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Wednesday
May 16, 1984

Selected Subjects

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Selected Subjects

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Military Service Deposit Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim rulemaking with comments requested.

SUMMARY: In order to provide relief to recent retirees who, because of administrative error or delay, were unable to make a deposit for post-1956 military service prior to their separation, OPM is amending its military service deposit regulations (5 CFR Part 2101 *et seq.*) to permit deposit to the former employing agency after separation, but prior to final adjudication of their retirement claims.

DATES: Interim rules effective October 1, 1983. Comments must be received on or before July 16, 1984.

ADDRESS: Send comments to Jerome D. Julius, Assistant Director for Pay and Benefits Policy, Compensation Group, P.O. Box 57, Washington, D.C. 20044, or deliver to Room 4351, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Eugene R. Littleford, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Public Law 97–253 (5 U.S.C. 8334(j)(1)) provides that an employee "may pay, in accordance with such regulations as the Office shall issue . . . to the agency by which the employee is employed" a deposit for military service. In its regulations (5 CFR Part 2101 *et seq.*), OPM defined an individual eligible to make military deposit as an employee "currently occupying a position" subject to civil service retirement and certain survivors. It was and remains OPM's intent to require employees to pay the deposit prior to separation, but it has come to our attention that certain individuals would be unfairly treated if there were no exception to this rule.

In some cases, employees have been mistakenly advised by their employing agency that there would be an opportunity to pay military deposit after retirement. In other cases, employees have not been able to collect the information they need to complete the application for military deposit prior to retirement. Also, during a transitional period following enactment of Pub. L. 97–253, military service deposits could be made by employees separating prior to October 1, 1983, directly to OPM and this was perhaps a source of confusion. While the law and regulations, if strictly applied, would prohibit these individuals from making a deposit after separation, such strict enforcement would work a hardship on many blameless persons.

OPM is therefore amending its regulations to extend eligibility to make these deposits to separated individuals who were, because of administrative error, prevented from making a timely deposit or were misled as to their entitlement. Deposit payments will be made to the former employing agency, and must be made in a lump sum. The period of grace will terminate when OPM takes final action on the retirement claim.

Pursuant to sections 553, 1103, and 1105 of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days because, in order to remedy the problem, this regulation must be effective on October 1, 1983.

E.O. 12291 Federal Regulation

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

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Firefighters, Government employees, Life insurance, Handicapped, Law Enforcement Officers, Retirement, Workers' Compensation.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

PART 831—[AMENDED]

Accordingly, OPM is revising Part 831 of Title 5, Code of Federal Regulations.

1. In Subpart U, § 831.2104(a) is revised to read as follows:

§ 831.2104 Eligibility to make deposits.

* * * * *

(a) An employee or Member currently occupying a position subject to subchapter III of chapter 83 of title 5, United States Code, and the survivor(s) of such an employee or Member who dies in service (including a person who was eligible to make a deposit under this paragraph but who failed to make the deposit before separation from service due to administrative error); and

* * * * *

2. In Subpart U, § 831.2107(a)(1) is revised to read as follows:

§ 831.2107 Payments on deposits.

(a) * * *

(1) Deposits made to agencies, the Clerk of the House of Representatives or the Secretary of the Senate shall be collected in full in one lump sum whenever this is possible. Notwithstanding the provisions of paragraph (2) below, a separated employee who, through administrative error, did not make or complete the deposit prior to his or her separation must complete the deposit in a lump sum within the time limit set by OPM when it rules that an administrative error has been made.

* * * * *

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

[FR Doc. 84–13108 Filed 5–15–84; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 432

[Amdt. No. 1]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1984 and succeeding crop years, by: (1) Adding a provision to exclude corn acreage from insurance when grown with another crop; (2) permitting determination of indemnities based on the acreage report rather than at time of loss adjustment; (3) adding a provision to determine a coverage level if the insured does not select one; (4) amending the hail/fire provisions for appraisals of probable loss; (5) changing the cancellation and termination dates to conform with farming practices; and (6) providing that any change in the policy will be available at the service office on a certain date. This document is redesignated as Amendment No. 1.

