insuring that all legitimate concerns are included in our evaluation of the channeling plan developed by NCTA and the other parties. Instituting a brief additional comment period shoud not result in undue delay or adverse impact to any party.

6. Therefore, it is ordered, pursuant to §§ 0.241(d) and 1.45(c) of the Commission's Rules and Regulations, THAT an additional comment period is instituted for the limited purpose of receiving comments on the channel plan for 18 GHz which is contained in the Replies of NCTA, HUGHES-MCP, HARRIS, and ERICSSON. Comments on the channel plan must be filed within 12 days from publication of this Order in the **Federal Register**. Replies to Comments must be filed within 12 days from the expiration date for filing Comments.

Robert S. Powers,
Chief Scientist.

[FR Doc. 84-5114 Filed 2-27-84; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Development and Review of Rules and Regulations; Statement of Policy, Revisions

AGENCY: Federal Deposit Insurance Corportion.

ACTION: Revision of policy statement.

SUMMARY: In response to a recent request by the Office of Management and Budget, the FDIC, on January 10, 1984, agreed to publish its semiannual regulatory agenda in the **Federal Register** as part of the *Unified Agenda of Federal Regulations*, beginning with the April 1984 Agenda. The FDIC has revised its policy statement which sets forth the procedures for preparing its semiannual agenda of regulations to conform with the requirements for publication of the Agenda in the *Unified Agenda of Federal Regulations*. Also, a technical correction was made to the policy statement to delete an obsolete reference to the Regulatory Task Force whose responsibilities and functions have been delegated to the Office of the Executive Secretary.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: John R. Keiper, Jr., Paperwork and Regulation Control Coordinator, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389-4351.

SUPPLEMENTARY INFORMATION: The revisions include delegating authority to approve the publication in the **Federal Register** of the FDIC semiannual agenda of regulations from the FDIC Board of Directors to the Chairman or his designee, and specifying the content of the Agenda to conform with that required by the *Unified Agenda of Federal Regulations*. With the exception of new FDIC regulations under development, the Board of Directors would have previously reviewed and approved proposed regulations currently outstanding, existing regulations under review, and final regulations recently issued. These revisions will give the Office of the Executive Secretary greater flixibility in preparing the Agenda to meet the prescribed submission dates for publication and ensure that the Agenda format and content conform with the publication requirements of the *Unified Agenda of Federal Regulations*. Also, a technical correction was made to section 2 of the policy statement deleting the obsolete reference to the "Regulatory Task Force" and replacing it with the "Office of the Executive Secretary" as having the current responsibility for reviewing each formal regulatory proposal before it is submitted to the Board of Directors to certify that it complies with the guidelines of the policy statement. Accordingly, the FDIC does hereby revise its policy statement entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007; 44 FR 32353; 44 FR 76858) as follows:

The first paragraph of section 2 is changed to read:

"2. *Development of Regulations.* Early in the development of a regulation, the FDIC staff will prepare and submit to

each member of the Board of Directors for review a concise statement describing the regulation, its purpose and need, its legal basis, the issues that have been or will be considered, the alternative approaches that have been or will be explored, a tentative plan for obtaining comment from interested persons, and target dates for completion of the various stages of development. The Office of the Executive Secretary will also receive a copy of the preliminary report and will review each formal proposal before it is submitted the the Board of Directors to certify that it complies with the guidelines of this policy statement."

Section 4 is changed to read:

"4. *Semiannual Agenda of Regulations.* During April and October of each year, the FDIC will publish in the **Federal Register**, as part of the Unified Agenda of Federal Regulations, an agenda of current and projected rulemakings, existing regulations under review and completed rulemakings. The agenda will be approved by the Chairman or his designee before publication."

Each agenda will contain, at a minimum, the following information, and will use the following headings to identify that information for each regulatory action listed:

a. Title.

b. FDIC Contact—The name, title, address and phone number of a person in the FDIC who is knowledgeable about the regulation.

c. Effects on Small Businesses and Other Small Entities—An indication of whether the rule is expected to have a significant economic impact on a substantial number of "small entities."

d. CFR Citation—The parts of the FDIC Rules and Regulations which will affect or will be affected by the action.

e. Legal Authority—At a minimum, a citation to the section of the United States Code (USC) or Public Law (PL) or to the Executive Order that authorizes the regulatory action. Common name references may be used in addition to USC or PL references.

f. Priority—An indication if the action is a priority. A priority action is any regulation designated for priority development or review by the FDIC.

g. Abstract—A description of the problem the regulation will address, and, to the extent available, the alternatives being considered for addressing the problem and the potential costs and benefits of the action.

h. Timetable—The dates and citations (if available) for all past and at least the next future stage of rulemaking. Whenever applicable, the following standard terms should be used: "Advance Notice of Proposed Rulemaking" (ANPRM), "Notice of Proposed Rulemaking" (NPRM), and "Final Action."

By Order of the Board of Directors.

Dated: February 21, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-5191 Filed 2-27-84; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2106]

Eduardo Ubaldo Lopez d.b.a. Federal Freight Forward; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Eduardo Ubaldo Lopez d.b.a. Federal Freight Forward, 1606 SW., 101st Avenue, Miami, FL 33165 was cancelled effective December 31, 1983.

Eduardo Ubaldo Lopez d.b.a. Federal Freight Forward was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2106 would be automatically revoked unless a valid surety bond was filed with the Commission.

Eduardo Ubaldo Lopez d.b.a. Federal Freight Forward has failed to furnish a valid bond.

Therefore, by virtue of authority vested in me by the Fedeal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2106 be and is hereby revoked effective December 31, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2106 issued to Eduardo Ubaldo Lopez d.b.a. Federal Freight Forward be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Eduardo Ubaldo Lopez d.b.a. Federal Freight Forward.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-5221 Filed 2-27-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1488]

Fresh Air Inc. d.b.a. Fresh Air Cargo; Order of Revocation

On February 10, 1984, Fresh Air Incorporated d.b.a. Fresh Air Cargo, 1031 West Manchester Blvd., Unit G, Inglewood, CA 90301, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1488 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1488, be revoked effective February 10, 1984, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Fresh Air Incorporated d.b.a. Fresh Air Cargo.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-5222 Filed 2-27-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2114]

Trans Container Line, Inc.; Reissuance of License

By Notice served and published in the **Federal Register**, Independent Ocean Freight Forwarder License No. 2114 was revoked, effective December 14, 1983, for failure to maintain a valid surety bond on file with the Commission. The Notice of Revocation was served on January 10, 1984.

An appropriate surety bond has been received in favor of Trans Container Line, Inc. and compliance pursuant to section 44, Shipping Act, 1916, and section 510.15 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in section 9.09(a) of Commission Order No. 1 (Revised), dated September 27, 1983, Independent Ocean Freight Forwarder License No. 2114 shall be reissued to

Trans Container Line, Inc. effective February 15, 1984. A copy of this notice shall be published in the **Federal Register** and served upon Trans Container Line, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-5224 Filed 2-27-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1323]

Transport Specialists (Florida) Inc.; Order of Revocation

Section 44(c), Shipping Ac, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Transport Specialist (Florida) Inc., 2138 Biscayne Blvd., Miami, FL 33137, was cancelled effective February 11, 1984.

By letter dated January 11, 1984, Transport Specialist (Florida) Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1323 would be automatically revoked unless a valid surety bond was filed with the Commission.

Transport Specialist (Florida) Inc. has failed to furnish a valid bond.

Therefore, by virtue of authority vested in my by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1323 be and is hereby revoked effective February 11, 1984.

It is ordered, that Independent Ocean Freight Forwarder License No. 1323 issued to Transport Specialist (Florida) Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Transport Specialist (Florida) Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-5220 Filed 2-27-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 137-R]

Transportelie Co. Inc.; Order of Revocation

On February 8, 1984, Transportelie Company, Inc., 15 Maiden Lane, New York, NY 10038, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 137-R effective February 15, 1984.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(e) dated September 27, 1983;

It is ordered, that Indpendent Ocean Freight Forwarder License No. 137-R, be revoked effective February 15, 1984, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 137-R issued to Transportelie Company Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this order be published in the **Federal Register** and served upon Transportelie Company Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-5223 Filed 2-27-84; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Jeuro Container Transport (U.S.A.) Inc., et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Jeuro Container Transport (U.S.A.) Inc., 9824 Kitty Lane, Oakland, CA 94603. Officers: Takashi Miyamoto, Chairman of the Board; Lon B. Williams, President; Tony Ogata, Secretary; Seiji Takeuchi.

Charles Dorsch, Ship's Agent, Inc., 1983 Main Street, San Diego, CA 92113. Charles Conrad Dorsch, President; Dorothy Marie Dorsch, Secretary; William Mathrew Sardinha, Treasurer.

Freight Systems International, Inc. d.b.a. FSI, 8133 Leesburg Pike, Vienna, VA 22180. Officers: Scott A. Stupay, President; Kevin Stupay, Teresa E. Blackstock.

By the Federal Maritime Commission.

Dated: February 23, 1984.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 84-5225 Filed 2-27-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Citicorp, et al.; Formations of; Acquisitions by; and Mergers of Banks 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 (49 FR 794) 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 March 16, 1984.

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, and Citicorp, Portland, Maine; to acquire 100 percent of the voting shares of CitiBank (Maine), N.A., South Portland, Maine.

2. *Independence Bancorp, Inc.*, Allendale, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Independence Bank of New Jersey, Allendale, New Jersey.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303;

1. *Independent Bancshares, Inc.*, Red Bay, Alabama; to become a bank

holding company by acquiring 80 percent of the voting shares of Bank of Red Bay, Red Bay, Alabama.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Citizens-Texas Banc Shares, Inc.*, Buffalo, Texas; to acquire 100 percent of the voting shares or assets of Citizens National Bank, Teague, Texas.

Board of Governors of the Federal Reserve System, February 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5230 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

Midwest Bancorporation, Inc; Acquisition of Bank Shares by a Bank Holding Company

Midwest Bancorporation, Inc., Hays, Kansas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to become a bank holding company by acquiring at least 20.2 percent of the voting shares of Bushton Investment Company, Inc., Hays, Kansas, parent of Bushton State Bank, Bushton, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Midwest Bancorporation, Inc., Hays, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to indirectly engage through Bushton Investment Company, Hays, Kansas, in the sale of general insurance in a community with a population not exceeding 5,000.

These activities would be performed from offices of Applicant's subsidiary in Bushton, Kansas, and the geographic area to be served is Buston, Kansas. Such activities have been specified by the Board in § 225.3(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures § 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than March 16, 1984.

Board of Governors of the Federal Reserve System, February 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5226 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

Monroe 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 (49 FR 794) 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 March 16, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Monroe Bancorp*, Bloomington, Indiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Citizens National Bank of Fort Scott, Fort Scott, Kansas.

2. *First Colorado Bankshares, Inc.*, Englewood, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Monroe County State Bank, Bloomington, Indiana.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bourbon County, Bancshares, Inc.*, Fort Scott, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Arapahoe, Englewood, Colorado.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Dallas Bancshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares or assets of First Bank of Rowlett, Rowlett, Texas.

2. *Dallas Bancshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares or assets of North Texas Bank, Lewisville, Texas.

3. *Greater Texas Bancshares, Inc.*, Georgetown, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Central Texas Financial Corporation, Georgetown, Texas and thereby indirectly acquire The First National Bank of Georgetown, Georgetown, Texas; and 100 percent of the voting shares of The First National Bank of San Marcos, San Marcos, Texas.

4. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Texas Commerce Bank—Irving Boulevard, Irving, Texas.

Board of Governors of the Federal Reserve System, February 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5228 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corporation, 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 (49 FR 794) 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 (49 FR 794) 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 March 14, 1984.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to engage, through its wholly-owned subsidiary, Norwest Agencies, Inc., in general insurance agency activities, which would be conducted from offices in Grand Island, Nebraska.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Western Commercial*, Fresno, California; to engage *de novo* through its subsidiary, Western Commercial Mortgage Co., Fresno, California, in mortgage lending and loan servicing.

Board of Governors of the Federal Reserve System, February 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5232 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

Peoples Bancorp Inc., 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 (49 FR 794) 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 (49 FR 794) 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 March 15, 1984.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Peoples Bancorp Inc.*, Marietta, Ohio; to engage *de novo* through its subsidiary, Northwest Territory Life Insurance Company, Scottsdale, Arizona, in acting as an underwriter, as reinsurer, or credit life and credit accident and health insurance which is directly related to the extensions of credit by other subsidiaries of Peoples Bancorp Inc.

B. Federal Reserve Bank of Atlanta (Rober E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia*, Augusta, Georgia; to expand the data processing and transmission services of its subsidiary, First Financial Management Corporation, Atlanta, Georgia, nationwide.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northern Trust Corporation*, Chicago, Illinois; to engage, through its subsidiary, The Griffin Group, Inc., Chicago, Illinois, in the activities of acting as an investment advisor providing investment or financial advice in accordance with § 225.25(b)(4) of the Board's Regulation Y. These activities would be conducted from an office in Chicago, Illinois, serving accounts located through the entire United States.

Board of Governors of the Federal Reserve System, February 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5229 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

Texas Gulf Coast Bancorp, Inc.; Merger of Bank Holding Companies

Texas Gulf Coast Bancorp, Inc., Houston, Texas (formerly Galveston County Bancshares, Inc), has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Mainland Bancshares, Inc., Houston, Texas, and thereby indirectly acquire First Bank of LaMarque, LaMarque, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 22, 1984. 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.

Board of Governors of the Federal Reserve System, February 22, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5227 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

Third National Corporation; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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.

A. **Federal Reserve Bank of Altanta** (Robert E. Heck, Vice President 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Third National Corporation,* Nashville, Tennessee; to acquire 100 percent of the voting shares of First National Bank of Rutherford County, Smyrna, Tennessee. Comments on this application must be received not later than March 12, 1984.

Board of Governors of the Federal Reserve System, February 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5231 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0464]

Federal Reserve Bank Check Collection Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Approval of criteria for including depository institutions in the program to accelerate the collection of checks.

SUMMARY: The Board has approved the selection criteria for including depository institutions located outside of Federal Reserve office cities in the program to accelerate the collection of checks. This program was adopted by the Borad in December 1982.

EFFECTIVE DATE: April 23, 1984.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452-2231), or John F. Sobala, Assistant Director (202/452-2738), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Background

In December 1982, the Board adopted a program to accelerate the collection of checks and thereby improve the efficiency of the payments mechanism. 48 FR 79 (January 3, 1983). The first phase of the program, initiated in February and completed in May 1983, provided for later deposit deadlines and a later uniform presentment or dispatch time for checks drawn on institutions located in cities with Federal Reserve offices ("city institutions"). In connection with this phase, later deposit deadlines were also implemented to improve the credit availability for checks drawn on institutions located in areas outside of cities with Federal Reserve offices ("non-city institutions"). As a result of the first phase of the program to accelerate the collection of checks, checks with a total daily average value of approximately $2 billion are now being collected one day earlier than they were being collected previously. The second phase of the Board's program, called the High Dollar Group Sort ("HDGS"),[1] provides for additional changes in deposit deadlines and presentment or dispatch time for checks drawn on certain non-city institutions. On May 2, 1983, the Board published for public comment proposed criteria for selecting non-city institutions for inclusion in HDGS. 48 FR 20283 (May 5, 1983). The primary purpose of the HDGS is to speed up by one day the collection of checks drawn on certain noncity institutions. It is anticipated that an additional $1 billion of checks could be collected one day earlier than they are now collected by implementing the HDGS.

The proposed criteria for the HDGS were designed to encompass in a flexible and efficient way only those payor institutions whose inclusion would result in positive net benefits to society. The Board believed that any criteria for selecting non-city institutions for inclusion in the HDGS should serve the following objectives: (1) The value of the service to collecting institutions should exceed the cost incurred in providing the service; (2) the total benefits from accelerated collection should be greater than the costs, including the costs to payor institutions and their customers; and (3) sufficient flexibility should be provided to Reserve Banks to enable them to respond in a timely fashion to changing disbursement patterns.

Given these objectives, the Board requested public comment on the following selection criteria:

Initially include all non-city institutions in the HDGS program whose daily average presentments by the Federal Reserve amount to $20 million or more.

Select additional non-city institutions with daily average presentments from the Federal Reserve less than $20 million for inclusion in the program based on criteria such as, average check size, or the number of large dollar checks, or analyses of requests received from depository institutions.

In addition, the public was requested to suggest alternatives to the proposed selection criteria and to comment on methods for administering the overall program.

Analysis of Comments.—A total of 188 comments were received on the proposed selection criteria. A majority of the commenters (117) expressed concern about the program in general and did not specifically discuss the proposed selection criteria as requested. Eighty-two of these comments were from corporations that use cash management services and were virtually identical in content. The principal issues raised in response to certain aspects of the HDGS program related to its potential impact on cash management services, its impact on competitive equity among those depository institutions offering cash management services, and its cost-effectiveness.

Of the 77 respondents commenting on the selection criteria, nearly half supported the proposal to include initially all institutions with daily average presentments of $20 million or more. Thirty commenters favored one or more of the selection criteria proposed for including additional institutions, while thirty-one commenters favored limiting the program to the initial group of institutions. Requests from depository institutions was considered the best of the criteria proposed for adding institutions to the HDGS. Only a few commenters offered alternatives to the proposed selection criteria.

[1] A group sort is a service enabling a collecting bank to deposit checks drawn on a limited, preselected group of payor institutions.

Competitive Impact—Fifty-eight commenters suggested that the HDGS could create competitive inequities among depository institutions. Some commenters believed that the proposed selection criteria were arbitrary and would create competitive inequities between those non-city institutions included in the HDGS and those excluded. Commenters also maintained that with respect to institutions included in the HDGS, deposit deadline and price variations among Federal Reserve offices would give a competitive advantage to those institutions located in areas with earlier deposit deadlines or higher prices. Depository institutions in Reserve office territories with the higher fees would have an advantage because demand for the service would be lower. Similarly, institutions offering cash management services located in areas with earlier deposit deadlines would have a competitive advantage over institutions offering similar services located in areas with later deposit deadlines since they would be receiving their HDGS checks or account information earlier.

The Federal Reserve does not believe that the proposed selection criteria were arbitrary. The criteria for including all institutions with daily average presentments by the Federal Reserve of $20 million or more was designed to encompass a manageable number of institutions while at the same time increasing the funds availablility for a significant dollar value of checks. Analysis of the concern that the $20 million cut-off was inappropriate indicated, however, that in some situations this criterion would include institutions for which there would not be a corresponding gain in improved check collection. Such instances arise when the preponderance of checks presented by the Federal Reserve to an institution are received from local depositors. The HDGS would not improve the availability of funds for these checks. Consequently, the Board believes it appropriate to modify this criteria to not cover these circumstances. In doing so, however, it is clear that significant benefits could be achieved by lowering the cut-off point. Adjusting the criterion to include institutions with daily average out-of-zone presentments[2] by the Federal Reserve of $10 million or more would provide significant gains in availability of funds without excessive cost.

[2] An out-of-zone presentment is composed of items which originate for collection at an institution located outside the local Reserve office territory of the payor institution.

With regard to variations among Federal Reserve offices of HDGS deposit deadlines, such variations exist for nearly all deposit options offered by Reserve offices. Deposit deadlines vary as a result of volume differences, size of geographic area served and number of institutions in a particular reserve office's territory. The HDGS deadlines are consistent with existing patterns and variations in other deadlines among Reserve offices. In some instances, there is a reduction in the range of variation. Further, in order to avoid expensive air transportation, some Reserve Banks proposed earlier deposit deadlines that enable them to use lower cost ground transportation for the presentation of HDGS checks.

HDGS fee variations are the direct result of Reserve offices explicitly setting fees to recover the costs of accelerating collection of checks drawn on HDGS institutions in their respective territories. These costs include labor and equipment costs, direct transportation costs associated with the HDGS presentment, and the potential float that may result from the necessity of processing large dollar checks in shortened timeframes. There are significant variations in each of these costs among Reserve offices, particularly transportation costs, which contribute to the variations in the fees. Therefore, pricing uniformity would not be appropriate. Once experience is gained and volume and deposit information is more certain, prices will be reviewed and may be adjusted as appropriate to reflect market conditions.

Some commenters stated their belief that the Federal Reserve has a competitive advantage due to its exemption from presentment fees and its ability to set the time and manner of presentment. These same issues were raised when the program was originally adopted by the Board in December 1982.[3] The Board has carefully evaluated these comments. The Board believes that the HDGS does not represent an exercise of regulatory authority and does not result in a competitive advantage for Reserve Banks. The move to later presentment represents the exercise of the same rights that all presenting banks possess under the Uniform Commercial Code. With regard to the issue of presentment fees, the Federal Reserve Act (12 U.S.C. 342) prohibits the imposition of such fees on Reserve Banks. In any event, there is a question as to whether a paying bank is performing a service for which a fee may be assessed when it pays checks drawn on it in the ordinary course of business. In addition, the Board does not believe that the ability to charge an institution's account at the Reserve Bank represents a significant advantage since correspondent relationships between depository insitutions may also provide for such arrangements. It should be noted that this program should not result in any increase in Federal Reserve volume. Rather, it will result in an acceleration of the checks already being collected by the Federal Reserve.

[3] *See* 48 FR 79 (January 3, 1983).

Impact on Cash Management Services.—Concern was expressed by 105 commenters that later presentment of checks would disrupt the ability of institutions to offer effective cash management services to corporations in two ways; the timing of their investment decisions and the quality of information used in making those investment decisions. Currently, many non-city institutions offering these services are able to provide final account total information to corporate customers by mid-morning, thus allowing corporations to participate in the money market in the morning. With later presentment under the HDGS, the commenters stated that those institutions included in the HDGS will be unable to provide complete account total information sufficiently early in the day to meet their corporate customer's needs.

Commenters also argued that the payor bank services being offered by the Reserve Banks to minimize the impact of later presentment are inadequate. The commenters indicated that customer account total information, in order to be useful, must be available by mid-morning and include fine-sort deposits and checks that have been rejected in the normal processing stream. Concern was also expressed by some commenters over the wide variation in the quality of payor bank services offered by Reserve offices. The commenters stated that because some Reserve offices offer payor bank information earlier than others or in a form more readily usable, institutions in those Reserve office territories may have a competitive advantage over institutions in other Reserve office territories.

A change in the timing of check presentment policy would cause some delays in depository institutions providing account total information to corporate customers. These delays may result in cash managers executing some trades in afternoon markets. However, the necessity to shift trading times should affect only a small proportion of corporate investments. Currently, a large percentage of investment decisions are based on estimates of daily

clearings. Changes in presentment times should not detrimentally affect the trading that is already undertaken before final account totals are known. Therefore, the actual amount of trading shifted to later in the day should only be a small fraction of average daily clearings and this effect is significantly outweighed by the benefits of the program.

The impact of later presentment can be significantly minimized through the Reserve offices' provision of payor bank services, provided that the information is sufficiently accurate and delivered on a timely basis, taking into account differences in time-zones. In view of the need to provide account total information on a timely basis, all Reserve Banks will provide account total information no earlier than 9:30 a.m. eastern time and no later than 11:00 a.m. local time. Also included is notification of all reject items greater than $50,000 and fine-sort deposits at those offices where only one institution is in the HDGS. Delivery of payor bank information by telecommunications will be provided, upon request, if physical delivery of account total information cannot be accomplished by the 11:00 a.m. deadline. These procedures should also mitigate any perceived equity concerns over nonuniform deposit deadlines at Reserve offices.

Cost-Effectiveness of the HDGS.—Thirty-five commenters suggested that the HDGS would not be cost-effective for three principal reasons. First, use of the HDGS would be minimal since the value of improved availability would not be greater than the costs of collection to individual collecting institutions. Therefore, revenue would be insufficient to recover costs. Second, disbursement patterns would change as institutions and corporations attempt to circumvent the program and, consequently, administration of the program would be extremely costly if not impossible. Third, the program is redundant because of other recent measures undertaken by the Federal Reserve to reduce float.