In addition, FCIC issues a new subsection in the corn 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 intended effect of this rule is to update the policy for insuring corn in accordance with Departmental Regulation 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: June 15, 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 Departmental Regulation 1512–1 (December 15, 1983). 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.

As set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

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 Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35447, amending the policy for insuring corn in accordance with the provisions of Departmental Regulation 1512–1, and issuing a new subsection to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The notice of proposed rulemaking published on August 4, 1983, was incorrectly designated as Amendment No. 3 to the Corn Crop Insurance Regulations. The correct designation should be Amendment No. 1. That error is corrected herein. The public was given an opportunity to submit written data, comments, and opinions on the proposed rule, but none were received. Therefore, with exception of minor and non-substantive changes to language, the proposed rule as published, herein redesignated as Amendment No. 1 to the Corn Crop Insurance Regulations (7 CFR Part 432), is hereby issued as a final rule to be effective with the 1984 crop year.

List of Subjects in 7 CFR Part 432

Crop insurance, Corn.

Final rule

PART 432—[AMENDED]

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 Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 432 is:

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

2. 7 CFR 432.3 is added to read as follows:

§ 432.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 432) 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.

3. 7 CFR 432.7(d) is revised to read as set forth below:

§ 402.7 [Amended]

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Corn Insurance Policy for the 1984 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Corn—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 causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the water supply from an unavoidable cause occurring after the beginning of planting, unless those causes are

excepted, excluded, or limited by the actuarial table or section 9g(9).

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

(1) The neglect, mismanagement or wrong doing of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good corn farming practices;

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

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

2. Crop, acreage, and share insured.

a. The crop insured shall be field corn ("corn") which is planted for harvest as grain or silage; which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be corn 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 tenants in the insured corn at the time of planting.

d. We do not insure any acreage:

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

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

(3) Which is destroyed and it is practical to replant to corn but such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction;

(5) Of volunteer corn;

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

(7) Planted with another crop except sorghum (grain or forage-type) when the sorghum is not more than 20 percent of the stand.

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 corn irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good corn 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. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. 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, and practice.

You shall report on your form:

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

b The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You shall report if you do not have a share in any corn 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 determined 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 are in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election 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 multiplyirg 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 in case of your death;

(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.

Insurance attaches when the corn is planted and ends at the earliest of:

a. Total destruction of the corn;

b. Harvest;

c. Final adjustment of a loss;

d. The date immediately following planting in:

(1) Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmitt Counties, Texas and all Texas counties south thereof: September 30;

(2) All other Texas counties and other states: December 10; or

e. September 30 where our actuarial table shows:

(1) Only a silage guarantee; or

(2) Both a grain and a silage guarantee on of corn harvested for silage.

8. Notice of Damage of Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant corn damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the corn on any unit is damaged and you decide not to further care for or harvest any of it;

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

(d) 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 corn and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or 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 unharvested corn (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 the 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 corn on the unit;

(b) Harvest of the unit; or

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

b. You may not destroy or replant any of the corn on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the corn which is 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 corn 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 corn and/or silage 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) Multiplying this product by the price election;

(3) Subtracting the dollar amount obtained by multiplying the total production to be counted (see section 9g) by the price election; and

(4) Multiplying this result by your share.

d. Where a unit contains acreage to which both a grain and a silage guarantee apply, the dollar amount of insurance and dollar amount of the production to be counted shall be determined separately for each portion and then added together to determine the total amount for the unit.

e. 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.

f. The indemnity shall be reduced by the amount of any replanting payment.

g. The total production to be counted for a unit shall include all harvested and appraised production.

(1) When the actuarial table shows only a grain guarantee, all production and appraisals will be in bushels. When the actuarial table shows only a silage guarantee, all production and appraisals will be in tons. When the actuarial table shows both a grain and silage guarantee, the production and appraisals will be in bushels for any unharvested acreage and in bushels or tons for any harvested acreage, depending upon whether the acreage is harvested for grain or silage.

(2) Mature grain production:

(a) Which otherwise is not elibible for quality adjustment shall be reduced. 12 percent for each .1 percentage point of moisture in excess of 15.5 through 30.0 percent and .2 percent for each .1 percentage point of moisture from 30.1 through 40.0 percent; or

(b) Which, due to insurable causes, has moisture over 40 percent; kernel damage more than 15 percent as determined by a licensed grain grader; or test weight below 40 pounds per bushel, shall be adjusted by:

(i) Dividing the value per bushel of such corn by the price per bushel of U.S. No. 2 corn; and

(ii) Multiplying the result by the number of bushels of such corn.

The applicable price for No. 2 corn be the local market price on the earlier of the day the loss is adjusted or the day such corn was sold. The quality adjustment shall not reduce the harvested production more than 75 percent so that at least 25 percent of harvested production will count.

(3) Production shall be reduced 1 percent for each 1 tenth of a bushel below 4.5 bushels if (a) the actuarial table shows both a grain and silage guarantee; (b) the corn is harvested as silage; (c) a grain appraisal is made concurrently with a silage appraisal; and (d) the grain appraisal is less than 4.5 bushels per ton. No reduction will be allowed in harvested silage production if a representative sample (at least 10 feet wide and the entire length of the field) for each 25 acres of corn harvested for silage is not left until appraised by us.

(4) 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 corn 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) Any appraised production on unharvested acreage.

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

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

(b) Is harvested, or

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

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

(7) If the actuarial table shows a silage guarantee or both a grain and silage guarantee and the normal silage harvesting period has ended, we may increase the tonnage appraisal or the harvested silage production by the factor to reflect the normal moisture content of silage harvested during the normal silage harvesting period (see actuarial table).

(8) Where the actuarial table shows only a silage guarantee, we may convert bushels of grain to tons of silage, and increase all production harvested after the normal silage harvesting period to reflect the normal moisture content of silage harvested during the normal silage harvesting period (see actuarial table).

(9) When you have elected to exclude hail and fire as insured causes of loss and the corn is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FC1–78, "Request to Exclude Hail and Fire".

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

h. A replanting payment may be made on any insured corn replanted after we have given consent and the acreage replanted is at least 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment shall be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date determined to be reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre shall be your actual cost per acre for replanting, except that:

(a) Where the actuarial table shows only a grain guarantee or both a grain and silage guarantee, the payment shall not exceed 8 bushels multipled by the price election, the product of which is multiplied by your share; or

(b) Where the actuarial table shows only a silage guarantee, the payment shall not exceed 1 ton multiplied by the price election, the product of which is multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately. Any replanting payment shall be considered as an indemnity.

i. You shall not abandon any acreage to us.

j. 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.

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

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

m. If you have other fire insurance and 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 only assign to another party your right to an indemnity for the crop year 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 will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will 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 corn produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons 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 will 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 will 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 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 the 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 county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmit Counties, Texas and all Texas counties lying south thereof.	Feb. 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina and Winkler, Ector, Upton, Reagan, Sterling, Coke, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, Gonzales, Lavaca, Wharton and Matagorda Counties, Texas.	Mar. 31.
All other Texas counties and 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 joing 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 will 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 and by November 30 preceding the cancellation date for all other countries. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Means of terms.

For the purposes of corn 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, normal silage harvesting period, normal silage moisture content, insurable and uninsurable acreage, and related information regarding corn 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 corn is normally grown and shall be designated by the calendar year in which the corn is normally harvested.

d. "Harvest" means completion of combining, picking or cutting the corn for the purpose of livestock feed.

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. "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.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to corn.

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. "Silage" means corn harvested by severing the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

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

l. "Unit" means all insurable acreage of corn 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 commodity payment, or any consideration other than a share in the corn 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 between you and us. Units 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 and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of 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 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.