The costs and benefits of the HDGS have been analyzed for each participant: the collecting bank, the payor bank, and the Federal Reserve. The HDGS has the potential to convey net benefits of about $128 million annually to collecting banks. This is composed of $11 million in increased earnings due to improved availability and $17 million in lower net collection costs. These benefits should provide adequate incentives for collecting institutions to use the HDGS. To implement the HDGS, it is estimated that the Federal Reserve will incur annual processing costs of $11.7 million, transportation costs of $2.7 million, and float costs of $1.4 million. Of these projected annual costs to the Federal Reserve, less than $5 million are incremental costs.

The program results in net public benefits of about $23 million. This calculation takes into account the benefits and costs to all participants, including approximately $604.4 million in the value of lost float to payor institutions and approximately $1 million in lower yields to cash managers. This estimate does not consider potential changes in disbursement patterns that might occur in response to the program. For example, in light of the reduced float advantage resulting from the DDGS program, corporate cash managers may decide to move their disbursement accounts to institutions located in less remote locations thereby reducing collection costs. On the other hand, if the program is not sufficiently flexible to adjust to changes in disbursement patterns, additional costs may be incurred as disbursements are shifted to more remote institutions in order to circumvent the selection criteria. The selection criteria and administrative procedures should provide the level of responsiveness needed to ensure the program's success.

With regard to the comments that the HDGS is redundant in view of recent measures undertaken to reduce float, these recent actions involved the elimination only of Federal Reserve float. The HDGS, on the other hand, by accelerating check collection addresses float generated in the payments mechanism in general. For example, a recent survey of total check float indicated that commercial bank float nationwide amounted to approximately $58 billion per day. The HDGS addresses a portion of this non-Federal Reserve check float by providing a mechanism to increase the efficiency of the payments mechanism.

Board Action.—The Board believes that the selection criteria, as modified in response to analysis of the issues raised by commenters, maximize the net social benefits of the HDGS. The Board has therefore approved the following specific criteria for including non-city depository institutions on the HDGS:

A. All presentment points with daily average out-of-zone presentments from the Federal Reserve of $10 million or more will be initially included. (A presentment point is defined to include all routing/transit numbers of affiliated institutions presented to a common location. Presentment points located outside of the 48 contiguous states will be excluded.)

B. Presentment points with daily average out-of-zone presentments less than $10 million may be added to the program on a case-by-case basis where the Reserve Bank's periodic analyses indicate that clear net public benefits of accelerated collection exist and where revenue is expected to recover the cost of collection within three months.

C. Any presentment points may be dropped from the program if it appears that the costs of its inclusion outweigh the public benefits or where revenue does not recover the costs of collection.

If it appears that depository institutions are participating in arrangements to circumvent the HDGS, these institutions may be included in the program, although they may not meet the specific tests for inclusion in the HDGS.

The Reserve Banks will notify the individual institutions in their Districts that are to be included in the HDGS and will announce the HDGS presentment points and procedures to all depository institutions in their Districts. Reserve Banks will also consider requests from depository institutions regarding presentment points that should be considered for inclusion in the HDGS.

By Order of the Board of Governors of the Federal Reserve System, February 21, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-5233 Filed 2-27-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84M-0053]

EM Laboratories; Premarket Approval of Palacos® R Bone Cement

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Palacos® R Bone Cement sponsored by EM Laboratories, Hawthorne, NY. After reviewing the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, and after listing, by regulation, the color additive contained in the device, FDA notified the sponsor that the application was approved because the device has been shown to be safe

and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by March 29, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On May 13, 1981, EM Laboratories, Hawthorne, NY 10532, submitted to FDA an application for premarket approval of the Palacos® R Bone Cement, a polymethylmethacrylate (PMMA) bone cement tinted with color additive chlorophyllin-copper complex, 5 percent oil soluble to distinguish between bone and cement within the surgical field. The tinted bone cement is indicated for use in arthroplastic procedures of the hip, knee, and other joints for the fixation of plastic and metal prosthetic parts of living bone when reconstruction is necessary because of osteoarthritis, rheumatoid arthritis, traumatic arthritis, avascular necrosis, nonunion of fractures of the neck of the femur, sickle cell anemia osteoporosis, secondary severe joint destruction following trauma or other conditions (also for fixation of unstable fractures in metastatic malignancies), and revision of previous arthroplasty procedures. The application was reviewed by the Orthopedic Device Section of the Surgical and Rehabilitation Device Panel, and FDA advisory committee, which recommended approval of the application. In the **Federal Register** of December 21, 1983, (48 FR 56368), FDA published a final regulation listing the color additive chlorophyllin-cooper complex, 5 precent oil soluble (21 CFR 73.3110) for use in coloring PMMA bone cement. The regulation became effective January 23, 1984. The use of this color additive in coloring Palacos® R Bone Cement conforms to the color additive listing requirements specified in § 73.3110. On February 2, 1984, FDA approved the application by a letter to the sponsor from the Acting Director, Office of Device Evaluation of the National Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approval final labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may , at any time on or before March 29, 1984 , file with the Dockets Management Branch (address above) two copies of each petition and supporting data and informtion, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 21, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–5157 Filed 2–27–84; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Cancer Institute; President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, April 9, 1984, at the Mayer Auditorium, University of Southern California, School of Medicine, 2025 Zonal Avenue, Los Angeles, California 90033.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Chairman, President's Cancer Panel, and the Director, National Cancer Institute; and discussions to obtain information regarding centers programs supported by the National Cancer Institute. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Panel members upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1148) will furnish substantive program information.

Dated: February 15, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–5044 Filed 2–27–84; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Application Announcement for Competitive Grants and Proposed Funding Preference for Establishment of Departments of Family Medicine

The Bureau of Health Professions, Health Resources and Services Administration, announces that Fiscal Year 1984 applications for the Establishment of Departments of Family Medicine Grant Program under the authority of section 780 of the Public Health Service Act are being accepted, and invites comments on the proposed funding preference as set forth below:

Section 780 authorizes Federal support to medical and osteopathic schools to assist developing and existing family medicine units in achieving administrative status equal to that of other major clinical units. Funds awarded will be used to strengthen the administrative base and structure that is

responsible for planning, directing, organizing, coordinating, and evaluating all undergraduate and graduate family medicine activities. Funds are to complement rather than duplicate programmatic activities for the actual operation of family medicine training programs under section 786(a), Title VII, of the Public Health Service Act.

To be eligible to receive support for this grant program, the applicant must be a public or nonprofit private accredited school of medicine or osteopathy.

To receive support, programs must meet the requirements of final regulations at 42 CFR, Part 57, Subpart R, published in the **Federal Register** on May 4, 1983, 48 FR 20214.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D32), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–25, Rockville, Maryland 20857, Telephone: (301) 443–6960.

Questions regarding programmatic information should be directed to: Division of Medicine, Multidisciplinary Resources Development Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–3614.

The application deadline date is April 16, 1984. Applications sent by mail will be considered on time if postmarked on or before April 16, 1984, and received no later than April 23, 1984. The term "postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable as having been affixed on the date of mailing by an employee of the U.S. Postal Service. All hand delivered applications must be received on or before April 16, 1984.

Approximately $700,000 is expected to be available in Fiscal Year 1984 for competing awards under section 780. Based upon experience of prior years it is anticipated that no more than eight grants will be funded from among all approved applications.

This program is listed at 13.984 in the *Catalog of Federal Domestic Assistance*. Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Proposed Funding Preference

In keeping with Federal initiatives to expand and develop new resources for the provision of clinical instruction in family medicine programs, the Bureau of Health Professions is proposing the following funding preference for grant awards in Fiscal Year 1984.

1. Among approved applications, projects which have never received funding under the section 780 grant program will receive preference for funding.

2. After funding these projects and based upon the amount of funds remaining, other approved competing applications will then be funded according to their relative priority scores.

Interested persons are invited to submit written comments regarding this funding preference to Acting Director, Division of Medicine, Bureau of Health Professions at the address given below:

All comments received not later than March 29, 1984, will be considered before a final funding preference for Fiscal Year 1984 is established. After the close of the comment period, the Bureau will publish a final notice in the **Federal Register**, summarizing and responding to the comments received and discussing changes, if any, made in the funding preference.

Written comments should be addressed to: Acting Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6190.

All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Dated: February 21, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84–5159 Filed 2–27–84; 8:45 am]

BILLING CODE 4160–16–M

Social Security Administration

Proposed Availability of Funding for FY 1984 Targeted Assistance Grants for Services to Refugees and Entrants in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of proposed availability of funding for FY 1984 targeted assistance grants for services to refugees and entrants in local area of high need.

SUMMARY: This notice announces the proposed availability of funds and award procedures for FY 1984 targeted assistance project grants for services to refugees and Cuban and Haitian entrants under the Refugee Resettlement Program (RRP). These grants are proposed for service provision in localities with large refugee and entrant populations, high refugee and entrant concentrations, and high use of assistance, and where specific needs exist for supplementation of currently available resources. In FY 1984, funds are expected to be available for targeted assistance grants.

DATE: Comments on the requirements and procedures set forth in this notice will be considered if received by March 29, 1984.

ADDRESS: Address written comments, in duplicate, to: David Howell, Office of Refugee Resettlement, Room 1332, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: David Howell (202) 245–1923.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for targeted assistance grants for services to refugees and Cuban and Haitian entrants in counties where, because of factors such as unusually large refugee and entrant populations, high refugee and entrant concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

A total of at least $40,000,000 in funds which Congress has designated for this purpose is currently expected to be available for targeted assistance for refugees and entrants.

The purpose of the proposed grants is to provide to refugees and Cuban and Haitians entrants, through a process of local planning and implementation, direct services which are intended to result in economic self-sufficiency and reduced dependency. Funds awarded under this proposed program are intended to support projects which directly enhance refugee and entrant employment potential and increase the ability of refugees and entrants to find and retain jobs. Innovative approaches to accomplish this objective are encouraged.

The award of funds to States under this targeted assistance program will be generally related to the existence of and relative extent of refugee and entrant need in each qualifying county, as indicated by a qualification and allocation formula (described in this notice), and to the completeness of applications as described in Section VIII, below.

Cases in which county plans contain proposed program activities not allowable under section VI, below, may be entertained by a State only where extreme and unusual need exists and is clearly demonstrated therein. Such cases would be considered to involve a change in program scope or objectives, and would, therefore, be subject to ORR prior approval.

II. Authorization

Targeted assistance projects would be funded under the authority of section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c), and section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c) of the INA, as cited above.

III. Eligible Grantees

The Department proposes to limit eligible grantees to those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5. Eligibility for targeted assistance funds for services to Cuban and Haitian entrants would be limited to States which have an approved State plan under the Cuban/Haitian Entrants Program (CHEP).

Under this proposal, State agencies would submit a single application on behalf of all county governments of the qualified counties in that State. This application would contain assurances, plans, and descriptive information pertaining to the State's role as grantee and to its implementation of the 1984 targeted assistance program through the review and approval of county targeted assistance plans and the transfer of targeted assistance funds to qualified counties.

Local targeted assistance plans would be developed by the county government or other designated entity and submitted to the State subsequent to the acceptance of the State's application by ORR. These plans would propose targeted assistance projects based upon the special needs and capabilities of the targeted refugee and entrant populations, and should give due consideration to the availability of local employment opportunities and outcomes of previously funded projects. Such plans would be developed in cooperation with voluntary refugee resettlement agencies, the business community, and refugees and entrants in that area. In the absence of a statewide county system, or in the absence of an appropriate county-level refugee program agent or agency and with the concurrence of the county government, the State could designate a city or other entity, either public or private nonprofit, to administer the targeted assistance funds for a qualified local area.

In submitting its application, the State agency would provide assurances (described in Section VIII, below) that targeted assistance funds will be made available to counties in a timely manner, in allocated amounts, and for purposes most appropriate to the nature and extent of need as indicated by each county in its targeted assistance plan.

The State agency would also be required to assure that amounts allocated to counties or other qualifying local entities under targeted assistance would not be used to offset funds that have otherwise been obligated to such jurisdictions or which would normally be provided for services in such jurisdictions by the State agency in its administration of refugee resettlement funds.

The State application would also include a description of its plan for the review and approval of county targeted assistance plans; its specifications and requirements for county plans with regard to identification of priority services and target populations, procurement, monitoring and evaluation, and reporting; and a timetable of its process for implementing the fiscal year 1984 targeted assistance program.

Applications submitted in response to this notice are subject to intergovernmental review procedures established under Executive Order 12372.

IV. Qualification and Allocation Formula

The Director of ORR proposes to consider any county which qualified for targeted assistance funds in fiscal year 1983 (as announced for refugees at 48 FR 24986, June 3, 1983 and for entrants at 48 FR 34127, July 27, 1983) as qualified for funds available under this proposal. Likewise, it is proposed that such funds be made available through States to qualified counties on an allocation basis in direct proportion to the total amount allocated for each county under both refugee and entrant targeted assistance programs in fiscal year 1983. No deviation from the allocated amounts could be made by a State without written concurrence from the affected county.

This proposed qualification and allocation approach is believed to be most appropriate for the fiscal year 1984 targeted assistance program for several reasons: First, the purpose of the targeted assistance program for this year is the same as was the purpose for the fiscal year 1983 program. Second, the needs of refugees in targeted assistance areas, as identified in the county plans for the fiscay year 1983 program, are extensive. Even a completely successful implementation of the fiscal year 1983 program would not reduce those needs to a degree which would remove the necessity of continuing the program in fiscal year 1984. Third, those areas which qualified for targeted assistance funds in fiscal year 1983 are areas which continue to receive large numbers of refugees through the family reunification priority of new arrivals. This tends to maintain the service and employment market problems associated with the scale of the local resettlement, which largely contributed to the need for targeted assistance initially. Finally, as described below, no other counties or county areas would have qualified under the formula this year (even with some liberalizing adjustments) that did not already qualify last year.

For the proposed FY 1984 targeted assistance program, an initial list of counties was developed and screened according to the qualification criteria used in FY 1983. All counties that received awards for targeted assistance in FY 1983 for either refugees or entrants were included. In addition, ORR consulted with State refugee program officials to obtain their suggestions of additional counties for consideration. ORR also screened data on refugee arrivals in FY 1983 to identify counties that might have received significant numbers of refugees for the first time. A list of 70 counties (including Washington, D.C.) was derived from this review.

Analysis of the new data for the 70 counties indicated that no jurisdiction would qualify in FY 1984 that had *not* previously received targeted assistance funds in FY 1983. Further tests were performed to determine whether any area had approached qualification during the past year. This was found not to be the case. Therefore, a continuation of FY 1983 qualification was determined to be most appropriate for targeted assistance in FY 1984.

Under the previous, FY 1983, refugee targeted assistance program, a two-stage formula for qualification for, and allocation of, targeted assistance funds was utilized. The first stage of the formula defined the qualification of counties for targeted assistance through the use of four equally-weighted criteria which had been selected to collectively indicate local conditions and problems which the proposed program was intended to address. In order to qualify for application for targeted assistance funds, a county (or group of adjacent counties within the same Standard Metropolitan Statistical Area, or SMSA)

was required to be above the median or above a selected cutoff point of jurisdictions for which data were reviewed in three of the four following criteria: (1) The number of refugees placed in the county during Federal fiscal years 1980–1982; (2) the ratio of the overall county population to the refugees in item (1), above; (3) the number of refugees in the county who were receiving cash assistance under the programs of aid to families with dependent children program (AFDC), including the unemployed parent (UP) portion of that program, and refugee cash assistance (RCA) on October 1, 1982; and (4) the ratio of refugees in item (3) to the number of refugees in item (1). A county which placed above the cutoff point in any three of the above categories qualified to apply for targeted assistance funds. It was then included in the list of qualifying localities for determination of its targeted assistance allocation.

The second stage of the proposed targeted assistance formula was designed to reflect the relative level of need for funds among those counties which qualified to apply under the formula's first stage. The relative degree of need of each qualified locality was indicated by the number of refugees residing in that locality who were not self-sufficient. The Department thus noted the following single criterion as the basis for the allocation of targeted assistance funds among the eligible counties: The number of refugees residing in the county who had been in the United States 36 months or less and who were receiving cash assistance under AFDC, AFDC–UP, or RCA on October 1, 1982. (These data were adopted to represent refugee need for targeted assistance on a basis which makes some adjustment for the variation in caseloads caused by State-to-State assistance program differences. Estimates were calculated to provide funds to qualifying counties in States which do not have AFDC–UP, or in which refugee inclusion under AFDC–UP is non-existent or minimal, in order to provide an equitable level of funding in all qualifying localities, regardless of differences in Federal-State assistance program availability.) A county's allocation was, therefore, the proportion of available funds which equaled that county's proportion of all such refugee recipients residing in all counties which have qualified to apply for targeted assistance funds under the first stage of the formula.*

* Targeted assistance funds were allocated for entrants to qualifying counties on a per capita basis, because other types of data that might have indicated need were not available for all areas and therefore could not be utilized uniformly.

ORR believes that the adoption of this same approach for targeted assistance in FY 1984 is desirable because the circumstances of need remain parallel with last year, and because program continuity under circumstances of ongoing need has been a major concern of commentors on previous *FR* notices of funding availability published by ORR.

While recognizing that differing views may exist, we believe that these criteria still comprise good indicators of high-need counties and that the proposed cutoff points established a reasonable basis for identifying those counties which had and still have the greatest need for targeted assistance funds. The basic intent of the proposed targeted assistance program remains: To concentrate available funds in those areas where there are appreciable numbers of unemployed and dependent refugees and entrants on whose behalf special self-support efforts are required.

V. Proposed Allocations

The proposed allocations to be available for FY 1984 refugee and entrant targeted assistance are shown in Table 1.

TABLE 1.—COUNTIES FOR PROPOSED TARGETED ASSISTANCE PROGRAM AND PROPOSED ALLOCATION

County, State	Proposed allocation
Alameda, CA	$987,211
Contra Costa, Ca	282,268
Fresno, CA	545,137
Los Angeles, CA	4,985,278
Merced, CA	665,385
Orange, CA	2,218,288
Riverside/San Bernardino, CA	281,608
Sacramento, CA	844,955
San Diego, CA	1,533,357
San Francisco, CA	1,231,209
San Joaquin, CA	852,609
Santa Clara, CA	1,651,378
Stanislaus, CA	154,264
Denver, CO	393,037
Washington, DC	36,422
Dade/Broward, FL	10,174,066
Hillsboro, FL	174,077
Palm Beach, FL	230,112
Honolulu, HI	366,728
Cook/Kane, IL	1,722,678
Sedgwick, KA	359,640
Orleans, LA	280,438
Montgomery/Prince Georges, MD	341,166
Middlesex, MA	269,511
Suffolk, MA	618,550
Hennepin, MN	434,560
Ramsey, MN	611,018
Jackson, MO	210,401
Essex, NJ	92,320
Hudson, NJ	617,765
Union, NJ	124,012
New York, NY	1,378,347
Multnomah, OR	936,473
Philadelphia, PA	641,026
Providence, RI	457,848
Harris, TX	751,388
Salt Lake, UT	228,421
Arlington, VA	395,836
Fairfax, VA	477,302
King/Snohomish, WA	1,140,247
Pierce, WA	243,679

VI. Allowable Activities

Allowable activities under this targeted assistance proposal would include any activity permissible under section 412(c) of the INA which is directly related to the furtherance of refugee economic self-sufficiency by aiding refugees in finding and retaining jobs, increasing refugee employability potential, and/or enhancing refugee job market possibilities. Creative approaches to such activities are encouraged. Allowable activities would include, for example, job development, job placement, business and employer incentives (such as on-site employee orientation and vocational English training, or bilingual supervisor assistance), business technical assistance, short-term job training specifically related to opportunities in the local economy, and on-the-job training. Use of targeted assistance funds for venture capital, either as grants or loans, to provide working capital associated with the acquisition of land, buildings, equipment or the operating budget for a business (except in the case of equipment or business operating budgets required for a specific training activity) is specifically not allowed.

Stipends or needs-based payments to program participants are allowed if no other source of support is available to them and it can be demonstrated that support is essential to their participation in a job preparation or training project. In any case, no more than 30% of funds used for this program component would be allowed to be used for such payments. Support services, such as day care and transportation, would be allowable when it is demonstrated that they are directly related to employment opportunities of those served under targeted assistance projects, or are a critical component of their employability plan. Proposals which include voluntary corporate participation and a generally high degree of business and refugee group involvement would be especially welcomed.

VII. Application and Implementation Process

It is proposed that States apply for and receive grant awards for FY 1984 targeted assistance funds on behalf of qualified counties in the State. The State agency would, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans. On the basis of the acceptability of these county plans, the State would award the appropriate allocated funds to each qualified county or local administering entity.

States would be allowed to submit applications to ORR at any time from the date of publication of the final announcement of availability of funds in the **Federal Register** until July 15, 1984.

The award of funds to States with acceptable applications would then be made as soon as possible after such determination but in any case by September 30, 1984.

Upon notification of the acceptability of its application and the award of funds, a State would then notify the qualified counties in its jurisdiction that it is able to receive proposed county plans for the use of FY 1984 targeted assistance funds. This notification would take place no later than 30 days after the State receives its award from ORR. Due dates, review and negotiation procedures, and other aspects of the process of county plan development and submission would be established by the State and included in a timetable in its own application to ORR. However, a State would be required to award the appropriate allocation amount to a county within 120 days of its award from ORR. This will ensure that funds would be available to the county in sufficient time to allow continuity of services which were initiated with FY 1983 funds and which the State determined to be acceptable in its county plan review.

It should be noted that in instances where a State will act as the local administering entity and/or provider of direct services, ORR will receive, review, and determine acceptability of individual, local targeted assistance plans. The timing of this review process would parallel that of the normal State review of county-administered plans.

VIII. Application Content

In applying for targeted assistance funds, a State agency would be required to provide the following:

1. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration or ORR social service funds.

2. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan.

3. Assurance that all targeted assistance plans will be developed through a local planning process that involves (in addition to representatives of the local planning agency) private sector employers, refugee/entrant leadership or representatives of refuge/entrant community-based organizations, voluntary resettlement agencies where such exist, and other public officials associated with the human service and employment agencies.

4. Assurance that all services will be provided by qualified providers (public or private, non-profit or for-profit, agencies or individuals).

5. A description of the State's plan for collating program reporting from the counties or other local entities, assuring its accuracy, and assessing its consistency with financial data (i.e., computation of service unit costs and overall costs per 90-day unsubsidized placement). See Section XI for discussion of State reporting requirements under these grants.

6. A description of the State management of local targeted assistance programs, to include:

a. A description of the nature and frequency (not less than simiannual) of local program and fiscal reporting requirements.

b. A description of the nature and frequency (not less than semiannual) of on-site monitoring of the local administering agency.

c. A description of any other major oversight function.

d. A state administrative budget for direct costs which contains major line items (e.g., personnel, fringe, travel, equipment). A brief narrative should relate the major items to the state management functions.

7. A description of the process for awarding funds to the local area, to include:

a. An identification of the local administering entity and award instrument to be used.

b. A workplan which describes major activities and timetables for their completion.

c. The review and approval of local plans.

8. A description of the guidelines that will be issued indicating requirements for, and review criteria for county targeted assistance plans, to include:

a. Procedures for carrying out a local planning process for determining targeted assistance priorities and service strategies, including representativeness of the planning group.

b. Approximate numbers and characteristics of populations to be served.

c. Prioritization of refugee/entrant clients to be served.

d. Determination of refugee/entrant needs to be served by targeted assistance projects.

e. Identification of specific service strategies to meet needs of critical populations, including analysis of strategies and outcomes from projects previously implemented under this program.

f. Analysis of local employment market in terms of available employment opportunities and relationship of targeted assistance strategies to local employment opportunities.

g. Statement of performance outcomes, including number of full-time job placements with at least 90 days retention in the job.

h. Monitoring and oversight responsibilities to be carried out by county or qualifying local jurisdiction.

i. Relationship of targeted assistance projects to other refugee/entrant services available in the county through State-allocated ORR social service funds.

j. Standards, conditions, or requirements which would be placed on the local entity regarding the procurement of services.

k. Identification and justification of local administrative costs, which under any circumstance would be limited to an amount not greater than 10% of the amount allocated for that county.