Done in Washington, D.C., on January 14, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: May 9, 1984.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-13163 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-08-M

Federal Grain Inspection Service

7 CFR Part 810

Revision of the U.S. Standards for Wheat

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is revising the regulations under the United States Grain Standards Act, as amended, concerning the U.S. Standards for Wheat. Specific items addressed are: (1) The special grade "Light garlicky" is deleted and the special grade "Garlicky" is redefined as wheat containing more than 2 green bulblets or an equivalent quantity of dry or partly dry bulblets in 1,000 grams. The work portion is reduced to 250 grams for counts in excess of 10 green garlic bulblets, (2) The allowable limit for castor beans in the numerical grades is reduced from 2 to 1, (3) When Hard Red Spring wheat or White Club wheat predominates in Mixed wheat, the test weight requirements for those wheats would apply, (4) An extreme amount of smut does not render wheat Sample grade, and the special grades, "Light smutty" and "Smutty," continue to be shown on official certificates, (5) The components of the subclass Western White wheat are listed in the order of predominance on the official certificate, and (6) The factors wheat of other classes, contrasting classes, and subclasses are analyzed on a work portion of wheat free from dockage and shrunken and broken kernels. The revisions are made for the sake of clarity and uniformity, to promote a better understanding of the standards, and to facilitate the marketing of wheat.

The dockage rounding procedure will not be changed at this time. After reviewing the comments, FGIS is deferring this action pending additional study.

An additional class of wheat, designated Red wheat, will not be established. Commenters indicated that the proposed class would adversely affect the wheat marketing system. The strong opposition and potential marketing impact preclude addition of this class to the wheat standards.

Also included are general nonsubstantive changes to update the standards.

EFFECTIVE DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: .

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, because those persons who apply the standards and most users of wheat inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.).* Further, the standards are applied equally to all entities by FGIS employees or licensed persons.

Effective Date

Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b) and § 800.4 (7 CFR 800.4) of the regulations, no standards established or amendments or revocation of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator the public health, interest, or safety requires that they become effective sooner. Therefore, ordinarily these standards would not

become effective until May 16, 1985. However, the wheat harvest in the southern production area begins in May, and it is desirable that new standards become effective before the beginning of harvest to minimize possible disruption of normal marketing procedures. The approximate 11-month waiting period is deemed adequate for all interested parties to prepare for implementation of the revised standards. Therefore, the Administrator has determined that the public interest requires that the revised standards become effective May 1, 1985.

Final Action

A review of the U.S. Standards for Wheat (7 CFR 810.301–810.309) included a determination of the continued need for the standards, changes in marketing factors and functions affecting the standards, and changes in technology and economic condition in the area affected by the standards and their application through the incorporation of grading factors or tests which better indicate grain quality. The objective was to assure that the standards continued to serve the needs of the market to the greatest possible extent. FGIS has determined that, in general, the wheat standards are serving their intended purpose and should remain in effect; however, FGIS is making certain changes, as discussed below.

Following discussions with industry and other interested parties prior to review of the wheat standards, 144 comments were received regarding the present standards. Based on these comments and FGIS' continuing examination of the wheat standards, FGIS identified several issues for extensive evaluation. A notice of intent to review the standards was published in the March 22, 1983, **Federal Register** (48 FR 11953) requested public comment on these and other issues. Subsequent to publication of the notice, 106 comments were received from all segments of the industry including foreign entities.

In the March 22, 1983, notice, FGIS identified certain issues which formed the basis for eight proposed changes which were published in the January 13, 1984, **Federal Register** (49 FR 1730) as follows:

1. The procedure for rounding dockage would be revised. When the actual dockage is from zero to 0.25 percent, no dockage figure would be shown on the certificate, 0.26 to 0.75 percent would be certificated as 0.5 percent, 0.76 to 1.25 percent would be certificated as 1.0 percent, and so forth.

2. The special grade "Light garlicky" would be deleted and the special grade "Garlicky" would be redefined as wheat containing more than 2 green bulblets or an equivalent quantity of dry or partly dry bullets in 1,000 grams. The work portion would be reduced to 250 grams for counts in excess of 10 green garlic bulblets.

3. The allowable limit for castor beans in the numerical grades would be reduced from 2 to 1.

4. When Hard Red Spring wheat or White Club wheat predominates in Mixed wheat, the test weight requirements for those wheats would apply.

5. An extreme amount of smut would not render wheat Sample grade. The special grades, "Light smutty" and "Smutty", would continue to be shown on official certificates.

6. The components of the subclass Western White wheat would be listed in the order of predominance of the official certificate.