8. Assurance that for procurements by governmental recipients, awarding parties and recipients shall comply with Attachment O, "Procurement Standards," of OMB Circular A–102 and that for procurements by nongovernmental recipients, awarding parties and recipients shall comply with Attachment O, "Procurement Standards," of OMB Circular A–110.

9. Assurance that the State will adhere to the provisions of its approved Cost Allocation Plan for Public Assistance Programs as mandated under 45 CFR Part 95, Subpart E.

IX. Review, Technical Assistance, and Award Procedure

Applications will be reviewed on a non-competitive basis by a panel of experts to determine acceptability. Such determination will be based on the completeness of the submission (according to the requirements of section VIII, above). The Department will provide technical assistance to the applicant if it is necessary in order to develop a proposal which warrants the award of funds at the proposed allocation amount and if such assistance is requested by the applying State agency. The panel will make recommendations regarding acceptability of applications to the Director of the Office of Refugee Resettlement. Final determination as to the acceptability of applications is at the discretion of the Director of ORR.

X. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441, Subparts E and F, Services: Requirements and limits applicable to specific services—Abortions and Sterilizations
45 CFR Part 16, Department grant appeals process
45 CFR Part 74, Administration of grants
45 CFR Part 75, Informal grant appeals procedures
45 CFR Part 80, Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81, Practice and procedure for hearings under Part 80 of this title
45 CFR Part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 95, Subpart E General Administration—Grant Programs (Public assistance and medical assistance)—Cost Allocation Plans

XI. Reporting and Recordkeeping

Section VIII of this announcement establishes application and reporting requirements that require review and approval by OMB under the Paperwork Reduction Act and 5 CFR Part 1320.

Applications for these grants are to be submitted on Form SSA–96 which has current OMB approval (0960–0184). In completing Form SSA–96, States must address the criteria listed in Section VIII.

Financial reporting is to be provided semiannually on Standard Form 269 (80–R0180). These reporting requirements directly follow Departmental grants administration regulations at 45 CFR Part 74.

ORR plans to require grantees to report semiannually not only on their oversight of the development, award, and implementation of county plans for targeted assistance, but also on specific data elements regarding services provided and employment objectives achieved with these funds. Such reporting requires prior OMB review and approval under section 3507 of the Paperwork Reduction Act of 1980 and 5 CFR Part 1320. Potential grantees are specifically invited to comment on this proposed semiannual reporting which shall include the following data elements: (a) Number of job referrals; (b) number of job placements overall and number that represent full-time unsubsidized placements; (c) number of clients served (job services, vocational training, English language training); (d) number of job placements reaching a 90-day retention period; (e) number of clients fully removed from public cash assistance rolls; (f) number of clients moved from full to partial cash assistance.

(No Catalog of Federal Domestic Assistance number has been assigned.)

Dated: February 16, 1984.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

[FR Doc. 84–5192 Filed 2–27–84; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use and Distribution of the Creek Nation Judgment Funds in Dockets 169 and 272 Before the Indian Claims Commission and in Dockets 277 and 309–74 Before the United States Court of Claims

February 16, 1984.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on November 22, 1978 and December 11, 1978 in satisfaction of the awards granted to the Creek Nation in Indian Claims Commission Dockets 169 and 272 and on December 4, 1981 and October 16, 1981, in satisfaction of the awards granted to the Creel Nation in United States Court of Claims Dockets 277 and 309–74. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated August 12, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives and by the Senate on September 12, 1983. The plan became effective on January 25, 1984, as provided by the 1973 Act as amended by Pub. L. 97–458, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

The funds appropriated on December 11, 1977, and November 22, 1978, in satisfaction of judgments granted to the Creek Nation of Oklahoma in Dockets 169 and 272, respectively, by the Indian Claims Commission, and on October 16, 1981, and December 4, 1981, in Dockets 309–74 and 277, respectively, by the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as herein provided.

Division of the Funds in Docket 272

The Secretary of the Interior (hereinafter "Secretary") shall divide the funds in Docket 272 on the basis of the number of enrollees of the two Creek groups, as designated in the 1968 payment roll prepared pursuant to the provisions of the Act of September 21, 1968, 82 Stat. 855, in terms of 33,997/41,653rds (or 81.6196%) to the Muscogee (Creek) Nation of Oklahoma, and 7,656/41,653rds (or 18.3804%) to the Eastern Creek descendants.

Muscogee (Creek) Nation of Oklahoma

The entirety of the Muscogee (Creek) Nation share of the Docket 272 funds, and all of the funds in Dockets 169, 277, and 309–74 shall be invested by the Secretary for the Muscogee Nation. The interest and investment income accruing shall be made available for but is not limited to the following programs: tribal government; community development; capital acquisition; cultural education and museum planning; social welfare; and higher education. Such funds shall be utilized on an annual budgetary basis by the tribal governing body subject to the approval of the Secretary.

Eastern Creek Descendants

For the purposes of distributing the apportioned share of the funds of the Eastern Creek descendant group, the Secretary shall bring current to the effective date of this plan the descendant payment roll prepared pursuant to the Act of September 21, 1968, 82 Stat. 855, and approved on October 20, 1972: (i) By adding the names of persons living on the effective date of this plan who would have been eligible for enrollment under the 1968 Act, but who were not enrolled; (ii) by adding the names of children born on or prior to and living on the effective date of this plan to persons who were eligible for enrollment, regardless of whether such parents are living or deceased on the effective date of this plan and children born to enrollees on or prior to and who are living on the effective date of this plan; and (iii) by deleting the names of enrollees who are deceased as of the effective date of this plan and the names of those persons who are enrolled as members of the Creek Nation of Oklahoma.

An application by a person who meets the requirements under sections (i) and (ii) must be obtained from and filed with the Area Director of the Muskogee Area Office, Muskogee, Oklahoma, within

one-year from the effective date of this plan. The Secretary shall publish notice of the roll preparation and the deadline for filing applications in the **Federal Register**. The Area Director, on the basis of residence data available on the roll of October 20, 1972, shall publish similar notices in appropriate locales utilizing media appropriate to the circumstances. Appeals shall be handled in accordance with the procedures established under 25 CFR Part 62, Enrollment Appeals. The entirety of the Eastern Creek descendant share shall be paid on a per capita basis, in sums as equal as possible, to the persons so enrolled.

General Provisions

The per capita shares of living, competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, by Pub. L. 97–458.

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits of which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs.

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[Fr Doc. 84–5178 Filed 2–27–84; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[OR 36784]

Realty Action; Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214) the State of Oregon, Department of Transportation, Aeronautics Division on January 9, 1984 filed an application for an airport lease upon the following public land:

Willamette Meridian, Jackson County, Oregon

Township 40 South, Range 4 East

Sec. 5, SW¼SE¼SE¼SW¼, E½SE¼SE¼SW¼, NE¼SW¼SE¼, SE¼NW¼SW¼SE¼, SW¼SW¼SE¼, N½SE¼SW¼SE¼, SW¼SE¼SW¼SE¼, W½NW¼SE¼SE¼.

Sec. 7, SE¼SE¼SW¼NE¼, NE¼NE¼SE¼NE¼, S½NE¼SE¼NE¼, SE¼NW¼SE¼NE¼, SW¼SE¼NE¼, N½SE¼SE¼NE¼, SW¼SE¼SE¼NE¼, N½NW¼NE¼SE¼.

Sec. 8, NW¼NW¼NW¼NE¼, NW¼NE¼SW¼NW¼, NW¼SW¼NW¼.

Containing 92.5 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the land laws.

Interested persons desiring to express their views should promptly send their name, address, and summary of their views to the Klamath Area Realty Specialist, Medford District Office, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504.

Hugh R. Shera,

District Manager, Medford District, Oregon.

[FR Doc. 84–5131 Filed 2–27–84; 8:45 am]

BILLING CODE 4310–33–M

Colorado: Filing of Plats of Survey

February 21, 1984

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., February 21, 1984.

The plat representing the dependent resurvey of a portion of the Eleventh Standard Parallel North through Range 1½ West, a portion of the west boundary and subdivisional lines, and the survey of the subdivision of section 6, T. 44 N., R. 1 W., New Mexico Principal Meridian, Colorado, Group No. 734, was accepted February 8, 1984.

The plat representing the dependent resurvey of a portion of the south boundary, subdivisional lines and the boundaries of C.E. 580 and C.E. 1843; the survey of the subdivision of section 34, and the metes-and-bounds survey of lot 7, in T. 2 N., R. 102 W., Sixth Principal Meridian, Colorado, Group No. 756, was accepted February 6, 1984.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of a portion of the south and west boundaries, T. 38 N., R. 12 W., New Mexico Principal Meridian, Colorado, Group No. 677, was accepted February 6, 1984.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

Timothy A. Kent,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc. 84–5257 Filed 2–27–84; 8:45 am]

BILLING CODE 4310–84–M

[U–53881]

Utah; Order Providing for Opening of Lands; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: This action will correct a Notice published in the **Federal Register** on February 2, 1984 as FR Doc. 84–2826, on page No. 4156, as follows:

Delete paragraph No. 3 in its entirety.

Dated: February 21, 1984.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–5213 Filed 2–27–84; 8:45 am]

BILLING CODE 4310–DQ–M

Minerals Management Service

Outer Continental Shelf Advisory Board, Mid-Atlantic Regional Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463).

Name: Mid-Atlantic Regional Technical Working Group.

Date: March 28, 1984.

Place: Resorts International Hotel, Boardwalk and North Carolina Avenue, The West Room, Atlantic City, New Jersey.

Time: 9:00 a.m. to 5:30 p.m.

Committee membership consists of representatives from Federal Agencies, the Coastal States of New York through North Carolina, the petroleum industry, and other private interests. The purpose of the meeting is to advise the Director, Minerals Management Service (MMS), on technical matters of Regional concern regarding prelease and postlease sale activities.

Agenda: MMS Program Update; Update on OCS Related Congressional Activities; OCS Nonenergy Minerals—Phosphorites; National Research Council Report—"Drilling Discharges in the Marine Environment"; OCS Versus Onshore Oil and Gas Development—A Conservationist's View; Scenarios for OCS Sale No. 111 Draft Environmental Impact Statement; The Guyed Tower—A Unique Deepwater Production Platform; State Oilspill Response Equipment and Procedures; Potential Upslope Mass Sediment Movement Impacts on OCS Exploration Activities;

Distribution of Bottom Dependent Fisheries; Public Comment; Discussion of Next Meeting; and Summary of Action Items.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Mr. Bruce Weetman of the Atlantic OCS Office (703) 285–2165 by March 21, 1984. Written statements should be submitted by April 4 to the Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Minutes of the meeting will be available for public inspection and copying by June 28, 1984, at the above address.

Bruce G. Weetman,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 84–5188 Filed 2–27–84; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the Natural Register were received by the National Park Service before February 17, 1984. 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 March 14, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Perry County

Uniontown, *Westwood*, AL 61

FLORIDA

Sarasota County

Sarasota, *Atlantic Coast Line Passenger Depot (Sarasota MRA)*, 1 S. School Ave.
Sarasota, *Bacon and Tomlin, Inc. (Sarasota MRA)*, 201 S. Palm Ave.
Sarasota, *Burns Court Historic District (Sqrasota MRA)*, 400–446 Burns Court and 418, 426, and 446 S. Pineapple Ave.
Sarasota, *DeCanizares, F.A., House (Sarasota MRA)*, 1215 N. Palm Ave.
Sarasota, *DeMarcay Hotel (Sarasota MRA)*, 27 S. Palm Ave.
Sarasota, *Edwards Theatre (Sarasota MRA)*, 57 N. Pineapple Ave.
Sarasota, *El Vernona Apartments-Broadway Apartments (Sarasota MRA)*, 1133 Fourth St.
Sarasota, *Frances-Carlton Apartments (Sarasota MRA)*, 1221–1227 N. Palm Ave.
Sarasota, *Halton, Dr. Joseph, House (Sarasota MRA)*, 308 Cocoanut Ave.
Sarasota, *Kress, S.H., Building (Sarasota MRA)*, 1442 Main St.
Sarasota, *Purdy, Capt. W.F., House (Sarasota MRA)*, 3315 Bayshore Rd.
Sarasota, *Roth Cigar Factory (Sarasota MRA)*, 30 Mira Mar Court
Sarasota, *Sarasota County Courthouse (Sarasota MRA)*, 2000 Main St.
Sarasota, *Sarasota Herald Building (Sarasota MRA)*, 539 S. Orange Ave.
Sarasota, *Sarasota High School (Sarasota MRA)*, 1001 S. Tamiami Trail
Sarasota, *Sarasota Times Building (Sarasota MRA)*, 1214–1216 First St.
Sarasota, *South Side School (Sarasota MRA)*, 1901 Webber St.
Sarasota, *U.S. Post Office-Federal Building (Sarasota MRA)*, 111 S. Orange Ave.
Sarasota, *Williams, H.B., House (Sarasota MRA)*, 1509 S. Orange Ave.
Sarasota, *Wilson, Dr. C.B., House (Sarasota MRA)*, 235 S. Orange Ave.

INDIANA

Marion County

Indianapolis, *Administration Building, Indiana Central University*, Otterbein and Hanna Ave.
Indianapolis, *Moore, Thomas, House* 4200 Brookville Rd.

KENTUCKY

Fulton County

Adams Site (15 Fu 4),

Nelson County

Bardstown vicinity, *Sisters of Charity of Nazareth Historic District*, N of Bardstown off U.S. 31E

Ohio County

Wallace, Charles, House,

Shelby County

Shelbyville vicinity, *Threlkeld, Thomas, House*, Benson Pike

NEW HAMPSHIRE

Belknap County

Alton, *Monument Square Historic District*, Main, Factory, Church, and Depot Sts.

Carroll County

Ossipee, *First Free Will Baptist Church*, Granite Rd.
Ossipee, *Whittier Bridge*, N H 25
Wakefield, *Wakefield Village Historic District*, off N H 153
Wolfeboro Centre, *Wolfeboro Centre Community Church*, N H 109

Coos County

Shelburne, *Philbrook Farm Inn*, North Rd.

Merrimack County

Boscawen, *Morrill-Lassonde House*, E of King St.
Concord, *Rollins, Gov. Frank West, House*, 135 N. State St.
Northfield, *Northfield Union Church*, Sondogardy Pond Rd.

Rockingham County

Kingston, *Sanborn Seminary*, 178 Main St.

Sullivan County

Charlestown, *Charlestown Town Hall*, N of Summer St.; off Main St.

NEW JERSEY

Hudson County

Hoboken, *Assembly of Exempt Fireman Building (Hoboken Firehouses and Firemen's Monument TR)*, 213 Bloomfield St.
Hoboken, *Engine Company No. 2 (Hoboken Firehouses and Firemen's Monument TR)*, 1313 Washington St.
Hoboken, *Engine Company No. 3 (Hoboken Firehouses and Firemen's Monument TR)*, 201 Jefferson St.
Hoboken, *Engine Company No. 4 (Hoboken Firehouses and Firemen's Monument TR)*, 212 Park Ave.
Hoboken, *Engine Company No. 5 (Hoboken Firehouses and Firemen's Monument TR)*, 412 Grand St.
Hoboken, *Engine Company No. 6 (Hoboken Firehouses and Firemen's Monument TR)*, 801 Clinton St.
Hoboken, *Engine House No. 3, Truck No. 2 (Hoboken Firehouses and Firemen's Monument TR)*, 501 Observer Hwy.
Hoboken, *Firemen's Monument (Hoboken Firehouses and Firemen's Monument TR)*, Church Square Park

NORTH CAROLINA

Buncombe County

Asheville, *Richmond Hill House*, 45 Richmond Hill Rd. (proposed move)

Cabarrus County

Concord, *Stonewell Jackson Training School Historic District*, SR 1157

SOUTH DAKOTA

Hanson County

Fort James (39 HS48),
Goehring Site (39 HS23),

TENNESSEE

Shelby County

Memphis, *Dermon Building*, 46 N. 3rd St.

Tipton County

Mason, *Trinity Church*, Main St.

TEXAS

Hill County

Hillsboro, *Farmers National Bank (Hillsboro M R A)*, 68 W. Elm St.
Hillsboro, *Gebhardt Bakery (Hillsboro M R A)*, 119 E. Franklin St.
Hillsboro, *Grimes Garage (Hillsboro M R A)*, 110 N. Waco St.
Hillsboro, *Grimes House (Hillsboro M R A)*, Country Club Rd. and Corporation St.
Hillsboro, *Hillsboro Cotton Mills (Hillsboro M R A)*, 220 N. Houston St.
Hillsboro, *Hillsboro Residential Historic District (Hillsboro M R A)*, Roughly bounded by Country Club Rd., N. Thompson, Corsicana, N. Pleasant, E. Franklin, and E. Elm Sts.

Hillsboro, *Old Rock Saloon (Hillsboro M R A)*, 58 W. Elm St.
Hillsboro, *Sturgis National Bank (Hillsboro M R A)*, S. Waco and W. Elm Sts.
Hillsboro, *Tarlton Building (Hillsboro M R A)*, 110 E. Franklin St.
Hillsboro, *U.S. Post Office (Hillsboro M R A)*, 118 S. Waco St.
Hillsboro, *Western Union Building (Hillsboro M R A)*, 107 S. Covington St.

WISCONSIN

Pierce County

Prescott, *Smith, Daniel, House*, 331 N. Lake St.

Winnebago County

Menasha, *Menasha City Hall*, 124 Main St.

[FR Doc. 84-5107 Filed 2-27-84; 8:45 am]
BILLING CODE 4310-70-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 1112, Federal Office Building, 90 Church Street, New York, New York on March 28 and 29, 1984, beginning at 9 a.m. each day.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B). In addition, there will be a discussion of the concept of open book examinations, pre-set pass scores on examinations and pre-testing examinations.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the portion of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations falls within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such portion be closed to public participation.

The portion of the meeting dealing with the discussion of the concept of open book examinations, pre-set pass scores, and pre-testing will commence at 1:30 p.m. on March 28 and continue for as long as necessary but not beyond 3:30 p.m. This portion of the meeting will be open to the public as space is available.

Time permitting, after discussion of the agenda items by Committee members, interested persons may make statements germane to the subjects under consideration. Persons wishing to make oral statements are requested to notify the Committee Management Officer in writing prior to the meeting in order to aid in scheduling the time avaialable, and should submit the written text or, at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any intersted person also may file a written statement for consideration by the Joint Board and Committee by sending it to the Committee Management Officer. Notifications and statements should be received no later than March 23, 1984. They should be sent to Mr. Lesli S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220. Telephone inquiries may be directed to Mr. Shapiro at (202) 634-5135.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

February 23, 1984.

FR Doc. 84-5177 Filed 2-27-84; 8:45 am]
BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83-33]

Homestead Pharmacy of Boston, Inc.; Revocation of Registrations

On October 26, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Homestead Pharmacy of Boston, Inc. (Respondent), 224A Humboldt Avenue, Roxbury, Massachusetts 02119. The Order to Show Cause sought to revoke DEA Certificates of Registration AH1207174 and AH9809849 issued to Respondent pharmacy under 21 U.S.C. 823(f), and to deny any pending applications for registration. The statutory predicate for the Order to Show Cause under 21 U.S.C. 824(a)(2) was the conviction on June 2, 1983 of Stephen Meyers, the pharmacist in charge of Homestead Pharmacy of Boston, Inc., in the United States District Court for the District of Massachusetts of one count of failure to maintain complete and accurate records of a Schedule IV controlled substance in violation of 21 U.S.C. 823(a)(3), 827(b) and 843(a)(4)(a). Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. On December 1, 1983, Judge Young issued an order for prehearing statements due before him on January 6, 1984. The order for prehearing statements included a notation from 21 CFR 1316.45 which provides that papers are "deemed filed upon receipt by the hearing clerk." Respondent was cautioned in the order that failure timely to file a prehearing statement as directed above may be considered a waiver of hearing and an implied revocation of a request for hearing.

Government counsel complied with the order of the Administrative Law Judge and timely filed a prehearing statement listing witnesses to be presented and documentary evidence to be introduced at a hearing. Respondent had not complied with the order of the Administrative Law Judge by January 13, 1984. On that date, Judge Young, *sua sponte*, issued a memorandum and order terminating proceedings, finding that Homestead has failed to show that it has any evidence to present if a hearing were held since it failed to file a prehearing statement. Judge Young concluded that DEA is required to provide only the opportunity for a hearing and since there is no proffer of evidence calling for a hearing to receive it, there is no requirement to convene a hearing. *Costle v. Pacific Legal Foundation*, 445 U.S. 198, 100 S. Ct. 1095, 1105 (1980); *U.S. v. Consolidated Mines and Smelting Co., Ltd.*, 445 F. 2d 432, 453 (9th Cir. 1971); *Nat'l. Independent Coal Operators Assoc. v. Kleppe*, 423 U.S. 388, 96 S. Ct. 809 (1976).

The Administrator concurs with Judge Young that there is no need for a hearing in this matter since Respondent has failed to demonstrate that it has a case that it wishes to present. This agency has consistently held that failure to timely file a prehearing statement as ordered can lead to a finding of a waiver of a request for hearing. See *Odie Pharmacy*, Docket No. 82-21, 48 FR 356 (1983) and cases cited therein. Therefore, under 21 CFR 1301.54(e), the Administrator finds that Respondent has waived its opportunity for a hearing. The Administrator now issues his final order based on the record as it appears. 21 CFR 1301.54(e), 1301.57.

Examining the record in this case, the Administrator finds that a drug wholesaler informed the diversion group of the Boston Field Division in November, 1982, that Respondent was making suspiciously large purchases of dextropropoxyphene (Darvon) and pentazocine (Talwin). Former Diversion Investigator Patrick Hunt of the Boston Field Division obtained an administrative inspection warrant on November 18, 1982, and the following day conducted an audit of Respondent's

controlled substances records. This audit revealed a 71% shortage of Darvocet 100 mg. (1,694 tablets); and a 97% shortage of Darvon 100 mg. (110,254 tablets); and a 98% shortage of Talwin 50 mg. (55,927 tablets). Meyers could not account for the shortages of these controlled substances.

Darvon and Talwin are abused in the Boston area. Darvon and Darvocet have a street value of about $3.00 per tablet; Talwin has a street value of about $8.00 per tablet. Applying these figures to the shortages in Respondent pharmacy, the total street value of controlled substances unaccounted for by Respondent was $783,260. Meyers was convicted on June 2, 1983, and sentenced to three years incarceration, suspended; and three years probation. He was also ordered to continue in psychiatric treatment.

Documents on file with the Massachusetts Secretary of the Commonwealth reveal that on February 11, 1983, all shares in Homestead Pharmacy of Boston, Inc. were transferred to one Manuel D. Gomes for $1,000. Homestead Pharmacy was incorporated in 1963 with Stephen Meyers as sole shareholder, president and treasurer. The records on file show that Gomes holds all corporate offices and is the sole shareholder of the pharmacy.

An agent for the Massachusetts Board of Registry in Pharmacy would have testified had there been a hearing in this matter, that Homestead Pharmacy is located in Roxbury, a low income neighborhood in Boston in which there are few pharmacies. The price of $1,000 for the sale of the stock of this pharmacy was grossly undervalued. The Administrator concludes that the sale was not a bona fide sale for value, but rather a sham purchase by Mr. Gomes in order to thwart DEA and state agencies with jurisdiction over the pharmacy. Manuel Gomes is not a pharmacist and rarely, if ever, appears at Homestead Pharmacy. Stephen Meyers continues to work at the pharmacy.

It is clear that these large quantities of heavily abused controlled substances were diverted from Homestead Pharmacy. Such activity on the part of a DEA registered pharmacy is not consistent with the high ethical and legal obligations of a pharmacist. DEA has consistently held that the controlled substances felony conviction of a managing pharmacy can lead to the revocation of a pharmacy's DEA Certificate of Registration. See *Odie Pharmacy*, Docket No. 82-21, 38 FR 356 (1983); *Faunce Drug Store*, Docket No. 82-3, 47 FR 30122, (1982); and cases cited therein. DEA has also consistently maintained that the Administrator can look beyond the corporate ownership or structure of a pharmacy to determine who is the actual manager or individual in charge of the pharmacy. See *S & S Pharmacy, Inc.*, 46 FR 13052 (1981). It is clear in this case that Manuel Gomes does not exercise enough control over the activities of Homestead Pharmacy for the Administrator to conclude that he is an independent purchaser of the pharmacy. Mr. Gomes is not a pharmacist and Mr. Meyers continues to practice pharmacy at Homestead. The fact that Mr. Gomes paid only $1,000 for the stock of a functioning pharmacy in an area where there are very few pharmacies shows that he is not the individual in charge of Homestead, no matter what his titles are.

Upon consideration of the record in this matter, it is the decision of the Administrator to revoke the Certificates of Registration issued to Homestead Phamacy of Boston, Inc. and deny any pending applications for the renewal of those registrations. Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act, as redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that DEA Certificates of Registration AH1207174 and AH9809849 issued to Homestead Pharmacy of Boston, Inc., be revoked and any pending applications for registration be denied, effective March 29, 1984.

Date: February 21, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-5250 Filed 2-27-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-15]

Robert P. Foresman, M.D.; Revocation of Registration

On April 15, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Robert P. Foresman, M.D. (Respondent) of 412 N.W. 3rd, Casey, Illinois an Order to Show Cause proposing to revoke his DEA Certificate of Registration AF8206080. The statutory predicate under 21 U.S.C. 824(a)(2) was Respondent's conviction of a felony relating to controlled substances. Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

A hearing was held in St. Louis, Missouri, on August 2, 1983. Administrative Law Judge Francis L. Young presided. After the hearing both sides submitted proposed findings and conclusions to the Administrative Law Judge. On November 9, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. On November 22, 1983, Government counsel filed exceptions to Judge Young's opinion and recommended decision. On December 12, 1983, the Administrative Law Judge transmitted the record of these proceedings including the Government's exceptions to the Administrator. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

Based on information that Respondent was behaving strangely and associating with people known to be in the drug culture, Special Agent Stephen Miller of the Illinois Bureau of Investigation began an undercover investigation of Respondent on June 14, 1976. Respondent formerly maintained a medical practice in Woodstock, Illinois. Agent Miller went to Respondent's office to see if Respondent would give him a prescription unlawfully. Respondent, without examining the Agent or asking for a medical history, wrote a prescription for Agent Miller for Tuinal and one for Seconal. Agent Miller subsequently returned to Respondent's office on four other occasions between June 23, and July 21, 1976. Each time, Agent Miller obtained prescriptions for various controlled substances without any attempt at demonstrating a legitimate medical need. On several occasions, Respondent wrote these prescriptions for persons who were not present and whom Respondent had never seen and then gave these prescriptions to Agent Miller.

On July 25, 1977, Respondent pled guilty to three out of ten counts of an indictment charging him with delivery of controlled substances. He was adjudged and convicted in the Circuit Court of McHenry County, Illinois, of three felony counts of delivery of controlled substances in violation of section 1401, Chapter 56½, Illinois Revised Statutes. Respondent was sentenced to three years probation. Therefore, there is a statutory basis for revocation of Respondent's registration under 21 U.S.C. 824(a)(2).

In September 1977, after his conviction, Respondent and Illinois State licensing authorities entered into a Consent Order whereby Respondent agreed to a voluntary indefinite suspension of his medical practice

license beginning October 1, 1977, and to an indefinite suspension of his right to utilize controlled substances in medical practice. The suspensions ended in March 1978. Dr. Foresman's license was restored on a probationary basis for three years beginning March 10, 1978. There were specified terms of that probation, among them being that he would not prescribe certain controlled substances during the period.

On July 13, 1978, Respondent signed a DEA Form 104, Voluntary Surrender of Controlled Substances Privileges, consenting to the revocation of his Federal "2N" schedule privileges. Thereafter, Respondent signed and submitted DEA applications for registration and submitted DEA applications for registration in 1978, 1980, 1981 and 1982. On the 1978, 1980 and 1982 applications, Respondent indicated that he had never been convicted of a controlled substances-related felony and that he had never surrendered a DEA registration. However, he indicated on the 1981 application that he had been so convicted and that he had made such a surrender. A registration may be revoked upon a finding that the registrant has materially falsified any application for registration. 21 U.S.C. 824(a)(1). The Administrative Law Judge concluded that although there is a lawful basis for revoking Respondent's DEA registration by reason of his felony convictions, the case has not been established with respect to the charges of *material* falsification of applications.

Judge Young did not recommend revocation. There is no question that in 1976 Respondent habitually wrote prescriptions for controlled substances without any legitimate medical need for any of these prescriptions. It was evident that Respondent was aware that what he was doing was wrong. He asked Agent Miller if he scraped the labels off the vials after the prescriptions had been filled. Respondent also repeatedly expressed his concern about state authorities noticing the high volume of triplicate (Schedule II) prescriptions he was writing.

The Administrative Law Judge feels however that Respondent has been making a determined and successful effort to turn his life around for the last six years. In 1979, Respondent moved to Casey, Illinois and, after discussions, was admitted into a group practice there with three other physicians, one of whom was Dr. Eugene Johnson. During their discussions, Respondent made a full disclosure to these physicians concerning his arrest and convictions and his alcohol and drug abuse problems. The three physicians in the practice exercised peer review over Respondent and monitored closely his access to and handling of controlled substances as well as his manner of practicing medicine generally and even his personal life.

Dr. Johnson testified at the hearing in this matter that to his knowledge Respondent no longer has a drinking or drug problem. He stated that Respondent had been seeing a psychiatrist on a regular basis up until April, 1983. It is the opinion of the three physicians with whom Respondent has been working that Respondent is a qualified and competent medical internist. While under the peer review arrangement, the three other physicians never found any medication prescribed by Respondent to be unwise or unlawful. Respondent has joined the Lutheran Church and since moving to Casey, Illinois, he has remarried. The marriage appears to the community to be very sound. Just a few days before the hearing in this proceeding was held, the group practice at the clinic in Casey where Respondent had been practicing was dissolved. At the hearing Respondent indicated that his plans for the future were uncertain but he would likely remain in or near Casey and continue to practice internal medicine either alone or in association with another doctor.

Based on the foregoing evidence of rehabilitation, the Administrative Law Judge recommended that Respondent's registration not be revoked. The Government raised two exceptions to Judge Young's opinion and recommended decision. First, the recommended ruling did not take sufficient cognizance of Respondent's current situation. The management of the medical center in Casey, Illinois was changing. Respondent is uncertain whether he will continue working for the center under the new management. Clearly, the close supervision that Dr. Johnson and his colleagues exercised over Respondent has come to an end. In light of Respondent's past experience with controlled substances and his current uncertainties the Government does not believe the time has arrived for Respondent to enjoy full DEA registration. Respondent does not function well under stress. He is currently undergoing psychotherapy and is taking a noncontrolled antidepressant. Respondent described the hearing as "quite a strain." The Government concludes that it might be too much of a strain on Respondent to possess a full registration.

The Government's second exception is that Judge Young failed to consider other alternatives to complete registration of Respondent. The Government agrees in its exception with the Administrative Law Judge that total revocation would not necessarily serve the public health and safety. The Government recommended that Respondent be given a registration with the provision that he provide the DEA St. Louis Field Division a semiannual report of all prescriptions he wrote for controlled substances and all controlled substances dispensed. This procedure would continue for two years after which DEA would evaluate Respondent's prescribing practices and either grant him registration or proceed administratively.

The Administrator, having reviewed the record in its entirety, concludes that while the Respondent has made significant progress in his rehabilitation, he cannot yet be entrusted to handle controlled substances with no enforced DEA monitoring. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) hereby orders that DEA Certificate of Registration AF8206080 held by Robert P. Foresman, M.D. not be revoked, upon the condition that Dr. Foresman, for a period of two years commencing on February 28, 1984 submit to the St. Louis Field Division of this agency, biannual reports of all controlled substances he prescribed, dispenses and administers. Failure to comply with this condition shall result in the immediate recommencement of proceedings to revoke Respondent's registration.

Dated: February 22, 1984.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-5249 Filed 2-27-84; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43 (a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 6, 1984, E.I. du Pont de Nemours and Company (Inc.) d.b.a., Du Pont Pharmaceuticals, Pharmaceuticals Chemical Facility, Chambers Works, Building J-24, Deepwater, New Jersey, 08023, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 29, 1984.

Dated: February 21, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-5251 Filed 2-27-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

OMB Circular A-76 Cost Comparison Study

AGENCY: Office of the Assistant Secretary for Administration and Management (OASAM), Labor.

ACTION: Notice of OMB Circular A-76 Cost Comparison Study.

SUMMARY: The Directorate of Administrative Services and Safety and Health Programs (DASSHP), OASAM, has scheduled an OMB Circular A-76 cost comparison study of the Department of Labor National Office Central mailroom to begin April 2, 1984.

FOR FURTHER INFORMATION CONTACT: Ellen McClaran, 202-523-6434 or Natalie Cutler, 202-523-9174.

Dated at Washington, D.C. this 22d day of February, 1984.

Theodore Goldberg,

Director, Office of Procurement and Grant Policy.

[FR Doc. 84-5286 Filed 2-27-84; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in West Virginia

This notice announces the beginning of a new Extended Benefit Period in West Virginia, effective on February 19, 1984.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program. The Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each state unemployment compensation law provides that there is a State "on" indicator in the state for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the state trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured uneployment in the State, for the period consisting of the week ending on February 4, 1984, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the state trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on February 19, 1984.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on February 22, 1984.

Patrick J. O'Keefe,

Acting Deputy Assistant Secretary for Employment and Training.

[FR Doc. 84-2587 Filed 2-27-84; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-169-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & B, Big Stone Gap, Virginia 24219-0196 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps) to its Bullitt Mine (I.D. No. 44-00304) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that air currents used to

ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner seeks a modification of the standard to permit the use of the air currents which are used to ventilate the structures specified in the standard to also ventilate active working places, rather than coursing such air currents into the return.

3. In support of this proposed alternate method, petitioner proposes to install an MSHA-approved carbon monoxide/fire detection system with monitors in all belt haulage entries used as intake aircourses. The monitors will be installed with specific safeguards at or near each belt drive and tailpiece and at intervals not to exceed 2,500 feet on those belts where this system will replace the existing point sensor system.

4. Petitioner states that in the event that the monitoring system is deenergized, the affected area will be patrolled and physically monitored by a qualified person with carbon monoxide detecting tubes or equivalent means. Monitors and sensors will be examined once every 24 hours (daily) when belts are operating, inspected by a qualified person at intervals not to exceed 7 days, and calibrated at least every 30 calendar days.

5. The proposed alternate method would increase the differential pressure between its intake and return entries which would provide for more effective ventilation of the entire mine, including an increased capacity of the ventilation system to dilute, render harmless and carry away methane gas, coal dust and other potentially dangerous or harmful gases and/or contaminants, as well as providing better ventilation of the active workings of the mine.

6. Petitioners states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 29, 1984. Copies of the petition are available for inspection at that address.

Dated: February 16, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-5288 Filed 2-27-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-179-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & A, Big Stone Gap, Virginia 24219-0196 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps) to its Prescott No. 2 Mine (I.D. No. 44-01689) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner seeks a modification of the standard to permit the use of the air currents which are used to ventilate the structures specified in the standard to also ventilate active working places, rather than coursing such air currents into the returns.

3. In support of this proposed alternate method, petitioner proposes to install an MSHA-approved carbon monoxide/fire detection system with monitors in all belt haulage entries used as intake aircourses. The monitors will be installed with specific safeguards at or near each belt drive and tailpiece and at intervals not to exceed 3,000 feet on those belts where this system will replace the existing point sensor system.

4. Petitioner states that in the event that the monitoring system is deenergized, the affected area will be patrolled and physically monitored by a qualified person with carbon monoxide detecting tubes or equivalent means. Monitors and sensors will be examined once every 24 hours (daily) when belts are operating, inspected by a qualified person at intervals not to exceed 7 days, and calibrated at least every 30 calendar days.

5. The proposed alternate method would increase the differential pressure between its intake and return entries, which would provide for more effective ventilation of the entire mine, including an increased capacity of the ventilation system to dilute, render harmless and carry away methane gas, coal dust and other potentially dangerous or harmful gases and/or contaminants, as well as providing better ventilation of the active workings in the mine.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 727, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 29, 1984. Copies of the petition are available for inspection at that address.

Dated: February 16, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-5289 Filed 2-27-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-178-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & B, Big Stone Gap, Virginia 24219-0196 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems) to its Prescott No. 2 Mine (I.D. No. 44-01689) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensors and warning device systems provide identification of fire within each belt flight.

2. Petitioner seeks a modification of the standard to permit the use of a fire sensor and warning device system that will be capable of identification of fire by activated sensors rather than identification of fire within each belt flight.

3. As an alternate method, petitioner proposes to install an MSHA-approved carbon monoxide/fire detection system with monitors in all belt haulage entries used as intake aircourses. The monitors will be installed with specific

safeguards at or near each belt drive and tailpiece and at intervals not to exceed 3,000 feet on those belts where this system will replace the existing point sensor system.

4. Petitioner states that in the event that the monitoring system is deenergized, the affected area will be patrolled and physically monitored by a qualified person with carbon monoxide detecting tubes or equivalent means. Monitors and sensors will be examined once every 24 hours (daily) when belts are operating, inspected by a qualified person at intervals not to exceed 7 days, and calibrated at least every 30 calendar days.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 29, 1984. Copies of the petition are available for inspection at that address.

Dated: February 16, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-5290 Filed 2-27-84; 8:45 am]

BILLING CODE 4310-43-M

[Docket No. M-83-168-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & B, Big Stone Gap, Virginia 24219-0196 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems) to its Bullitt Mine (I.D. No. 44-00304) located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. Petitioner seeks a modification of the standard to permit the use of a fire sensor and warning device system that will be capable of identification of fire by activated sensors rather than identification of fire within each belt flight.

3. As an alternate method, petitioner proposes to install an MSHA-approved carbon monoxide/fire detection system with monitors in all belt haulage entries used as intake aircourses. The monitors will be installed with specific safeguards at or near each belt drive and tailpiece and at intervals not to exceed 2,500 feet on those belts where this system will replace the existing point sensor system.

4. Petitioner states that in the event that the monitoring system is deenergized, the affected area will be patrolled and physically monitored by a qualified person with carbon monioxide detecting tubes or equivalent means. Monitors and sensors will be examined once every 24 hours (daily) when belts are operating, inspected by a qualified person at intervals not to exceed 7 days, and calibrated at least every 30 calendar days.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 29, 1984. Copies of the petition are available for inspection at that address.

Dated: February 16, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-5291 Filed 2-27-84; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-9; Exemption Application No. L-4617]

Grant of Individual Exemptions; Rhode Island Laborers' Training Trust Fund

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Rhode Island Laborers' Training Trust Fund (the Plan) Located in Providence, Rhode Island

[Prohibited Transaction Exemption 84-9; Exemption Application No. L-4617]

Exemption

The restrictions of section 406(a) of the Act shall not apply to the lease of classroom and office space by the Plan from Plantation Partners, a partnership in which parties in interest with respect to the Plan own interests, provided that the terms of such lease are at least as favorable to the Plan as those which the Plan could obtain in dealing with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 19, 1983 at 48 FR 56122.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 22nd day of February, 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 84–5242 Filed 2–27–84; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3910 et al.]

Proposed Exemptions; the Great Western Savings and Subsidiaries Employees' Deferred Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exmeptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Great Western Savings and Subsidiaries Employees' Deferred Profit Sharing Plan (the Plan) Located in Seattle, Washington

[Application No. D–3910]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed purchase by the Plan of a loan participation (the Participation Interest) in a note originated and held by Great Western Union Federal Savings and Loan Association (the Employer), the sponsor of the Plan, provided that the terms and conditions of such purchase are at least as favorable to the Plan as those which the Plan cold receive in a similar transaction with an unrelated party; and (2) the possible buyback of the Participation Interest by the Employer from the Plan provided that the price the Plan will receive for the Participation Interest is at least the fair market value of the Participation Interest at the time of such buyback.

Summary of Facts and Representations

1. The Plan covers employees of the Employer and two of its wholly owned subsidiaries, Union Service Corporation and Benchmark, Inc. As of September 30, 1982, the Plan had 223 participants and assets of $3,195,946. The trustee of the Plan is the Peoples National Bank of Washington (Peoples) located in Seattle, Washington. The Employer is a federally chartered savings and loan association which is a mutual association which has no capital stock or shareholders. As a federally chartered association, the Employer is regulated, supervised and examined by the Federal Home Loan Bank Board (the Bank Board). In addition, the Employer is regulated by the Federal Savings and Loan Insurance Corporation (the FSLIC). The applicant represents that audits and examinations covered by the Bank Board and the FSLIC confirm loan balances, verify that loans are not in default and review the collateral for all loans made by the Employer.

2. The applicant is requesting an exemption which will permit the Plan to buy the Participation Interest. The Participation Interest is a 17 percent interest in a loan (the Loan) made by and held by the Employer to Crossroads Properties (Crossroads) a Washington State limited partnership. Crossroads and its partners are unrelated to the Employer and the Plan. The Loan is an all inclusive or wrap around loan of $8,915,432 which wraps around existing encumbrances of $3,115,432. The primary security for the Loan is the Crossroads Shopping Center (the Property) located in Bellevue, Washington. An independent party, Keith Riely (Riely) of Shorett & Riely real estate appraisers located in Seattle, Washington appraised the Property on April 30, 1982. Riely represents that as of April 30, 1982 the fair market value of the Property was $19,225,000. Two individual partners in Crossroads Properties, Mr. Dick Willard and Mr. George E. Bell, executed the Loan documents including the promissory note as co-makers. The applicant represents that the net worth of these two individuals exclusive of their interests in the Property is, in the aggregate, approximately $8.5 million. The Loan is protected with title insurance issued by Pioneer National Title Insurance Company in the amount of $8,961,000. The Loan is further secured by a security interest in all equipment, fixtures and consumer goods located on the Property and an assignment of all leases and rents. The Loan is payable in full on September 16, 1990. The Loan provides for a base rate of interest of 16¼ percent on disbursed funds ($5,800,000) with contingent interest on an annual basis equal to 4.5 percent of the total gross income received from the Property in excess of $2,260,000.00. The monthly payments of $79,166.21 include interest and principal amortized over a 30-year period. Payments in addition to the required monthly payments are not permitted during the first year. Thereafter, additional payments may be made upon payment of a prepayment penalty equal to 60 days' additional interest on the amount repaid multiplied by the number of years or fractions thereof between the date of repayment and the maturity of the Loan.

3. The Plan proposes to buy the Participation Interest for cash in the amount of $986,000. The Plan will receive a fee of $9,860 from the Employer for purchasing the Participation Interest. At the purchase price of $986,000, the Plan will receive interest at the rate of 16% per annum on the unpaid principal amount of the Participation Interest plus 17% of all principal payments, prepayment fees and contingent interest based on revenues of the Property above $2,260,000 a year. The applicant represents that the sale price and the 16% rate of interest are current fair market value and the current market rate of interest for this type of investment. The Employer will service the Loan and pay all costs incident thereto as well as any costs or expenses which may be incurred to protect the collateral securing the Loan or to enforce the terms of the Loan documents. In the event of default, the Plan may require the Employer to repurchase the Participation Interest for the unpaid principal amount thereof or the market value, whichever is greater, plus accrued interest.

4. Peoples, actings as an independent fiduciary of the Plan, has examined the proposed transaction and certifies that the purchase of the Participation Interest by the Plan is in the best interests of the participants and beneficiaries of the Plan. In addition, Peoples certifies that the terms and conditions of the proposed transaction, including the interest rate, are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party. Peoples will also have the authority to enforce the buyback provisions of the proposed transaction.

5. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act as follows: (1) the trustee of the Plan represents that it is in the best interests of the participants and beneficiaries of the Plan; (2) the transaction has been approved by an independent fiduciary of the Plan; and (3) the Plan will receive a high rate of return on an investment which is secured by adequate real property and personal guarantees.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

Edward Goldfarb, M.D., S.C. Profit Sharing Plan and Trust (the Plan) Located in Chicago, Illinois

[Application No. D-4180]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale by the Plan for $25,000 of a limited partnership interest (the Limited Partnership Interest) to Dr. Edward Goldfarb (Dr. Goldfarb), provided the amount paid is not less than the fair market value of the Limited Partnership Interest on the date of sale.[1]

Summary of Facts and Representations

1. The Plan is a profit sharing plan having $193,760 in total assets as of February 28, 1982 and Dr. Goldfarb as its sole participant. Dr. Goldfarb is the Plan trustee and decision maker with respect to the Plan's investments. The Employer is a medical corporation engaged in the practice of psychiatry.

2. On June 12, 1981, the Plan purchased 25 units, at $1,000 a unit, in WH Venture (WH Venture), an Illinois limited partnership. WH Venture was organized to purchase real property located in Philadelphia, Pennsylvania, to construct thereon a development containing 333 condominium units and to sell those units to unrelated parties. None of the partners of WH Venture are disqualified persons with respect to the Plan. The acquisition of the units gave the Plan a Limited Partnership Interest in .88 percent of the capital and .79 percent of the profits and losses of WH Venture.

[1] Since Dr. Goldfarb is the sole shareholder of Edward Goldfarb, M.D., S.C. (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

3. At the time the Plan invested in WH Venture, it was anticipated that the condominium units would be sold soon after construction was completed. It was also anticipated that the sales of the condominium units would generate a profit of at least twice the Plan's investment in a period of about two years. However, Dr. Goldfarb was informed by Mr. Joseph Moss (Mr. Moss), principal officer of 2020 Walnut Street Corporation, the General Partner of WH Venture, that because of the severe deterioration of the residential real estate market, the units would be rented for a period of time before sales were attempted. Therefore, the gain, if any, to be realized by the Plan was to be postponed indefinitely.

4. Dr. Goldfarb has attempted to sell the units through Mr. Moss but he has been informed that there are no prospective buyers. Accordingly, Dr. Goldfarb has offered to purchase the Plan's Limited Partnership Interst in WH Venture for $25,000. The purchase price will be paid by Dr. Goldfarb in cash; the Plan will not be required to incur any commissions or fees in connection therewith.

5. In a letter dated August 29, 1983, Mr. Moss states that the Limited Partnership Interest is worth not more than $25,000 in view of the deterioration of the condominium market in the area where WH Venture has its operations. He notes that thre is no ready market at this time for secondary purchases of minority limited partneship interests in WH Venture. Furthermore, he believes that no partnership interests of the WH Venture have been sold since the original subscription.

6. Based on the financial statements for the year ending December 31, 1982, WH Venture had a net value of $2,641,418. WH Venture also derived no income during this period and its major expense was the amortization of certain loan costs. Since there were no profits and losses for WH Venture, the value of the Plan's interest in the property (after considering the undepreciated costs of the acquisition at current prices of a building yet to be completed) was determined to be $23,334. This amount represented the Plan's interest in the capital of WH Venture. The $25,000 purchase price would therefore be the maximum value of the Plan's Limited Partnership Interest.

7. In summary, it is represented that the proposed transaction will satisfy the terms and conditions of section 4975(c)(2) of the Code because: (a) The Limited Partnership Interest will be sold at its fair market value; (b) the sale represents a one-time transaction for cash which can be verified easily; (c) the sale will not require the payment of any commissions by the Plan; and (d) the only participant effected by the transaction is Dr. Goldfarb, who approves of the transaction and desires that it be consummated.

Notice to Interested Persons: Since Dr. Goldfarb is the only Plan participant affected by the proposed transaction it has been determined that there is no need to distribute notice to interested persons. Comments and hearing requests are due 30 days after the date of publication of the proposed exemption in the **Federal Register.**

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Burlington Northern Inc. Pension Trust Indenture Number Two (Indenture Trust) Located in Seattle, Washington

[Application No. D–4499]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Indenture Trust of a promissory note to Burlington Northern, Inc. (The Employer) for a cash price of the higher of $9,389,000 or its appraised value on the date of sale, provided that the amount received by the Indenture Trust is no less than the fair market value of the promissory note on the date of the sale.

Summary of Facts and Representations

1. The Burlington Northern Railroad Company Pension Plan (the Railroad Plan) and the Burlington Northern Inc. Pension Plan (the Burlington Plan; collectively referred to as the Plans) are noncontributory defined benefit pension plans maintained for the benefit of the employees of the Employer and various of its subsidiaries. The Plans have undivided interests in the assets and earnings of the Burlington Northern Inc. Pension Trust (the Master Trust). Pursuant to section 4.7 of the the Master Trust, a portion of the assets under the the Master Trust have been distributed to, are held and administered under the terms of a separate trust agreement known as the Indenture Trust.

2. The total number of participants in the Plans as of December 31, 1981 was 11,739 for the Railroad Plan and 2,700 for the Burlington Plan. The Master Trust had total assets of $210,447,585.49 as of December 31, 1982. First Trust Company of Saint Paul, a Minnesota corporation, serves as trustee of the Master Trust. The Employer serves as the trustee of the Indenture Trust. Investment decisions are made by the Employer who is charged with this responsibility pursuant to section 7.1 of the Indenture Trust.

3. The Employer proposes to acquire from the Indenture Trust a promissory note dated April 19, 1982 (the Note), made by Boulders/Carefree Partners (Boulders), an Arizona limited Partnership,[2] in favor of the Employer as trustee, in the original principal amount of $7,500,000 bearing a fixed interest rate of 9 percent per annum plus an additional interest amount based upon the appreciation of the real property securing the Note. The real property consists of approximately 630 acres of land owned by Boulders in Carefree, Arizona (the Property). The funds loaned by the Indenture Trust to Boulders and evidenced by the Note were used by Boulders to discharge existing indebtedness against the Property and to finance the construction of a resort hotel, clubhouse, a twenty-seven hole golf course and 845 residential and commercial lots and other improvements on the Property. The Noted is secured by a lien on the Property created by a Deed of Trust and Security Agreement, a Loan Agreement, and an Assignment of Leases and Rents, all dated April 19, 1982.

4. The Employer proposes to purchase for cash the Note from the Tustee for its fair market value. Touche Ross & Company's Phoenix Arizona office (Touche Ross) appraised the Note to have a fair market value of $9,389,000 as of April 1, 1983. Touche Ross is a certified public accounting firm which is unrelated ot the Employer. In arriving at this value for the Note, Touche Ross reviewed the Note, the Deed of Trust and Security Agreement, the Loan Agreement, an appraisal of the Property, and a UCC Commercial Code Financing Statement.[3] The Employer proposes to pay the Indenture Trust the higher of $9,389,000 or the appraised value of the Note on the date of sale.

[2] The applicant represents that the partners of Boulders are unrelatd to the Employer, the Master Trust, and the Indenture Trust.

[3] Touche Ross represents that in arriving at its opinion of the fair market value of the Note, it utilized the concept of fair market value as set forth in the Code.

5. Boulders has indicated that the funds loaned by the Indenture Trust and evidenced by the Note are not sufficient to complete the proposed development of the Property. The Employer as trustee does not believe that it would be in the best intererst of the Plans' participants and their beneficiaries nor prudent to provide additional funding to Boulders, and it is unlikely that Boulders could obtain additional funds from another lender unless the Indenture Trust is willing to subordinate its security interest in the underlying real property to that lender. Accordingly, if the Employer purchases the Note at its current fair market value from the Indenture Trust, the Indenture Trust would, it is represented, earn a fair and reasonable return on its invested funds without being subjected to additional risk and the Employer would have more flexibility as its would be in a position to provide additional funds for the project or could subordinate its security interest in the project so that other financing could be arranged and the project completed.

6. A party independent of the Employer, Mr. Steven R. Matthews (Mr. Matthews) an actuary and partner in the firm of Matthew & Associates, Inc., actuarial, pension and employee benefit consultants, located in Phoenix, Arizona, has determined as a Plan Fiduciary that the proposed transaction would be in the best interests of the Indenture Trusts' participants and beneficiaries. Mr. Matthews, who has been involved in the pension, actuarial and qualified plan administrative field for the last 9 years, is unrelated to the parties to the proposed transaction. In arriving at his determination, Mr. Matthews reviewed, among othr items, the exemption application, financial statements of the Plans, the Note and related documents, and appraisals of the Note and the Property.

7. In summary, the applicant represents that the proposed transaction satisifies the statutory criteria of section 408(a) of the Act because:

(a) it will be a one time transaction for cash;

(b) the Indenture Trust will receive the higher of $9,389,000 or the appraised value of the Note on the date of sale; and

(c) an independent fiduciary has examined the proposed transaction and represents that the transaction is the best interest of the participants and beneficiaries of the Indenture Trust.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Connelly Containers, Inc. Retirement Income Plan (the Plan) Located in Bala-Cynwyd, Pennsylvania

[Application No. D-4600]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loan of $500,000 by the Plan to Connelly Containers, Inc. (the Employer) for a period of five years, provided that the terms of the loan are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party on the date of the consummation of the transaction.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with approximately 178 participants. The trustees of the Plan are Joseph Donahue, Leon Wojnowski and Charles Young (the Trustees). The Plan had total assets of $4,704,278 as of October 20, 1982.[4]

2. The Employer is a Delaware corporation engaged in the business of manufacturing fibreboard, corrugated cartons and shipping containers.

3. The Employer borrowed $500,000 from Central Penn National Bank (the Bank) at the prime rate of interest. Of this amount, $460,000 was used to purchase an item of machinery known as the "fingerless single phaser". The balance of the Bank loan was used as part of the purchase price for an IBM Systems computer which the Employer had been leasing.

4. The applicant proposes that the Plan make a loan of $500,000 (the Loan) to the Employer. The Loan will represent approximately 11 percent of the total assets of the Plan. The proceeds of the Loan will be used to repay the funds borrowed by the Employer from the Bank.

5. The interest rate for the Loan will be ¼ percent above the prime rate of interest charged by the Bank, but in no event will the interest rate be less than 10 percent. The interest rate will be adjusted quarterly. The Loan will be repaid in equal monthly installments of principal and interest over a five year period.

6. The Loan will be secured by the Employer's granting of a first security interest in three Langston "A" flute single facers which have a fair market value of $600,000. Further, the Loan will be guaranteed by Connelly Containers of Philadelphia, Inc., a wholly owned subsidiary of the Employer (the Subsidiary). As security for this guarantee, the Subsidiary will grant a first security interest in a Fourdrinier paper machine which has a fair market value of $700,000. An independent appraisal performed by Jacobs Machinery Corporation (Jacobs) established the total fair market value of the collateral at $1,300,000 as of June 3, 1983. Jacobs represents that it believes it could obtain $600,000 and $700,000 for the previously described equipment in a sale on the open market.

7. Mr. John A. Parese, a partner in the law firm of Parrett, Porto and Parese, P.C., will serve as the independent fiduciary for the Loan (The Independent Fiduciary). He represents that he is not presently, nor has he ever been, retained by the Employer to perform legal services for the Employer and will not perform any such services during his tenure as Independent Fiduciary. The Independent Fiduciary certifies that he is knowledgeable concerning his duties and responsibilities as an independent trustee under the Act.

8. The Independent Fiduciary represents that he has examined the entire investment portfolio of the Plan and has determined that the Loan is consistent with the overall investment objectives of the Plan.

9. The Independent Fiduciary will carefully monitor the repayment of the Loan, assuring that the periodic payments are timely made. He will further have the authority to sell the collateral should there be a default in the Loan, and will not hesitate to promptly exercise the rights of the Plan as a secured party with respect to the collateral. The Independent Fiduciary will monitor the amount of insurance on the Collateral and will periodically obtain evidence that such insurance is currently in effect.

10. The Independent Fiduciary represents that he has examined the

[4] The Plan owns 156,057 shares of the common stock of the Employer (the Stock). This represents approximately 11 percent of the outstanding stock of the Employer and approximately 21 percent of the assets of the Plan. The applicant represents that the Trustees will closely monitor the market value of the Stock in relation to the market value of total Plan assets between now and December 31, 1984. The Trustees will arrange for and effect the sale of the Stock necessary to bring the Plan's holdings within the 10 percent limitation of section 407 of the Act by December 31, 1984.

appraisals of the collateral and is assured that the value of the Collateral is and will remain equal to 150% of the amount of the Loan.

11. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The Loan is consistent with the overall investment objectives of the Plan;

(2) The Loan will be adequately secured; and

(3) The Plan's Independent Fiduciary has determined that the Loan is in the interests of and protective of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll–free number.)

Robert Sterman, an Accountancy Corporation Defined Benefit Pension Plan (the Plan) Located in Santa Ana, California

[Application No. D–4608]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a parcel of real property (the Property), located at 22395 Salmeron, Mission Viejo, California, by the Plan to Mr. Robert Sterman (Mr. Sterman), a disqualified person with respect to the Plan, provided the price paid is no less than the fair market value of the Property on the date of sale.[5]

Summary of Facts and Representations

1. The Plan is a defined benefit plan that has one participant and total assets of $520,621 as of August 31, 1982. The investment decisions of the Plan are made by Mr. Sterman, as trustee (the Trustee).

2. On April 27, 1981, the Trustee of the Plan made a third mortgage loan of $30,000 (the Mortgage) to Randall J. Russell (the Borrower), an unrelated party and mortgagor of the Property. The Mortgage was secured by a third deed of trust (Deed of Trust) on the Property. It is represented that the holder of the first and second mortgages are unrelated to the parties to the transaction. The Borrower made payments to and including April, 1982 to the Plan, at which time the Borrower defaulted. On July 28, 1982, the Plan filed Notice of Default and Election to Sell under the Deed of Trust. In order to protect its interest in the Property, the Plan had to continue to incur monthly expenses of approximately $972, which included $726 for default payments under the first mortgage. On October 15, 1982, the Borrower filed a Chapter 11 bankruptcy proceeding preventing the sale of the Property. The Plan then proceeded to petition the court to obtain relief. On January 17, 1983, the court allowed the sale of the Property to proceed. On February 14, 1983, the Plan became the owner of the Property. After numerous consultations with real estate brokers in the area of the Property, The trustee determined that the Property could not be effectively sold at a reasonable price in the near future.

3. On April 5, 1983, the Plan entered into a lease with an unrelated party to rent the Property for $975 per month. All related costs and expenses (mortgage payments to cover the first mortgage, payment of the second mortgage, property taxes, etc.) of the Property, as of June 25, 1983, amounted to $108,527. On the total cash outlay of $108,527, the Plan is receiving an annual return of $33.

4. In addition to the fact the Property is low income producing, the Plan is indebted to the holder of the first mortgage for $81,000. The Trustee, therefore, proposes to sell the Property to himself, as an individual, for $190,000 in cash. No sales commissions will be paid by the Plan. An appraisal of the Property performed by Frank Jandel of Lenders Appraisal Service, Newport Beach, California, on October 15, 1982, valued the Property at $190,000.

5. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) It is a one time transaction for cash; (b) no sales commission will be paid by the Plan; and (c) the Trustee has determined that the proposed transaction would be appropriate for the Plan and in the best interest of himself as the Plan's only participant and his beneficiaries.

Notice to Interested Persons

Because Mr. Sterman is the sole shareholder of the Employer and the only participant in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Jan Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Richard O'Connell & Co. Profit Sharing Trust (the Plan) Located in Coral Gables, Florida

[Application No. D–4655]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of certain parcels of unimproved real properties by the Plan to Richard O'Connell, a disqualified person with respect to the Plan, provided the price paid is not less than the fair market value of the properties on the date of sale. Since Mr. O'Connell is the sole shareholder of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3 (b) and (c)(1). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Summary of Facts and Representations

1. The Plan is a profit sharing plan that has one participant and had net assets of $422,638 as of March 31, 1982. The investment decisions are made by the Plan's trustee (the Trustee), Mr. O'Connell, the sole shareholder of Richard O'Connell & Co. (the Employer). The Employer is involved in the business of investing the company's assets in a portfolio, including real estate, stocks, bonds, etc.

2. On April 23, 1982, the Trustee purchased a parcel of real property (Property I), located at 230 S.W. 11th Street, Miami, Florida, from an unrelated party for $210,000, subject to an original mortgage of $147,000. On May 27, 1982, the Trustee purchased a second parcel of real property (Property II), located at 246 S.W. 11th Street, Miami, Florida, from another unrelated party for $103,000, subject to an original mortgage of $72,100. Property I and Property II are adjoining.

[5] Since Robert Sterman is the sole stockholder of Robert Stermam, an Acountancy Corporation (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

3. Since the dates of acquisition of Property I and Property II (the Properties), the Properties' return on investment to the Plan has been and continues to be minimal and the Properties themselves continue to remain substantially undeveloped with limited additional appreciation foreseeable in the future. The Properties are currently rented to an unrelated third party for $400 per month. As of August 19, 1983, the Plan's cash outlay (cash downpayments on original acquisitions, interest and taxes) for the Properties amounted to approximately $130,000.

4. In addition to the fact that the return on investment from the Properties is minimal and the Properties are substantially undeveloped, the Trustee believes that the Plan does not have the capabilities nor the credit rating necessary to develop the Properties. The Trustee, therefore, proposes to sell the Properties in total to himself, as an individual, for $375,000 in cash, less the outstanding mortgages on the Properties. It is represented that the current lienholders of the Properties will allow the existing mortgages to be assumed by Mr. O'Connell without any additional cost or prepayment penalty to the Plan. No sales commissions will be charged with respect to the Plan. An appraisal performed by Sergio Macia (Mr. Macia) of the Dorman Jason Company, Miami, Florida, on May 13, 1983, valued the Properties at a total value of $375,000.

5. In summary, the applicant represents that the proposed transaction satisfies section 4975(c)(2) of the Code due to the following: (a) It is a one-time transaction for cash; (b) the sales price is equal to the total fair market value of the Properties, which value was determined by an independent appraiser; (c) no sales commissions will be charged with respect to the Plan; and (d) the only participant affected by the transaction is Mr. O'Connell and he desires that the transaction be consummated.

Notice To Interested Persons: Since Mr. O'Connell is the only participant affected by the transaction, there is no need to distribute notice to interested persons. Comments and hearing requests are due 30 days after the date of publication in the **Federal Register.**

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Huntington Mechanical Laboratories, Inc. Defined Benefit Pension Plan and Huntington Mechanical Laboratories, Inc. Profit Sharing Plan (the Plans) Located in Mountain View, California

[Application Nos. D–4675 and D–4676]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, for a period of five years, to the proposed loans by the Plans of up to 25% of their assets to Huntington Mechanical Laboratories, Inc. (the Employer), provided that the terms of the transactions are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted will expire five years after the date of grant with respect to the making of any loan. Subsequent to the expiration of this exemption, the Plans may hold loans originated during this five year period for an additional five years. Should the applicant wish to continue entering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

Summary of Facts and Representations

1. The Plans are a pension plan and a profit sharing plan with each plan having 22 participants. The Plans' assets are commingled into one trust fund with combined net assets as of March 31, 1983 of $690,867.21. The Plans' trustee is the Bank of America. The Employer is a California corporation involved in the manufacture of ultra high vacuum research equipment.

2. The Employer in its normal course of business borrows funds, pursuant to a $300,000.00 line of credit (which has been up to $500,000.00 at certain times), from the Bank of America. These loans are secured by the Employer's accounts receivable and inventory. The Employer currently has between $300,000.00 and $400,000.00 in loans outstanding with the Bank of America. The Bank of America generally charges the Employer an interest rate on these loans of the prime rate plus 2%.

3. The Bank of America, as the Plans' trustee, proposes to make a series of loans to the Employer involving up to 25% of the Plans' assets. The loans will replace part of the Employer's line of credit with the Bank of America. The Employer proposes to use the loan proceeds for leasehold improvements such as office space, equipment and machinery. In addition, the loan proceeds would be used to purchase new equipment and pay off the loans on existing equipment.

4. The proposed loans would be administered on a monthly basis with a pro rata portion of the principal amount of the loans plus interest on the total unpaid balance accrued to date, being repaid to the Plans at the end of each month. The loan agreement would provide that the Employer could borrow up to an aggregate of 25% of the Plans' assets. The loans will occur over a period of 5 years and each loan would have a maturity date which will not exceed 5 years beyond the exemption period.

The interest rate for such loans will be adjusted quarterly by the independent fiduciary appointed by the Plans (see paragraph 7, below) and will be 2% above the prime rate charged by the Bank of America on the first day of the last month of such quarter with a guaranteed minimum rate of 11%.

5. The loans will be secured by all of the inventory of the Employer which consists of approximately 1,500 different types of equipment.[6] Examples of such equipment are valves, fittings, ceramic feed through gaskets, bellows, filtering liquid nitrogen controllers and thermocoupling tubes, presently owned or hereafter to be owned by the Employer (the Collateral). The Plans will have a perfected first security interest in the Collateral through the execution and filing by the Employer of security agreements on behalf of the Plans. The Employer will incur all costs necessary to obtain and preserve the Collateral, including, but not limited to, the paying of all taxes, assessments, insurance premiums, rent and storage costs. The Employer will warrant to own throughout the term of the loans all Collateral free from any adverse claims, security interest or encumbrances. The Collateral will be kept fully insured throughout the term of the loans, and the Plans will be named the insured to the

[6] The Bank of America has agreed to give up the inventory as collateral and will only require the employer to secure its loans with accounts receivable and a secondary interest in equipment.

extent necessary to collateralize outstanding loans.

6. The Bank of America, as the Plans' trustee, will use loan documents which are similar to those currently being used by it and the Employer. The loan documents will indicate that the loan is secured by inventory of the Employer in an amount not less than 250% of the outstanding loan value. The principal balance of the loan will be reduced in amount if the inventory ever falls below an amount equal to 250% of the outstanding principal balance of the loan so that the inventory used to secure the loan will always be not less than 250% of the outstanding principal balance of the loan.

The Employer will have the inventory used for such Collateral independently appraised no less frequently than once a year to determine the value of the Collateral. The Employer will bear all and any expense to have such an appraisal made.

7. Mr. James Perisho, C.P.A. (Mr. Perisho), of Hayes, Perisho & McCarthy Accountancy Corporation of Sunnyvale, California, has agreed to serve as an independent fiduciary for the proposed loans.[7] Mr. Perisho represents that he has been advised by legal counsel of his responsibilities and potential liabilities in serving as an independent fiduciary.

Mr. Perisho represents that after examining the terms of the proposed loans and the history of the Employer and the Plans, he has determined that such loans would be appropriate and suitable for the Plans. Mr. Perisho represents that he will make the same determination immediately prior to the consummation of each loan transaction taking into account the facts and circumstances at the time of such proposed loan transaction. In arriving at this conclusion he has reviewed the proposed loans with respect to: (a) The Plans' overall investment portfolio, (b) the cash flow needs of the Plans, (c) the necessity of the sale of any of the Plans' assets, (d) the diversification of the Plans' assets, both before and after such loan and (e) the terms of the loan as such terms conform with the Plans' investment policy. Mr. Perisho represents that the proposed interest rate of 2% above the prime rate charged by the Bank of America with a guaranteed minimum of 11% is sufficient considering the amount of Collateral securing the loans.

Mr. Perisho has agreed to accept the responsibility to enforce the terms of the loan agreement between the Employer and the Plans, including making demand for timely payment, bringing suit or other appropriate process against the Employer in the event of default, and keeping accurate records and reporting annually to the Bank of America, as the Plans' trustee, on the performance of the loans. Mr. Perisho will take whatever steps are necessary during the year to ensure that the value of the Collateral remains equal to at least 250% of the outstanding balance of the loans during the duration of the loans.

8. In summary the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loans will be approved and monitored by an independent fiduciary;

(b) The loans will be secured by Collateral which at all times will be at least equal to 250% of the outstanding loan balances;

(c) The exemption will be for a 5 year period with a repayment date not to exceed 10 years from the date of grant of the exemption; and

(d) The Plans' independent fiduciary has determined that the transactions are appropriate and suitable for the Plans, in the best interests of the Plans' participants and beneficiaries, and protective of their rights.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Martin Bergmann, M.D. Inc. Pension Plan (the Pension Plan) and the Martin Bergmann, M.D. Inc. Defined Benefit Pension Plan (the Defined Benefit Plan; collectively, the Plans) Located in St. Louis, Missouri

[Application Nos. D–4681 and D–4682]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale to the Plans of a promissory note by Dr. Martin Bergmann (Dr. Bergmann), provided that the terms of the transaction are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party.[8]

Summary of Facts and Representations

1. Dr. Bergmann, the sole participant in the Plans, owns 100 percent of the stock of the Employer and is a member of the pension committee of each Plan along with his wife Jacquette Bergmann. The Pension Plan had total assets of $367,007.57 and the Defined Benefit Plan $193,504.63 as of August 20, 1983.

2. Dr. and Mrs. Bergmann own a promissory note (the Note) in the amount of $80,000. The makers of the Note are Gary E. Miller and Eileen Miller, unrelated parties. The Note is secured by a second deed of trust on a parcel of real property (the Property) located at 233 South Warson Road, St. Louis, Missouri. The Note pays interest at the rate of 9½ percent annum, however, only one-half of the interest, or $3,800, is paid each year until maturity of the Note on November 30, 1984, when the entire principal balance of the Note plus accrued and defered interest shall be due and payable.

3. Dr. and Mrs. Bergmann propose to sell the Note to the Plans for its fair market value. Mr. Russell J. Novoson (Mr. Novoson) of Dubinsky Realty Company of St. Louis, Missouri, appraised the Note to have a value of $86,104 as of June 1, 1983. Mr. Glenn R. Clemson (Mr. Clemson), Vice-President of Charterbank of Ladue, St. Louis, Missouri, appraised the Note to have a value of $87,637.84 as of May 23, 1983. The Plans will receive updated appraisals from the above mentioned appraisers and will pay Dr. and Mrs. Bergmann the lower of the two appraisals for the Note. Mr. Clemson states that the Note is valued at an amount higher than its face value because one half the interest due is defferred and added to principal. His appraisal of the Note reflects a return of 15.6 percent and Mr. Novoson's appraisal reflects a return of 16 percent. It is proposed that the Pension Plan will purchase one-third of the Note and the Defined Benefit Plan will purchase two-thirds.

4. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 4975(c)(2) of the Code because:

(a) The Plans will pay the lower of two appraisals for the Note; and

[7] The applicant represents that Mr. Perisho's accounting firm conducts an annual examination of the Employer's financial statements but does not provide any accounting services for the Plans. This work comprises less than 1.5 percent of the firm's business ($35,000 out of $2.5 million in billings).

[8] Sence Dr. Bergmann is the sole stockholder of Martin Bergmann, M.D., Inc. (the Employer) and the only participant in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

(b) Dr. Bergmann as the sole participant in the Plans is the only person to be affected by the proposed transaction and he desires that the transaction be consummated.

Notice to Interested Persons

Because Dr. Bergmann is the sole shareholder of the Employer and the only participant in the Plans, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of the notice of proposed exemption.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 22nd day of February, 1984.

Alan D. Lebowitz

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 84–5240 Filed 2–27–84; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–4503]

Withdrawal of the Proposed Exemption Involving the Eye and Ear Clinic of Charleston, Inc. Pension Plan, (the Plan) Located in Charleston, West Virginia

In the Federal Register dated October 14, 1983 (48 FR 46897), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency involved a transaction which was the subject of an exemption application filed on behalf of the Plan.

The applicant's representative notified the Department in a letter dated November 28, 1983, that an exemption for the transaction described in the above cited notice was no longer sought because the transaction was not now feasible. Accordingly, the representative requested that the application for exemption be withdrawn from consideration by the Department.

The request for withdrawal is hereby granted.

Signed at Washington, D.C. this 23rd day of February, 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Program, Labor-Management Services Administration, Department of Labor.

[FR Doc. 84–5241 Filed 2–27–84; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Appointment of Members to the Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Appointment of Members to the Performance Review Board.

SUMMARY: This notice publishes the names of current Performance Review Board Members as required by 5 U.S.C 4314(c)(4)

The following persons have been appointed to, and will serve on the Performance Review Board for Senior Executives in the U.S. Merit Systems Protection Board: Alvin Golub, Harlod Kessler, Dr. Samuel Lin, R.J. Payne, and Evangeline Swift.

EFFECTIVE DATE: February 28, 1984.

FOR FURTHER INFORMATION CONTACT: Frederick L. Foley, Director, Office of Personnel, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419. (653–5916).

For the Board:

Herbert E. Ellingwood,

Chairman.

February 21, 1984.

[FR Doc. 84–5275 Filed 2–27–84; 8:45 am]

BILLING CODE 7400–01–M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Public Meeting

Date: Tuesday, March 20, 1984.

Place: Russell Senate Office Building, Room SR–253 (old 235), Constitution Avenue and First Street, N.E., Washington, D.C. 20510.

Time: 10:00 a.m.

Purpose: To provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

For further information contact: Gary D. Dunbar, Executive Director, Motor Carrier Ratemaking Study Commission, 100 Indiana Avenue, N.W., Washington, D.C. 20001. Phone No.: (202) 724–9600.

Submitted this the 23rd day of February, 1984.

Gary D. Dunbar,

Executive Director.

[FR Doc. 84–5197 Filed 2–27–84; 8:45 am]

BILLING CODE 6820–BD–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on January 25, 1984 (49 FR 3151). Individual authorities established or revoked under Schedules A, B, or C between January 1, 1984 and January 31, 1984 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

Department of the Army

One Deputy Director of Alumni Affairs, GS–301–12, at the U.S. Military Academy, West Point, New York. Effective January 13, 1984.

Department of Defense

Up to two positions of Accounting Fellow, Auditor, GM–511–14, filled under the Defense Contract Audit Agency's Accounting Fellowship Program. Appointments under this authority may not exceed 2 years. Effective January 27, 1984.

Schedule B

The following exception is established:

National Endowment for the Humanities

One Humanist Administrator, Humanities Projects in Museums and Historical Organizations, Division of General Programs. Employment under this authority may not exceed 1 year. Effective January 20, 1984.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective January 3, 1984.

One Confidential Assistant to the Administrator, Office of International Cooperation and Development. Effective January 9, 1984.

One Confidential Assistant to the General Counsel, Office of the General Counsel. Effective January 20, 1984.

One Administrative Resources Coordinator to the Assistant Secretary for Administration. Effective January 27, 1984.

Department of the Air Force

One Secretary (Stenography) to the Assistant to the Vice President for National Affairs. Effective January 3, 1984.

Department of Commerce

One Confidential Assistant to the Deputy Assistant Secretary for Export Administration, International Trade Administration. Effective January 3, 1984.

One Confidential Aide to the Special Assistant to the Secretary, Office of the Secretary. Effective January 4, 1984.

One Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration, Effective January 17, 1984.

One Confidential Assistant to the Under Secretary, International Trade Administration. Effective January 20, 1984.

Department of Defense

One Private Secretary to the Secretary of Defense Representative on Mutual and Balanced Force Reduction and Conference on Security and Cooperation in Europe. Effective January 13, 1984.

One Private Secretary to the Under Secretary of Defense (Policy), Office of the Under Secretary of Defense for Policy. Effective January 17, 1984.

Department of Education

One Deputy Director, Postsecondary Relations Staff, Office of Postsecondary Education. Effective January 13, 1984.

One Secretary's Regional Representative to the Under Secretary in Chicago, Illinois, Office of the Under Secretary. Effective January 16, 1984.

One Personal Assistant to the Deputy Under Secretary for Management. Effective January 23, 1984.

One Confidential Assistant to the Deputy Under Secretary for Management. Effective January 24, 1984.

Department of Energy

One Staff Assistant to the Special Assistant to the Secretary for Programs and Policies. Effective January 12, 1984.

One Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy. Effective January 26, 1984.

Department of Health and Human Services

One Confidential Secretary to the Chief of Staff, Office of the Secretary. Effective January 12, 1984.

Department of Housing and Urban Development

One Executive Assistant to the General Deputy Assistant Secretary for Public and Indian Housing. Effective January 4, 1984.

One Executive Assistant to the Assistant Secretary for Legislative Affairs. Effective January 5, 1984.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective January 16, 1984.

One Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs. Effective January 17, 1984.

One Special Assistant to the Assistant Secretary for Administration. Effective January 24, 1984.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective January 30, 1984.

Department of the Interior

One Assistant to the Director for Outer Continental Shelf Policy and Procedures, Minerals Management Service. Effective January 12, 1984.

Department of Justice

One Special Assistant to the Director of the Bureau of Justice Statistics, Office of Justice Assistance, Research and Statistics. Effective January 24, 1984.

Department of Labor

One Special Assistant to the Director, Women's Bureau. Effective January 5, 1984.

One Staff Assistant to the Deputy Under Secretary for International Affairs, Bureau of International Labor Affairs. Effective January 9, 1984.

One Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration. Effective January 27, 1984.

Department of State

One Deputy Assistant Secretary for Oceans and Fisheries Affairs, Bureau of

Oceans and International Environmental and Scientific Affairs. Effective January 4, 1984.

One Secretary (Typing) to the Assistant Secretary for the Bureau of International Organization Affairs. Effective January 5, 1984.

One Special Negotiator to the Assistant Secretary for Economic and Business Affairs. Effective January 17, 1984.

One Protocol Officer to the Chief of Protocol, Office of the Chief of Protocol. Effective January 24, 1984.

Department of Transportation

One Director, Office of Scheduling and Programs. Effective January 9, 1984.

Department of the Treasury

One Executive Assistant to the Special Assistant to the Commissioner, Office of the Commissioner. Effective January 13, 1984.

Commodity Futures Trading Commission

One Attorney-Advisor (General) to the Chairman. Effective January 3, 1984.

Environmental Protection Agency

One Special Assistant to the Assistant Administrator for Policy, Planning and Evaluation. Effective January 6, 1984.

One Special Assistant to the Administrator, Office of the Administrator. Effective January 25, 1984.

Executive Office of the President

One Clerk (Legislative Affairs) to the Chief, Legislative and Budget Support Group, Office of Management and Budget. Effective January 26, 1984.

General Services Administration

One Director of Public Programs and Exhibits, National Archives and Records Service. Effective January 17, 1984.

National Endownment for the Humanities

One Congressional and Public Affairs Officer, Institute of Museum Services. Effective January 9, 1984.

Selective Service System

One Deputy Director, Congressional Affairs. Effective January 9, 1984.

Small Business Administration

One Special Assistant to the Director of Women's Business Ownership. Effective January 20, 1984.

U.S. Arms Control and Disarmament Agency

One Deputy Director for Congressional Affairs, Office of the General Counsel and Congressional Affairs. Effective January 26, 1984.

Veterans Administration

One Confidential Assistant to the Associate Deputy Administrator for Congressional and Public Affairs. Effective January 6, 1984.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84-5156 Filed 2-27-84; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on March 15 and 16, 1984, in Room 5026, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on March 15, recess and reconvene at 8:00 a.m. on March 16. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The March 15 session and a portion of the March 16 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456-7740, prior to 3:00 p.m. on March 14. Ms. Boyd is also available to provide further information regarding this meeting.

Dated: February 15, 1984.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 84-5336 Filed 2-27-84; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 Fifth Street, NW., Washington, D.C. 20549.

Extension

Procurement—No. 270-278

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension clearance the data on procurement and contracting.

Submit comments to OMB Desk Officer: Ms. Katie Lewin (202) 395-7231, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-5185 Filed 2-27-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12960]

Standard Oil Co., an Indiana Corporation; Application and Opportunity for Hearing

February 22, 1984.

Notice is hereby given that Standard Oil Company, an Indiana corporation ("Standard") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act") for a

finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of the Northern Trust Company, a bank association organized and existing under the laws of the State of Illinois ("Northern Trust"), as successor trustee under the following indentures of Standard:

(a) An indenture dated January 15, 1968 (the "1968 Indenture"); and

(b) An indenture dated as of August 1, 1974 (the "1974 Indenture");

which were heretofore qualified under the Act, and the trusteeship of Northern Trust under an indenture of Custer County, Idaho (the "Issuer"), dated as of December 1, 1983 (the "1983 Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Northern Trust from acting as trustee under either the 1968 Indenture or the 1974 Indenture. The obligations of the Issuer under the 1983 Indenture are secured by the pledge of the proceeds due the Issuer under a Loan Agreement (the "Loan Agreement") by and between the Issuer and Amoco Minerals Company ("Amoco"), a wholly-owned subsidiary of Standard, dated as of December 1, 1983. The obligations of the Issuer under the 1983 Indenture are also unconditionally guaranteed by Standard pursuant to a Guarantee Agreement from Standard to Northern Trust dated as of December 1, 1983 (the "Guarantee"). In the event that Amoco defaults in its obligations under the Loan Agreement, thereby causing the Issuer to default under the 1983 Indenture, the trustee may require Standard to pay the Issuer's obligations pursuant to the Guarantee. The 1983 Indenture, the Loan Agreement and the Guarantee are part of an Environmental Improvement Revenue Bond financing issued by the Issuer for the purpose of providing funds for the construction of a tailings impoundment to be located at the Thompson Creek molybdenum mine of Cyprus Thompson Creek Mining Company, an indirect subsidiary of Amoco.

II

In support of its application Standard alleges that:

(1) Standard has outstanding on the date hereof $156,416,000 aggregate principal amount of its 6% Debentures Due 1998 (the "6% Debentures") issued under the 1968 Indenture executed by Standard and First Chicago, as Trustee. Upon resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1968 Indenture effective July 7, 1982. The 6% Debentures were registered under the Securities Act of 1933, as amended (File No. 2–27988), and the 1968 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22–4854). Northern Trust is currently acting as trustee under the 1968 Indenture.

(2) Standard has outstanding on the date hereof $88,751,000 aggregate principal amount of its Floating Rate Notes Due 1989 (the "Floating Rate Notes") issued under the 1974 Indenture executed by Standard and First Chicago, as Trustee. Upon the resignation of First Chicago, Northern Trust was appointed the successor trustee under the 1974 Indenture effective July 7, 1982. The Floating Rates Notes werre registered under the Securities Act of 1933, as amended (File No. 2–51667), and the 1974 Indenture was qualified under the Trust Indenture Act of 1939, as amended (File No. 22–7999). Northern Trust is currently acting as trustee under the 1974 Indenture.

(3) Pursuant to the 1983 Indenture and the Loan Agreement, the Issuer issued $1,000,000 aggregate principal amount of its 9.90% Industrial Development Revenue Bonds (the "Revenue Bonds") which are secured by a pledge of the proceeds of the Loan Agreement payable to the Issued from Amoco. In addition, the obligations of the Issuer under the 1983 Indenture are unconditionally guaranteed by Standard pursuant to the Guarantee. Inasmuch as the Revenue Bonds are issued by a political subdivision of the State of Idaho, the Revenue Bonds have not been registered under the Securities Act of 1933, as amended, and the 1983 Indenture has not been qualified under the Trust Indenture Act of 1939, as amended.

(4) Section 7.08 of the 1968 Indenture provides in part as follows:

Section 7.08. **Conflicting Interest of Trustee.** (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10.

(b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section 7.08, the Trustee shall, within ten days after the expiration of such ninety-day period, transmit notice of such failure to all holders of Debentures, as the names and addresses of such holders appear upon the registration books of the Company.

(c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if:

(1) The Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture; **provided** that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company, are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture and such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for heairng thereon, that the trusteeship under this Indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures; and **provided, further,** that there shall be excluded from the operation of this paragraph the indenture dated October 1, 1958, under which the Company's 4½% Debentures due October 1, 1983 are outstanding.

(5) Section 7.08 of the 1974 Indenture provides in part as follows:

Section 7.08. **Conflicting Interest of Trustee.** (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10.

(b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section 7.08, the Trustee shall, within ten days after the expiration of such ninety-day period, transmit notice of such failure to all holders of Notes, as the names and addresses of such holders appear upon the registration books of the Company.

(c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if:

(1) The Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Notes issued under this Indenture; **provided** that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of

the Company, are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture and such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such Indentures; **provided, further,** that there shall be excluded from the operation of this paragraph the Indenture dated October 1, 1958, under which the Company's 4½% Debentures due October 1, 1983, are outstanding and the Indenture dated January 15, 1968, under which the Company's 6% Debentures Due 1998 are outstanding;

(6) Execution of the 1983 Indenture could involve Northern Trust in a conflict of interest within the meaning of Section 7.08 of the 1968 Indenture and Section 7.08 of the 1974 Indenture since the 1983 Indenture is not qualified under the Act and is not the subject of any other proceeding of the Commission.

(7) The 1958 Indenture and the 1974 Indenture are wholly unsecured. The 1983 Indenture is secured only by the proceeds from the Lease Agreement and by the Standard Guarantee. Standard's obligations under the Guarantee are unsecured and rank equally with Standard's other unsecured and unsubordinated indebtedness, including the 6% Debentures and the Floating Rate Notes. The primary differences between the 1968 Indenture, the 1974 Indenture and the 1983 Indenture, and between the rights of the holders of the 6% Debentures, the Floating Rate Notes and the holders of the Revenue Bonds as beneficiaries of the Loan Agreement and the Guarantee, relate to aggregate principal amounts, dates of issue, denominations, events of default, maturity and interest payment dates, interest rates, places of payment of interest and principal, form of registration, redemption of prepayment procedures, Trustee's reports, restrictions on transferability, provisions relating to the non-registered offering of the Revenue Bonds and other provisions of a similar nature. Any such difference and any other difference in the provisions of the 1968 Indenture, the 1974 Indenture and the 1983 Indenture, the Loan Agreement and the Guarantee, are not so likely to involve any material conflict of interest between the respective trusteeships of Northern Trust under these Indentures so as to make it necessary in the public interest or for the protection of investors to disqualify Northern Trust from acting as trustee under any of such Indentures.

(8) Standard is not in default under the 1968 Indenture, the 1974 Indenture, the 1983 Indenture or the Guarantee. Amoco is not in default under the Loan Agreement or the 1983 Indenture.

Standard has filed an application which is on file in the offices of the Commission at 450 5th Street, NW., Judiciary Plaza, Washington, D.C. 20549, with respect to the matters of fact and law asserted herein.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after March 20 1984, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended. Any interested person may, not later than March 19, 1984, at 5:30 P.M., Eastern Standard Time, in writing, submit to the Commision, his views or any additional facts bearing upon this application or the desirabilty of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Judiciary Plaza, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-5186 Filed 2-27-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #3034]

Iowa; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

STATE OF IOWA

FmHA Number	FmHA Date	Incident and date	Counties
S118.....	01/26/84	Damages and losses to crops caused by drought beginning June 1, 1983, and continuing through September 30, 1983; and also *damages and losses to crops caused by hail storms and high winds occurring September 5-6, 1983.	Boone, Buena Vista, Cedar, Chickasaw, Delaware, Franklin, Hamilton, Hardin, Marshall, Mills, Mitchell, Monona, *Montgomery, *Pocahontas, Story, Tama, and Worth.

As a result of this designation, I have determined the above counties in the State of Iowa constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming; farm owners who do not operate their farms; etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere.....	10.5
Agricultural Enterprises Without Credit Available Elsewhere.....	8.0
Nonfarm Small Businesses (Economic Injury).....	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 26, 1984. The number assigned to this disaster is 3034 for Physical damage to eligible agricultural enterprises and for Economic Injury 612901. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane Suite 110, Grand Prairie, Texas 75051, (800) 527-7735 and in

Texas (800) 442–7206, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 22, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–5248 Filed 2–27–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3010; Amndmt. No. 3]

Kansas; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98–166

The above numbered declaration (48 FR 55797, Amendments #1—48 FR 57396 and #2—49 FR 1958) is amended pursuant to the Secretary of Agriculture's designation authorizing Farmers Home Administration (FmHA) to accept emergency loan applications in the following area:

STATE OF KANSAS

FmHA		Incident and Date	Counties
Number	Date		
S103.....	1/24/84	Losses to crops caused by drought occuring June 1, 1983, through Sept. 30, 1983.	Barton, Ellis, Ellsworth, Grant,[1] [2] McPherson,[1] [2] Ness, Rice, Rooks,[2] Rush, Russel.

[1] Hail storms occuring May 1, 1983, through Oct. 31, 1983.
[2] In Grant, McPherson, and Rooks counties, also losses to crops caused by early freezes in Sept.1983.

As a result of this designation, I have determined the above counties in the state of Kansas constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming; farm owners who do not operate their frams; etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

Agricultural enterprises with credit available elsewhere..	10.5
Agricultural enterprises without credit available elsewhere.....	8.0
Nonfarm small business (economic injury).....	8.0

Loan applications for Physical Disaster Loans from eligible argicultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 25, 1984. The number assigned this disaster is 3010 for Physical damage to eligible agricultural enterprises and for Economic Injury 601801. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, (800) 527–7735 and in Texas (800) 442–7206; or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 22, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–5262 Filed 2–27–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3037; Amdt.No. 1]

Oklahoma; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98–166

The above numbered declaration (49 FR 1309) is amended pursuant to the Secretary of Agriculture's designation authorizing Farmers Home Administration (FmHA) to accept emergency loan applications in the following area:

STATE OF OKLAHOMA

FmHA		Incident and date	Counties
Number	Date		
S111.....	1/26/84	Severe losses to crops caused by extended drought and high temperatures beginning June 1, 1983, and continuing through Oct. 10, 1983.	Beaver, Ellis, Harmon, Texas, Tillman, and Washita.
S111.....	2/01/84	.....do.....	Craig, Mayes, Nowata, Okmulgee, Ottawa, and Wagoner.

As a result of this designation, I have determined the above counties in the state of Oklahoma constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming; farm owners who do not operate their farms; etc., and for Economic Injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

Agricultural enterprises with credit available elsewhere..	10.5
Agricultural enterprises without credit available elsewhere.....	8.0
Non-farm small businesses (economic injury).....	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for Economic Injury for non-farm small businesses may be filed until the close of business on July 26, 1984, in Beaver, Ellis, Harmon, Texas, Tillman, and Washita Counties and until August 1, 1984, in Craig, Mayes, Noweta, Okmulgee, Ottawa, and Wagoner Counties. The number assigned this disaster is 3037 for Physical damage to eligible agricultural enterprises and for Economic Injury 611001. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, (800) 527–7735 and in Texas (800) 442–7206, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 22, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–5263 Filed 2–27–84; 8:45 am]

BILLING CODE 8025–01–M

Texas; Region VI; Advisory Council; Public Meeting

The Small Business Administration, Region VI Advisory Council, located in the geographical area of San Antonio, will hold a public meeting at 8:30 a.m. on Wednesday, March 28, 1984, at the Federal Building, 727 East Durango, Room A–206 (2nd Floor), San Antonio, Texas 78206, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Julio G. Perez, District Director, U.S. Small Business Administration, Federal

Building, Room A–513, 727 E. Durango, San Antonio, Texas, (512) 229–6105.

Dated: February 22, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–5260 Filed 2–27–84; 8:45 am]

BILLING CODE 8025–01–M

Texas; Region VI; Advisory Council; Public Meeting

The Small Business Administration—Region VI—Advisory Council, located in the geographical area of Houston, Texas, will hold a public meeting at 8:30 a.m. until 2:00 p.m. Tuesday, March 20, 1984, at the Ramada Inn, Room 3, located at 6855 Southwest Freeway, Houston, Texas 77057. This meeting will be conducted to discuss such business as may be presented by members of the District Council, the staff of the U.S. Small Business Administration, and others attending. For further information, write or call Doanld D. Grose, District Director, U.S. Small Bsiness Administration, 2525 Murworth, Suite 112, Houston, Texas 77504, (713) 660–4409.

Dated: February 22, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–5261 Filed 2–27–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/716]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Subcommittee on Safety of Life at Sea (SOLAS) of the Shipping Coordinating Committee will conduct an open meeting on March 26, 1984 at 9:30 A.M. in Room 3201 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting will be to finalize preparations for the 49th Session of the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) which is scheduled for April 2–6, 1984 in London. In particular, the Subcommittee will discuss the development of the U.S. position dealing with, inter alia, the following topics:

—Reports of the various MSC Subcommittees
—Review of the Work Program
—Implementation of Instruments and related matters

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. G. P. Yoest, U.S. Coast Guard Headquarters (G–CPI), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426–2280.

Dated: February 21, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84–5238 Filed 2–27–84; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/715]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Standards of Training and Watchkeeping; Meeting

The Working Group on Standards of Training and Watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on March 28, 1984 at 10:00 A.M. in Room 4315 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting will be a general review of all the agenda items for the 17th Session of the International Maritime Organization (IMO) Subcommittee on Standards of Training and Watchkeeping, scheduled for July 9–13, 1984.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain R.A. Sutherland, U.S. Coast Guard Headquarters (B–MVP/13), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426–1500.

Dated: February 21, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84–5237 Filed 2–27–84; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/714]

Study Group of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces the Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 27, 1984, at 10:00 a.m., in Room 1205, Department of State, 2201 C Street, NW., Washington, D.C.

Study Group A deals with U.S. Government aspects of international telegram and telephone operations and tariffs. The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at international CCITT Study Group meetings, with particular interest in the upcoming final meetings of Study Groups I and III during this Plenary period.

Members of the general public may attend the meeeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limted to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting must contact the office of Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632–3405. All attendees must use the C Street entrance to the building.

Dated: February 15, 1984.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 84–5236 Filed 2–27–84; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/713]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on March 14, 1984 at 9:30 a.m. in IRAC Conference Room 1605, Herbert C. Hoover Building, Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting is to review the results of the international Study Group 1 Interim Meeting, November, 1983 and to develop a work program for the Final Meeting in 1985.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632–2592.

Dated: February 16, 1984.

James L. Gorman,

Acting Director, Office of International Communications Policy.

[FR Doc. 84-5235 Filed 2-27-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting Postponement

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting postponement.

SUMMARY: National Airspace Review (NAR) Task Group 2-2.3, Special VFR Reveiw, scheduled to begin March 12, 1984 (49 FR 6065, February 16, 1984) is postponed pending a comprehensive schedule revision of remaining National Airspace Review Advisory Committee task group and Executive Steering Committee activities. This revision is being accomplished in conjection with the NAR charter renewal. Federal Aviation Administration activities toward implementation of previous NAR recommendations will continue uninterrupted. Further details of the revised NAR schedule will be published in future **Federal Register** notice(s).

Issued in Washington, D.C., on February 22, 1984.

John Watterson,

Acting Manager, Special Projects Staff Office of the Associate Administrator for Air Traffic

[FR Doc. 84-5147 Filed 2-27-84; 8:45 am]

BILLING CODE 4910-13-M

Air Traffic Control Tower; Commissioning

Notice is hereby given that on May 23, 1984, through September 11, 1984, the airport traffic control tower at the Martha's Vineyard Airport, Martha's Vineyard, Massachusetts, will be commissioned as a part-time Federal Aviation Administration (FAA) facility. Tower hours of operation will be established in advance by a Notice of Airmen, and thereafter published in the Airman's Information Manual. The designated facility identification for the FAA airport control tower will be: VINEYARD TOWER.

This information will be reflected in the FAA organization statement.

Communications to the tower should be directed to: Federal Aviation Administration, Airport Traffic Control Tower, P.O. Box 369, Vineyard Haven, Massachusetts 02568.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1345(a) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Burlington on February 13, 1984.

Lawrence C. Sullivan,

Acting Director, New England Region.

[FR Doc. 84-5146 Filed 2-27-84; 8:45 am]

BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

AGENCY: United States Information Agency.

ACTION: Modification of notice.

SUMMARY: The United States Information Agency is modifying a notice found at 46 *FR* 54543 (October 29, 1981) regarding immunity from judicial seizure for five Dutch paintings, on loan to the National Gallery of Art, by changing the final date of return of the paintings to Amsterdam, The Netherlands from December 31, 1983 to October 29,1985.

EFFECTIVE DATE: The modification is effective February 28, 1984.

FOR FURTHER INFORMATION CONTACT: John A. Lindburg, Office of the General Counsel, United States Information Agency, 301 Fourth Street, S.W., Washington, D.C., 20547.

SUPPLEMENTARY INFORMATION: The United States Information Agency is modifying a notice published at 46 FR 53543 (October 29, 1981). The notice rendered immune from judicial process five Dutch paintings on loan to the National Gallery of Art in Washington, D.C. The painting from the Rijksmuseum, Amsterdam, The Netherlands, originally were scheduled to be returned by the end of 1983. The paintings are now scheduled to be returned to The Netherlands on October 29, 1985. The determination published in the **Federal Register**, therefore, is modified to reflect the change in dates.

Dated: February 22, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison, U.S. Information Agency.

[FR Doc. 84-5254 Filed 2-27-84; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 40
Tuesday, February 28, 1984

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).

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1

CIVIL AERONAUTICS BOARD

[M-400 2/17/84]

Notice of Open and Closed Meetings on March 12, 1984 and March 16, 1984

TIME AND DATE: 9:00 a.m., March 12, 1984; 9:00 a.m., March 16, 1984.

PLACE: Room 1027 (Open-public comments), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Global Assessment of U.S. International Aviation Issues
   March 12, 1984: Western Hemisphere (including Brazil, Canada, Jamacia, Netherlands Antillies, Peru, Trinidad and Tobago, Venezuela)
   March 16, 1984: Europe (including France, Federal Republic of Germany, Greece, Italy, Luxembourg, Poland, Scandinavia, Switzerland); Middle East (including Egypt, Israel, Kuwait, Lebanon, Saudia Arabia); and Mexico

Times shown above are for commencement of public comment sessions. Closed meetings will start no later than ninety minutes after the scheduled start of the public comment sessions. Officials of the Departments of State and Transportation have been invited as full participants in both the public comment and the closed sessions. Residual matters, if any, could require a third meeting at a future date to be announced.

Each party wishing to comment publicly shall so advise The Secretary, in writing, on or before Friday, March 2, 1984, stating the name of the person who will represent it at the open public comment session(s), and the name(s) of the country(ies) of concern. Comments should be brief. No rebuttal time will be accorded.

Written comments may be submitted by any interested party. Up to two 8½×11 inch typewritten pages per meeting will be accepted and considered if received not later than 24 hours in advance of the meeting addressed. Comments should be filed with the Office of the Acting Director, Bureau of International Aviation, Room 701, Civil Aeronautics Board, 1825 Connecticut Ave. NW., Washington, D.C. 20428, in original and thirty-three copies. The Board will distribute copies to all expected U.S. Government participants upon receipt. Details of suggested or recommended negotiating goals, objectives, or strategy should be presented in writing, not orally.

STATUS: Open and Closed (See Supplementary Information).

PERSON TO CONTACT: Phyllis T. Kaylor, *The Secretary.* (202) 673-5068.

[FR Doc. 84-5268 Filed 2-23-84; 5:10 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, February 29, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: OPEN TO THE PUBLIC.

MATTER TO BE CONSIDERED: Chronic Hazard Advisory Panel on Nitrosamines.

The Commission will consider whether to convene a Chronic Hazard Advisory Panel (CHAP) concerning exposure to nitrosamines from consumer products.

(For a recorded message containing the latest agenda information: call 301-492-5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md 20207, 301-492-6800.

Signed: February 23, 1984.

Sadye E. Dunn,

Secretary.

[FR Doc. 84-5265 Filed 2-23-84; 5:10 pm]

BILLING CODE 6355-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 23, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, February 29, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The previously scheduled oral argument in James Eldridge v. Sunfire Coal Company, Docket No. KENT 82-41-D, set for this date, is postponed indefinitely pending consideration of the parties' joint motion to dismiss their appeals.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. William A. Haro v. Magma Copper Company, Docket No. WEST 79-49-DM, WEST 80-116-DM; Petition for Discretionary Review. (Issues include whether the administrative law judge erred in concluding that the miner was discriminatorily transferred in violation of Section 105(c) of the 1977 Mine Act.)
2. Secretary of Labor, MSHA v. Metric Constructors, Inc., Docket No. SE 80-31-DM. (Issues include whether the administrative law judge awarded discriminatorily discharged miners appropriate relief.)
3. Secretary of Labor, MSHA v. Cathedral Bluffs Shale Oil Co., Docket No. WEST 81-186-M. (Issues include whether the judge erred in vacating a citation issued to a production-operator concerning violations arising out of an indenpendent contractor's activities.)
4. Secretary of Labor, MSHA on behalf of Phillip Cameron v. United Mine Workers of America and Consolidation Coal Co., Docket No. WEVA 82-190-D. (Issues include whether the judge erred in dismissing the miners' discrimination complaint.

It was determined by a unanimous vote of Commissioners that the changes and additions of this meeting be made and that no earlier announcement of the changes was possible. 5 U.S.C. § 552b(e)(1).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

Jean Ellen,

Agenda Clerk.

[FR Doc. 84-5346 Filed 2-24-84; 12:54 pm]

BILLING CODE 6735-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, March 2, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-5284 Filed 2-23-84; 5:11 pm]

BILLING CODE 6210-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATES: 10:30 a.m., Tuesday, March 6, 1984.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Consideration of resumption of Line of Business data collection for years subsequent to 1977.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

Emily H. Rock,

Secretary.

[FR Doc. 84-5371 Filed 2-24-84; 1:19 pm]

BILLING CODE 6750-01-M

6

LEGAL SERVICES CORPORATION

Board of Directors

TIME AND DATE: March meeting as required by 45 CFR 1601.15(a)—first Friday of March, 10:00 a.m.—is postponed. The meeting will be rescheduled.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272-4040.

DATE ISSUED: February 23, 1984.

Donald P. Bogard,

President.

[FR Doc. 84-5278 Filed 2-23-84; 5:09 pm]

BILLING CODE 6820-35-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 27, 1984 (Revised).

PLACE: Commissioner's Conference Room, 1717 H St., NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Monday, February 27

10:00 a.m.
Discussion of Financial Qualifications—Long Term RM Proposals (Public Meeting) (Rescheduled from 2/28)

2:00 p.m.
Briefing on Advanced Reactors (Public Meeting) (Postponed from 2/23/84)

Tuesday, February 28

10:00 a.m.
Discussion of Pending Investigation (Closed—Ex. 5, 7, 10) (Continued from 2/23)

Wednesday, February 29

10:00 a.m.
Discussion and Possible Vote on Staff Recommendations on DOE Siting Guidelines (Public Meeting) (As announced)

2:00 p.m.
Briefing on Status of Grand Gulf (Public Meeting) (Rescheduled from 3/2)

3:30 p.m.
Status of Pending Investigation (Closed—Ex. 5 & 7) (Rescheduled from 3/2)

ADDITIONAL INFORMATION: Discussion of Interaction of Earthquakes and Emergency Planning and Discussion of Pending Investigation on Diablo Canyon are Postponed.

TO VERIFY THE STATUS OF MEETING CALL: (Recording) 202-634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202-634-1410.

Walter Magee,

Office of the Secretary.

February 24, 1984.

[FR Doc. 84-5392 Filed 2-24-84; 8:45 am]

BILLING CODE 7590-01-M

federal register

Tuesday
February 28, 1984

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; U.S. Breeding Population of the Wood Stork Determined To Be Endangered; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; U.S. Breeding Population of the Wood Stork Determined To Be Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the U.S. breeding population of the wood stork (*Mycteria americana*) to be an endangered species pursuant to the Endangered Species Act. This action is being taken because U.S. breeding populations of the wood stork have declined over 75 percent from their 1930 levels. If this trend continues, the birds are likely to become extirpated as U.S. breeders by the turn of the century. The final rule will provide the protection of the Endangered Species Act to this species. The Service will initiate recovery efforts for the U.S. breeding population of the wood stork.

DATE: The effective date of this rule is March 29, 1984.

ADDRESSES: The complete file for this rule is available for inspection during business hours (7 a.m.–4:30 p.m.) at the Service's Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580).

FOR FURTHER INFORMATION CONTACT: Mr. David Wesley, Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580).

SUPPLEMENTARY INFORMATION:

Background

The wood stork (*Mycteria americana*) is a large, long-legged, white wading bird with an unfeathered gray head and a stout dark bill. It is the only species of true stork breeding in the U.S. Wood storks frequent freshwater and brackish wetlands, feeding primarily on small fishes which they locate by groping with their beaks (Kahl, 1964). The wood stork usually nests in cypress and mangrove swamps. The U.S. breeding population of the wood stork declined from an estimated 20,000 pairs in the 1930's to about 10,000 pairs by 1960. Since 1978, fewer than 5,000 pairs have bred each year. If this trend continues, it is predicted that the U.S. breeding population of the wood stork will be near extinction by the turn of the century (Ogden and Patty, 1981).

A notice of review of the status of the U.S. breeding population of the wood stork was published in the February 16, 1982, **Federal Register** (47 FR 6675–77). The notice solicited biological information on the status of the wood stork, as well as information on activities which might be detrimental to this species or be affected by Federal listing of, or critical habitat designation for, the species.

On February 28, 1983, the Service published a proposed rule in the **Federal Register** (48 FR 8402–04) advising that sufficient information was on file to support a determination that the U.S. breeding population of the wood stork (*Mycteria americana*) was an endangered species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The proposal solicited comments from any interested parties concerning threats to this species, its distribution and range, whether or not critical habitat should be designated, and activities which might impact the species.

Summary of Comments and Recommendations

In the February 16, 1982, notice and the February 28, 1983, proposal all interested parties were requested to submit information on the status of the wood stork that might contribute to the development of a final rule. Subsequently, letters were sent to appropriate State resource agencies in Alabama, Arizona, California, Florida, Georgia, Louisiana, Mississippi, South Carolina and Texas, and to appropriate Federal agencies, local governments and other interested parties notifying them of the proposal and soliciting their comments and suggestions.

Officials comments were received from the resource agencies of all the above States, three counties, one Florida Water Management District, and seven Federal agencies. Resource agencies in the States of Arizona, Louisiana, Mississippi, and Texas stated that the wood storks in their States were migrants from Mexican breeding colonies. California, Florida, Georgia and South Carolina supported Federal listing of the wood stork.

Alabama's Department of Conservation and Natural Resources commented that the wood stork should not be Federally listed unless it could be shown that the action would increase nesting sites and improve feeding habitat for this species. Alabama also stated that the birds in their State should not be included in the listing action unless it could be shown that they are part of the U.S. breeding population. Service response: Improving productivity of current existing wood stork rookeries is probably more important and more attainable than increasing the number of rookeries. Listing the U.S. breeding population of the stork will result in the development of a recovery plan for this species. The plan will address problems affecting both rookeries and feeding grounds, and recommend possible solutions. Prejudging the chances of recovery success, however, is not included in the five factors used to determine federally endangered or threatened species. Due to the proximity of Alabama to northern Florida wood stork rookeries, it appears most likely that the Alabama wood storks represent the U.S. breeding population rather than migrants from Central America or Mexico.

The U.S. Environmental Protection Agency and the National Park Service supported the proposed designation. The Jacksonville District of the U.S. Army Corps of Engineers provided information about a variety of their activities in areas used by the wood stork for nesting or feeding. The Savannah District reported that their present and planned activities would not affect wood stork rookeries.

The St. Johns River Water Management District supported the proposal and offered to consider management techniques in the District that might benefit the wood stork.

The State of South Carolina recommended that threatened rather than endangered status be given the U.S. breeding population of the wood stork. Service response: The number of adult birds is difficult to monitor, since not all nest each year. The present population is believed to number about 10,000 adults. The traditional large protected rookeries in south Florida (four rookeries in Everglades National Park, one rookery in the National Audubon Society's Corkscrew Swamp Sanctuary) have experienced frequent nesting failures in recent years due to unfavorable feeding conditions during the nesting season. While these rookeries are "secure" in the sense that the rookery sites are protected from disturbance, the feeding areas on which the rookeries depend are highly subject to modification. In this sense, it is difficult to consider any wood stork rookeries as secure, because nesting success depends on feeding areas that may be located some distance from rookeries. The five percent annual rate of decline in U.S. breeding wood storks from 1975 to 1980 indicates that this species is continuing a long-term decline observed since the 1930's. A continued decline at the same rate would place the

U.S. breeding population of the wood stork near extinction by the turn of the century. It will require extensive, long-term planning to alleviate the principal factor responsible for the decline of the U.S. breeding population of the wood stork, i.e., the alteration of natural hydrologic regimes in Florida. For these reasons, the Service believes that the U.S. breeding population of the wood stork meets the definition of "endangered" as specified in Section 3 of the Endangered Species Act.

The administrations of Lee County, Florida, and Beaufort County, South Carolina supported the proposal. The Environmental Services Department of Sarasota County, Florida, provided information about wood stork feeding areas in that County. Comments were also received from three private companies, five conservation groups, and 52 individuals.

Stockton, Whatley, Davin and Company (SWD), a land development company, examined a wood stork rookery on their property and based on this examination felt there was no need for the wood stork to be Federally listed. They recommended that if the wood stork were listed, an environmental impact statement should be prepared on the action to determine if any economic impact might result. Service response: SWD's observations of the rookery on their property do not address the factors supporting the determination of the U.S. breeding population of the wood stork to be an endangered species nor do they provide sufficient information to indicate that the wood stork should not be listed. In July 1983, Gate Lands Company, a division of Gate Petroleum Company of Jacksonville, Florida, acquired the properties formerly held by SWD. The property is now being considered for acquisition by the State of Florida under its Conservation and Recreation Lands program. Moreover, the Service is not required to prepare environmental impact statements on determinations to list species under Section 4(a) of the Endangered Species Act. *See* "National Environmental Policy Act" discussion, below. Furthermore, the Service may not consider economic factors in determining whether to list species. *See* Section 4(b)(1)(A) of the Act.

Florida Power and Light Company (FPL) supported the listing proposal but expressed fears that listing this species, and especially designating critical habitat, would delay or prevent Federal permitting for planned FPL generating plant expansion. The site in question is in Martin County, Florida, near a wood stork rookery on FPL land. Service response: Critical habitat is not being determined in this regulation. This, however, does not indicate a lesser degree of protection for the U.S. breeding population of the wood stork given the "jeopardy prohibition" in section 7(a)(2) of the Endangered Species Act. As for the FPL lands, the Service does not foresee a conflict with the planned expansion of the Martin County site generator facilities. Anticipated conflicts should be brought to the Service's attention as early as possible in the planning process.

W. R. Grace and Company provided information on a rookery on their property in Polk County, Florida.

A wildlife biologist provided considerable data on the status of wood storks in east-central Florida, based on his research in that area.

The 52 private individuals and the five conservation groups all supported the proposal; a few of these letters also provided information about feeding activities and other general information on wood storks at various localities in Florida.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the U.S. breeding population of the wood stork should be classified as an endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; see proposed revision to accomodate 1982 amendments: 48 FR 36062–36069, August 8, 1983) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the U.S. breeding population of the wood stork are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* The decline of the wood stork as a U.S. breeding bird is believed to be primarily due to the loss of suitable feeding habitat (Ogden and Patty, 1981). This is especially true for the south Florida rookeries, where repeated nesting failures have occurred despite protection afforded the rookeries. Feeding areas in south Florida have decreased by about 35 percent since 1900 due to man's alteration of wetlands. Additionally, manmade levees, canals, and floodgates have greatly changed natural water regimes in south Florida. Optimal water regimes for the wood stork involve periods of flooding, during which prey (fish) populations increase, alternating with drying periods, during which fish are concentrated at high densities coinciding with the nesting season. Loss of nesting habitat (primarily cypress swamps) may be affecting wood storks in central Florida, where nesting in non-native trees and in manmade impoundments has been occurring recently.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Raccoon predation has sometimes been severe at certain central Florida rookeries. In 1981, raccoons destroyed all 168 wood stork nests at a rookery in Hillsborough County. Water levels dropped under nest trees, providing easy access for the raccoons.

D. *Inadequacy of existing regulatory mechanisms.* The wood stork is protected by the Migratory Bird Treaty Act of 1918 and is State-listed as endangered in Florida, threatened in South Carolina, and as a species of special concern in Alabama. The Migratory Bird Treaty Act prohibits taking or possession of the wood stork except by permit but does not prohibit the adverse modification of the stork's habitat, which is the primary threat to its existence. The Alabama designation presently provides no protection to the wood stork. The Florida and South Carolina designations prohibit take, except by permit, and provide for certain conservation efforts. The Florida Game and Fresh Water Fish Commission currently has one biologist studying the wood stork in order to recommend conservation measures. South Carolina has no specific recovery efforts but intends to continue monitoring nesting in the State. No coordinated recovery efforts among the States are presently in effect. The Endangered Species Act will add additional protection to the species.

E. *Other natural or manmade factors affecting its continued existence.* Prolonged periods of drought in Florida have probably adversely affected wood stork reproduction for the past few years. Heavy rainfall during the nesting season, causing flooding of the feeding areas, apparently caused almost complete nest abandonment at one rookery (Moore Island) in the spring of 1982.

Disturbance by humans during the nesting season has been observed to cause adult wood storks at some rookeries to leave their nests. This exposes eggs and young birds to

predation by gulls and fish crows and can result in heavy mortality.

Significant pesticide levels have been reported in this species, with some eggshell thinning, but this apparently has not yet adversely affected reproduction (Ohlendorff *et al.*, 1978).

Critical Habitat

The Endangered Species, Act, as amended, requires that to the maximum extent prudent and determinable the Secretary designate critical habitat at the time any species is determined to be endangered or threatened. The Service finds that designation of critical habitat is neither prudent nor determinable for the following reasons:

1. Since localities of some wood stork rookeries and feeding areas change over time, rigidly defined critical habitat boundaries around presently utilized nesting and feeding areas may not be adequate for long-term conservation of this species. Continuing environmental changes, both manmade and natural, are expected to cause further changes in wood stork nesting and feeding sites. Therefore, it is not presently possible to enclose all areas which may be necessary to the wood stork's long-term survival with critical habitat boundaries.

2. The wood stork's feeding areas may be separated by large (up to 130 km) distances from its rookeries. Additionally, post-breeding dispersal of the U.S. breeding birds extends throughout most of the southeastern U.S. critical habitat inclusions of such large areas, even though they may be important in the bird's biology, would be misleading because the stork uses only very limited resources over these large areas.

3. Wood storks are sensitive to disturbance during the breeding season. Observers have often avoided publicizing exact locality data, particularly for recently discovered rookeries. Publication of critical habitat maps in the **Federal Register**, as required by Section 4(b)(5) of the Act, would increase the chance that wood stork rookeries would be subjected to human disturbance or vandalism, causing decreased productivity and, perhaps, increased mortality.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Endangered Species Act requires the preparation of a recovery plan outlining actions that may be taken to recover a listed species. The protection required by Federal agencies and taking and harm prohibitions are discussed below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species. When a species is actually listed, Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species. If a proposed Federal action may affect a listed species, the Federal agency must enter into formal consultation with the Service.

With respect to the U.S. breeding population of the wood stork, the principal agency affected would be the U.S. Army Corps of Engineers, which issues permits for the discharge of dredged or fill material in U.S. waters under Section 404 of the Clean Water Act of 1977. The listing of this species will in some cases influence Corps decisions concerning dredge and fill permits. Corps activities involving water projects in Florida will also have to take the wood stork into account if any such projects might adversely affect this species.

Similarly, permitting activities by the Environmental Protection Agency under Section 402 of the Clean Water Act (National Pollutant Discharge Elimination System) will have to consider the welfare of this species.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions which apply to all endangered species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to process, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Under Section 10(a) of the Endangered Species Act and 50 CFR 17.22 and 17.23, permits may be issued under certain circumstances to carry out otherwise prohibited activities involving endangered species. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, or to take species incidental to otherwise lawful activities.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service does not prepare NEPA documentation for actions under Section 4(a) of the Endangered Species Act. The recommendation from CEQ was based, in part, upon a decision by the Sixth Circuit Court of Appeals, which held that the preparation of NEPA documentation is not required as a matter of law for actions under Section 4(a). *PLF* v. *Andrus*, 657 F.2d 829 (6th Cir. 1981).

References

Kahl, M. P. 1964. Food ecology of the wood stork (*Mycteria americana*) in Florida. Ecol. Monogr. 34:97–117.

Ogden, J. C., and B. W. Patty. 1981. The recent status of the wood stork in Florida and Georgia. Georgia Dept. Nat. Res. Game and Fish Div. Tech. Bull. WL 5:97–101.

Ohlendorff, H. M., E. E. Klaas, and T. E. Kaiser. 1978. Organochlorine residues and eggshell thinning in wood storks and anhingas. Wilson Bull. 90(4):608–618.

Author

The primary author of this final rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

List of Subjects in 50 CFR Part 17

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

Regulation promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding, in alphabetical order the following to the List of Endangered and Threatened Wildlife under "Birds":

§ 17.11 [Amended]

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds							
Stork, wood	Mycteria americana	U.S.A. (CA, AZ, TX to Carolinas), Mexico, Central and South America.	U.S.A. (AL, FL, GA, SC)	E	144	NA	NA

Dated: February 23, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-5246 Filed 2-27-84; 8:45 am]

BILLING CODE 4310-55-M

federal register

Tuesday
February 28, 1984

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Equipment Standards for Oxygen Dispensing Equipment; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 21571; Amdt. 23–30]

Equipment Standards for Oxygen Dispensing Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to Part 23 of the Federal Aviation Regulations (FAR) revises the equipment standards for oxygen dispensing units. This amendment permits the use of nasal cannulas for type certification of small airplanes up to and including 18,000 feet (MSL), when requested, instead of an oxygen dispensing unit (mask) covering the nose and mouth of the user. The rule will provide relief from a specific equipment standard when oxygen dispensing units are installed in small airplanes.

EFFECTIVE DATE: March 29, 1984.

FOR FURTHER INFORMATION CONTACT: J. Robert Ball, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Background

Airworthiness standards for oxygen dispensing units in small airplanes have been in effect since June 17, 1970, and are applicable only if certification with supplemental oxygen equipment is desired. This amendment provides an additional method, with limitations, of complying with the minimum safety requirements for small airplanes when oxygen dispensing units are installed.

The FAA, to obtain public awareness and early participation in this rulemaking action, published a summary of the the Petition for Rulemaking submitted by the White-Diamond Corporation and the recommended change to § 24.1447 of the Federal Aviation Regulations (FAR) in the **Federal Register** (46 FR 30352) on June 8, 1981. Numerous comments were received in response to the **Federal Register** publication and all comments received supported the White-Diamond Corporation's recommended change. In support of their petition, the White-Diamond Corporation submitted a copy of an information report prepared by the Armed Forces Institute of Pathology (AFIP). This report cited the results of tests performed with test subjects using a nasal cannula at various pressure altitudes from ground level to 25,000 feet. These tests were conducted using only six test subjects, and the report did not provide a correlation between the test subjects and the general aviation population who might use a nasal cannula to provide adequate supplemental oxygen.

After an analysis of the results of the tests performed by the AFIP, and other physiological information obtained, the FAA concluded that a nasal cannula is an effective oxygen dispensing device with certain limitations. The analysis of the AFIP test data and other information obtained persuaded the FAA to issue a Notice of Proposed Rulemaking, Notice No. 82–16 (47 FR 56456; December 16, 1982) to amend § 23.1447 of the FAR to permit the use of nasal cannulas, with limitations, as an oxygen dispensing unit as an alternative to the oxygen dispensing unit covering the nose and mouth of the user.

Discussion of Comments

In reponse to Notice No. 82–16, the FAA received 23 written comments stating the commenters' views on the notice and 29 comments on forms carrying the White-Diamond Corpration name. The latter forms asked specific questions and provided blocks for checking answers, such as: Yes-No, or Excellent, Good, Fair, or Poor, and requested the type of aircraft usually flown. Names of commenters were shown on six of the forms received.

Generally, the comments, both written and forms completed, favor adoption of the amendment to § 23.1447 of the FAR as proposed. There were six manufacturers of oxygen equipment, one industry association, and one individual opposed to the proposed amendment. The following is a discussion of the points raised in opposition to the amendment.

Several commenters who oppose the proposed amendment contend that the AFIP tests are not valid as a basis for adopting the proposal. Their contentions are based on the following: (1) Only six test subjects were used; (2) the test subjects were highly trained, peak (physical) condition personnel; (3) the test subjects were relatively young men and women; (4) the AFIP is not qualified to conduct the tests; (5) more conclusive testing should be done; and (6) the general aviation population includes persons with circulatory disorders or lung diseases and these persons require supplemental oxygen above 10,000 feet to prevent significant insidious hypoxia.

Prior to the submission of the petition to amend § 23.1447 to permit the use of nasal cannulas as an oxygen dispensing unit, the FAA prepared a testing protocol for evaluating the nasal cannula. The protocol specified five relatively healthy volunteers as test subjects for hypobaric chamber testing. The number of test subjects was obtained from the Note to paragraph 4.1.8 of Technical Standard Order (TSO)–C64, Subject: Oxygen Mask Assembly, Continuous Flow, Passenger (For Air Carrier Aricraft), which is related to mask testing on human subjects at altitude. Five has been acccepted as the minimum number of test subjects since TSO–C64 became effective on October 1, 1961. It is agreed that the test subjects used in the AFIP tests were probably in excellent health. An article by James P. Dixon, Aerospace Physiology Branch, AFIP, stated that the test subjects used in the arterial oxygen saturation tests, at altitudes using a nasal cannula, were in excellent health, had an FAA Class III medical certificate, and were part of altitude studies being conducted at the AFIP. In addition, it was concluded in the article that a study utilizing a more representative sample of the population, especially by age and physical condition may prove more conclusive in the assignment of safe operational altitudes for the nasal cannula since the test subject's ages varied from 26 to 37 years of age. It was concluded that the nasal cannula may not be the optimal means of supplying supplemental oxygen for a pilot unless there are requirements for flying at or below 20,000 feet and any physical activity accentuates the factors which limit the performance of the nasal cannula, necessitating a restricted operational altitude of 20,000 feet. Based upon the evidence, it was further concluded that, for passengers at rest in aircraft, the nasal cannula is adequate at altitudes to 25,000 feet.

One commenter states that the nasal cannula is only acceptable under ideal conditions below 18,000 feet. The AFIP test data does not support this statement by the commenter, nor does the commenter present any data to indicate otherwise.

Four commenters contend that "mouth breathers" negate the effectiveness of the nasal cannula to adequately supply supplemental oxygen. The AFIP tests indicate that this is not the case. The test results show that there was no significant difference, at a test altitude of 20,000 feet, between the mean oxygen saturation readings with the test subjects breathing through their mouths, reading aloud at 30-second intervals for a period of 4 minutes and 30 seconds, and exercising for a 5-minute duration. In each test phase, the oxygen

saturation level at 20,000 feet remained above the 90-percent level. Ninety percent oxygen saturation level is considered to be the minimum level to prevent hypoxia.

One comment states that testing has proven that the most effective mask is one which covers the nose and mouth. It is agreed that the most effective mask may be one which covers both the nose and mouth; however, the requirements are that the oxygen dispensing unit provide for effective utilization of the oxygen being delivered. The objective of the rule is to prevent hypoxia from developing in the occupants of the airplane and the nasal cannula meets this requirement.

Another commenter expresses concern over the ability to perform the Val Salva function; that is the pinching of the nose to clear the inner ear, and contends that a high percentage of the flying populace has a dependence on this function as the sole means of avoiding ear pain or ear damage. The FAA is of the opinion that the use of the nasal cannula is no different in this regard than an oxygen dispensing unit covering both the nose and mouth of a continuous flow oxygen system. Both require removal of the units to perform the Val Salva function effectively.

Two comments address the potential problem with users of oxygen systems who smoke and cite, since the mouth is not covered, that users may inadvertently start to smoke. The FAA addresses this problem by requiring a visible warning against smoking while in use. Individuals who choose to ignore this warning are considered to be in the same group which will pull a mask covering both the nose and mouth down around their necks and then start to smoke. It is not reasonable to preclude the use of a nasal cannula by responsible individuals due to possible actions by irresponsible persons.

Another commenter states opposition to the rule unless there are extensive warnings against the waste of the oxygen and the danger of hypoxia from running out of oxygen. The commenter contends that most aircraft oxygen systems barely carry enough oxygen for a full load of crew and passengers wearing efficient masks, let alone the grossly inefficient technique of blowing the oxygen up someone's nostril.

Section 23.1441(c) of the FAR requires that there be a means to allow the crew to readily determine, during the flight, the quantity of oxygen available in each source of supply. The FAA does not consider additional warning necessary when there exists a current requirement for making a determination of the oxygen available in each source of supply. The nasal cannula is no more wasteful of oxygen than simple cup shaped masks without rebreather bags using continuous flow oxygen. Section 23.1443 of the FAR specifies the minimum mass flow of supplemental oxygen to be supplied to each user and no data is presented by the commenter that the current requirement is not an adequate minimum standard. The contention that the nasal cannula is grossly inefficient is not supported by the commenter and, contrary to this contention, the test results of the AFIP indicate that the nasal cannula is an effective oxygen dispensing unit with limitations.

One area of comments about which the FAA is vitally concerned is the use and effectiveness of the nasal cannula to supply oxygen effectively when a user has a head cold. The FAA Medical Handbook for Pilots (Advisory Circular No. 67–2) speaks to this in the following manner: "If you have a cold, the tissue around the nasal end of the eustachian tube will probably be swollen, and you can expect ear problems to be aggravated in flight. The best advice is to STAY ON THE GROUND. If you must fly, do so at lower altitudes. This precaution may prevent a perforated or painful eardrum."

For type certification of small airplanes with nasal cannulas as the primary oxygen dispensing units, the FAA is of the opinion that consideration must be given to those rare instances in which at least one occupant may have a head cold or nasal obstruction from other causes. While the nasal cannula is an effective means of dispensing oxygen to users, another means must be available for those persons with nasal obstructions. For the reasons cited above, the FAA is requiring that at least one oxygen dispensing unit covering both the nose and mouth of the user be installed or available.

One commenter asks if the minimum oxygen flow specified in § 23.1443, Minimum mass flow of supplemental oxygen, is applicable to nasal cannulas when installed and in use. The FAA's Civil Aeromedical Institute reviewed the test results of the AFIP and concluded that the minimum mass flow of supplemental oxygen specified in § 23.1443 was adequate when nasal cannulas are used with the limitation of 18,000 feet (MSL).

One commenter asks if the nasal cannula would be limited to approval on unpressurized airplanes or acceptable for pressurized airplanes as well. The approval of nasal cannulas is not related to unpressurized or pressurized airplanes, but rather to the maximum certificated altitude of the airplane on which approval is requested. The rule limits approval to airplanes with a maximum certificated altitude of 18,000 feet (MSL).

One commenter asks if one size of nasal cannula fits all persons, adults through infants. Although the answer is affirmative, it was brought to the attention of the FAA that a nasal cannula for an adult, when used by an infant, would most likely be uncomfortable because of the size. Nasal cannulas are available in a size made specifically for infants and newborn babies.

Another commenter states that use of the nasal cannula would result in a drying of the nasal membranes. The FAA agrees; however, the drying of the nasal membranes by using a nasal cannula is not significantly different than a drying of the nasal membranes and oral cavity when using an oxygen dispensing device covering both the nose and mouth of the user.

One commenter states that the most serious consequence of certificating aircraft with the nasal cannula is the absence of protective breathing appartus for crewmembers in the event of smoke or fire in the cockpit and contends that a pilot without an oxygen mask would have absolutely no protection against toxins. It should be pointed out that the oxygen mask provided in compliance with § 23.1447 may not function effectively as a protective breathing apparatus in accordance with the requirements of TSO–C99, "Protective Breathing Equipment." In addition, the FAA considers the comment to be outside the scope of this rulemaking action since the issue is supplemental oxygen dispensing units, not protective breathing equipment. However, the FAA does share the same concern for occupant safety as expressed by the commenter, and has ongoing research programs on the issues of occupant protection in the event of smoke or fire within the aircraft. The outcomes of these programs will serve as a basis for evaluating current requirements for all aircraft, and if needed, the justification for more stringent smoke and fire protection standards. In consideration of the foregoing, the FAA has determined that although the issues raised by this commenter have some validity, they are not sufficient to preclude proceeding with this rulemaking action.

The preceding commenter also states that the NPRM improperly relies upon an experiment to justify the use of a product not properly or scientifically tested. The commenter does not present any data or information to support the

stated belief. The FAA is of the opinion that the AFIP's Aerospace Physiology Research Branch is as qualified for testing of the nasal cannula as any such research organization and, subsequently, relied heavily upon their findings. While the AFIP test results indicate that the nasal cannula is an effective oxygen dispensing unit, at altitudes of up to 20,000 feet (MSL) for pilots and up to 25,000 feet for passengers, the FAA is of the opinion that 18,000 feet (MSL) as proposed in the notice, should remain as the maximum altitude of the airplane for which installation approval may be obtained by an applicant.

One commenter asks how the nasal cannula would be approved for use in existing airplanes. Approval would be by the normal FAA procedures for new equipment to be installed in existing or new airplanes, with compliance shown to the applicable airworthiness requirements for certification of the modified airplane.

The numerous comments received in support of the proposed rule change cite the same reasons as stated in the notice; that is convenience, comfort of the nasal cannula, and ease of communication when compared to the oxygen dispensing unit covering both the nose and mouth of the user.

Regulatory Flexibility and Determinations

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure, among other considerations, that small entities are not disproportionally affected by government regulations. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities".

This rule provides more flexibility for approval of oxygen dispensing units when type certification with supplemental oxygen equipment is requested, by permitting optional use of an oxygen dispensing nasal cannula instead of the full face mask presently required, with no degradation in the level of safety, and at approximately the same cost. In addition, since this amendment provides manufacturers and operators of small airplanes a choice between alternatives with equal costs, it will impose no significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 23

Aircraft, Air transportation, Aviation safety, Safety, Tires.

Adoption of the Amendment

Accordingly, Part 23 of the Federal Aviation Regulations (14 CFR Part 23) is amended, as follows, effective: March 29, 1984.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By revising § 23.1447 to remove paragraph (a)(2); by redesignating paragraphs (a)(3) and (a)(4) as paragraphs (a)(2) and (a)(3), respectively; by redesignating paragraphs (b), (c), and (d) as paragraphs (d), (e), and (f), respectively; and by adding new paragraphs (b) and (c) to read as follows:

§ 23.1447 Equipment standards for oxygen dispensing units.

* * * * *

(a) * * *

(b) If certification for operation up to and including 18,000 feet (MSL) is requested, each oxygen dispensing unit must:

(1) Cover the nose and mouth of the user; or

(2) Be a nasal cannula, in which case one oxygen dispensing unit covering both the nose and mouth of the user must be available. In addition, each nasal cannula or its connecting tubing must have permanently affixed—

(i) A visible warning against smoking while in use;

(ii) An illustration of the correct method of donning; and

(iii) A visible warning against use with nasal obstructions or head colds with resultant nasal congestion.

(c) If certification for operation above 18,000 feet (MSL) is requested, each oxygen dispensing unit must cover the nose and mouth of the user.

* * * * *

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); and 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983))

Note.—This amendment will provide more flexibility for approval of oxygen dispensing units when type certification with supplemental oxygen equipment is requested by permitting use of nasal cannulas as an alternative to the full face oxygen masks required before this amendment. The cost of nasal cannulas is approximately equal to that of full faced oxygen masks. This amendment therefore provides manufacturers and operators of small airplanes a choice between alternatives with equal costs. Accordingly, the FAA has determined that: (1) The amendment does not involve a major rule under Executive Order 12291; (2) The amendment is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) It is certified that under the criteria of the Regulatory Flexibility Act that the amendment will not have a significant economic impact on a substantial number of small entities. In addition, this proposal, if adopted, would have little or no impact on trade opportunities for U.S. firms doing business overseas, or for foreign firms doing business in the United States. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Washington, D.C. on January 31, 1984.

J. Lynn Helms,

Administrator.

[FR Doc. 84-5148 Filed 2-27-84; 9:45 am]

BILLING CODE 4910-13-M

federal register

Tuesday
February 28, 1984

Part IV

Office of Management and Budget

Budget Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report seven new deferrals of budget authority totaling $28,960,700.

The deferrals affect the Departments of Interior, Justice and Transportation. The details of the deferrals are contained in the attached reports.

Ronald Reagan.

The White House,
February 22, 1984.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Interior	
	National Park Service	
D84-50	Construction (trust fund)	14,000
	Office of the Secretary	
D84-51	Office of Water Policy	300
	Department of Justice	
	Office of Justice Assistance, Research and Statistics	
D84-52	Law enforcement assistance	296
	Department of Transportation	
	Federal Railroad Administration	
D84-53	Railroad research and development	578
	Federal Aviation Administration	
D84-54	Construction, Metropolitan Washington Airports	277
	U.S. Coast Guard	
D84-55	Retired pay	13,350
	Office of the Secretary	
	Transportation planning, research and	
D84-56	development	160
	Total, deferrals	28,961

****

SUMMARY OF SPECIAL MESSAGES
FOR FY 1984
(in thousands of dollars)

	Rescissions	Deferrals
Seventh special message:		
New items	---	28,961
Revisions to previous special messages	---	---
Effects of seventh special message	---	28,961
Amounts from previous special messages that are changed by this message (change noted above)	---	---
Subtotal, rescissions and deferrals	---	28,961
Amounts from previous special messages that are not changed by this message	636,411	7,232,564
Total amount proposed to date in all special messages	636,411	7,261,525

Deferral No: D84-50

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior
Bureau: National Park Service
Appropriation title & symbol: Construction (Trust Fund) 14X8215
OMB identification code: 14-8215-0-7-401
Grant program: ☐ Yes ☒ No

Type of account or fund:
☐ Annual
☐ Multiple-year _____ (expiration date)
☒ No-year

New budget authority (P.L. 98-146): $14,000,000
Other budgetary resources: 22,250
Total budgetary resources: 14,022,250

Amount to be deferred:
Part of year: 14,000,000
Entire year: _____

Legal authority (in addition to sec. 1013):
☐ Antideficiency Act
☐ Other _____

Type of budget authority:
☒ Appropriation (liquidation of contract authority)
☐ Contract authority
☐ Other _____

Justification: The 1973 Federal-Aid Highway Act (P.L. 93-87) authorized the relocation of U.S. Route 25E from its existing location through the Cumberland Gap National Historic Park (KY/TN) to another alignment involving a 4,100-foot tunnel.

In 1979 and 1980 Congress appropriated $16.6 million for preliminary engineering, final design and initial phases of construction. In 1981 the Administration proposed a $15.5 million rescission (R81-90) "to avoid wasteful spending on a project now estimated to cost over $150 million and provide primarily aesthetic benefits." Congress approved a $12 million rescission, leaving a balance of $4.6 million for design and exploration.

In 1984 Congress appropriated an additional $14 million for a pilot tunnel bore and initial work on an approved road and four bridges. Because the Adminstration believes the situation is essentially unchanged since the 1981 rescission, the $14 million is deferred pending initiation and completion of a joint Department of the Interior/Department of Transportation study of the project to update cost estimates and analyze cost-effective alternatives for upgrading Route 25E.

Estimated Program Effect: This project will be delayed approximately six months to allow for initiation and completion of the study.

Outlay Effect: This deferral will have no outlay effect in 1984 or in out years 1986-1988.

Deferral No: D84-51

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Interior	New budget authority (P.L.): $ 616,919
Bureau: Office of the Secretary	Other budgetary resources:
Appropriation title & symbol: Office of Water Policy 14X0116	Total budgetary resources: 616,919
	Amount to be deferred: Part of year: 300,000 Entire year:
OMB identification code: 14-0116-01-306	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [ ] Yes [x] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: This appropriation funded the Department's planning and coordination of water-related activities with the States. In 1984, policy activities were transferred to the Office of the Secretary. Unobligated balances are deferred to assure that the funds are available to offset a 1984 pay cost supplemental request for the Office of the Secretary, Department of Interior. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: All program activities have been assigned to other agencies within the department. These funds are not required for Office of Water Policy operations.

Outlay Effect: This proposal is a financing transaction with no direct impact on outlays.

Deferral No: D84-52

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 98-166): $ 92,419,000
Bureau: Office of Justice Assistance, Research and Statistics	Other budgetary resources: 50,171,599
Appropriation title & symbol: Law Enforcement Assistance 15X0401 1/	Total budgetary resources: 142,590,599
	Amount to be deferred: Part of year: 296,000 Entire year:
OMB identification code: 15-0401-0-1-754	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program: [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: The Law Enforcement Assistance appropriation provides for activities authorized by the Juvenile Justice and Delinquency Prevention Act and the Justice System Improvement Act. Unobligated balances are deferred pending congressional action on a supplemental transferring funds to the Bureau of Justice Statistics to meet increased 1984 pay costs. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: This action will only nominally restrain the rate of obligations that might otherwise occur in the Law enforcement assistance account.

Outlay Effect: This deferral action has no effect on 1984 outlays.

1/ This account was the subject of a deferral in 1982 (D82-193).

Deferral No: D84-53

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 98-78): $16,225,000
Bureau: Federal Railroad Administration	Other budgetary resources: 17,792,021
Appropriation title & symbol: Railroad Research and Development 69X0745	Total budgetary resources: 34,017,021
	Amount to be deferred: Part of year: 578,000
	Entire year:
OMB identification code: 69-0745-0-1-401	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation is devoted to three basic railroad research and development activities: (1) research in the areas of equipment, operations and hazardous materials safety; (2) improvements in track safety; and (3) improvements to the overall railroad system. This deferral is taken pending congressional approval transferring funds to the Office of the Administrator appropriation ($174,000) and the Railroad Safety appropriation ($404,000) for increased 1984 pay costs.

Estimated Program Effect: This deferral reflects elimination of the lowest priority railroad research project in 1984.

Outlay Effect: 1984 outlays associated with this deferral will be shown in the accounts where these funds are transferred, resulting in no net outlay change.

Deferral No: D84-54

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 98-78): $14,250,000
Bureau: Federal Aviation Administration	Other budgetary resources: 9,912,848
Appropriation title & symbol: Construction, Metropolitan Washington Airports 692/41333 693/51333 694/61333 1/	Total budgetary resources: 24,162,848
	Amount to be deferred: Part of year: 276,700
	Entire year:
OMB identification code: 69-1333-0-1-402	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year Sept. 30, 1985 Sept. 30, 1986 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This appropriation finances construction of major improvements and expansion of facilities at Washington National and Dulles International Airports necessary to meet the air travel needs of the public. The President's 1985 budget proposes to transfer surplus unobligated balances from this account to the Operations and maintenance appropriation to cover the January 1984 pay increase. This deferral will hold funds in reserve until congressional action occurs. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: Due to cost-savings realized from various projects, such as Phase I of the apron taxiway rehabilitation project at National Airport, the amount deferred is not required for this appropriation.

Outlay Effect: This proposal is a financing transaction with no direct impact on outlays.

1/ This account was the subject of a deferral in 1983 (D83-59).

[FR Doc. 84-5299 Filed 2-27-84; 8:45 am]
BILLING CODE 3110-01-C

Deferral No: D84-55

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 98-78): $328,750,000
Bureau: U.S. Coast Guard	Other budgetary resources:
Appropriation title & symbol: Retired Pay 6940241	Total budgetary resources: 328,750,000
	Amount to be deferred: Part of year: 13,350,000
	Entire year:
OMB identification code: 69-0241-0-1-403	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☐ No-year	☐ Other

Justification: This appropriation provides for retired pay of military personnel of the Coast Guard, Coast Guard Reserves and other designated beneficiaries. This $13,350,000 deferral holds in reserve funds pending congressional action on supplemental transfer requests for other Coast Guard accounts. Of this amount, a transfer of $550,000 is requested for the Reserve training appropriation for increased pay costs. For the Operating expenses appropriation, $6,258,000 is requested for a program supplemental to fund legislated increases in operating costs and $6,542,000 is requested to provide partial funding for 1984 pay increases. While most of the funds available for transfer result from reestimates of the number of service members likely to retire and a reduced estimate of medical costs, $4,500,000 will be available if Congress approves proposed legislation to delay retiree cost-of-living increases from June 1984 until January 1985.

Estimated Program Effect: Because of the reestimate of the number of service members to retire and the reduced estimate of medical costs, there will be no impact on the planned 1984 program.

Outlay Effect: An outlay savings of $4.5 million will occur in 1984 in this account.

(in millions of dollars)

1984	1985	1986-88
-4.5	---	---

Deferral No: D84-56

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 98-78): $4,878,000
Bureau: Office of the Secretary	Other budgetary resources: 1,172,456
Appropriation title & symbol: Transportation Planning, Research and Development 69X0142	Total budgetary resources: 6,050,456
	Amount to be deferred: Part of year: 160,000
	Entire year:
OMB identification code: 69-0142-0-1-407	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☒ No-year	☐ Other

Justification: This appropriation finances research activities, planning analysis and information development needed to support the Secretary's responsibilities in the formulation of national transportation policies. This deferral will allow time for congressional action on a proposed supplemental request to transfer funds to Salaries and expenses, Office of the Secretary for increased pay costs. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: There is no programmatic effect on this appropriation as a result of this deferral.

Outlay Effect: This proposal is a financing transaction with no direct impact on outlays.

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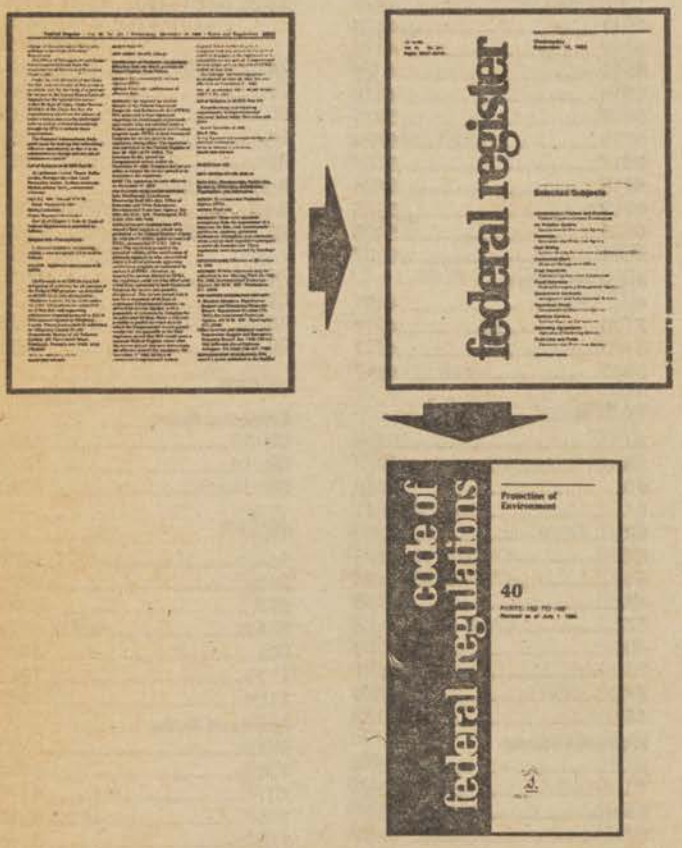

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