7. The factors wheat of other classes, contrasting classes, and subclasses would be analyzed on a work portion of wheat free from dockage and shrunken and borken kernels.

8. An additional class of wheat, designated "Red wheat", would be established. This class would accommodate red wheat which appears on the basis of visual physical characteristics, to contain more than 10.0 percent of other classes of red wheat. Except for wheat of other classes, the grade factors for all other classes and subclasses would apply, with the additional factor, protein content. The minimum protein content for grades U.S. Nos. 1, 2, 3, 4, and 5 would be 13.5, 11.0, 10.0, 9.0, and 9.0 percent, respectively on a 14 percent moisture basis. The wheat of other classes factor limits would not be applicable to Red wheat.

Four hundred eighty-four official comments were received on the proposed rule during the comment period. An additional twelve comments were received after the closing date. Over half of these comments, including a number of form letters and a petition, were from wheat producers in Kansas and Oklahoma. The remaining letters were from grain dealers and merchandisers, millers, board of trade representatives, university personnel, foreigh buyers, government officials, and grain inspection personnel. The large majority of the commenters confined their remarks to the proposed change to the dockage rounding procedure and/or addition of a Red Wheat class to the standards. Few commenters directly addressed the other six proposed changes. A small number of commenters briefly stated that the standards should not be changed but did not address any of the proposals. The comments received, together with all available information, were used to evaluate the proposed changes and formulate final rulemaking to the wheat standards as follows:

(a) *Dockage.*

A change to the dockage rounding procedure is being deferred until further study of this action can be completed. The comments received on the proposed change to the rounding procedure indicate a considerable controversy exists on this issue.

Dockage consists primarily of dust, chaff, small weed seeds, very small pieces of broken wheat, and coarse grains larger than wheat. Dockage usually is removed in the grain cleaning process, and may be utilized as a byproduct in animal feeds.

The current method of dockage certification rounds the actual percentage of dockage down to the nearest 0.5 percent, for example, 0.0 to 0.49 percent is shown as no dockage, 0.50 to 0.99 percent is shown as 0.5 percent dockage, 1.0 to 1.49 percent is shown as 1.0 percent, and so forth. The proposed change to the rounding procedure would certify wheat containing 0.0 to 0.25 percent dockage as no dockage, 0.26 to 0.75 percent would be 0.5 percent, 0.76 to 1.25 would be 1.0 percent, and so forth. Under the current rounding method, the certified percentage of dockage could be up to 0.49 percent less than the actual amount. Under the proposed procedure, the certified percentage of dockage could differ from actual dockage by no more than plus or minus 0.25 percent.

Some comments supported this proposal but others opposed it. After reviewing the comments and all other available information, FGIS believes that additional study is needed to review this situation. To aid in this review, FGIS has been gathering data from ship loading logs and Grain Sampling tickets. Such data will continue to be gathered and evaluated throughout the study.

Prior to further action on revision of the dockage rounding procedure, FGIS will hold at least one public meeting to discuss this issue with interested parties. The date and location will be announced in the **Federal Register.**

(b) *Garlicky Wheat.*

The special grade "Light garlicky" (7 CFR 810.308(b)) is deleted and "Garlicky" (7 CFR 810.308(c)) is defined as wheat containing "more than 2 green bulblets or an equivalent quantity of dry or partly dry bulblets in 1,000 grams." Bulblet count will only be shown upon request. The size of the work portion will be reduced to 250-gram for counts in

excess of 10 green garlic bulblets. Portion sizes are a procedural matter for inspection and will be defined in the Grain Inspection Handbook.

In the current standards, wheat containing two but not more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in a 1,000-gram portion is graded "Light garlicky". Wheat that contains more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets is graded "Garlicky".

Millers have indicated that small quantities of garlic do not significantly affect grinding equipment or flour production. Also a reduction in the size of the work portion, when more than 10 green bulblets are present, is warranted to reduce the time required to analyze 1,000 grams of wheat while maintaining reasonable accuracy. Therefore, FGIS has determined that deletion of "Light garlicky" and redefining "Garlicky" as wheat containing more than 2 green bulblets or an equivalent quantity of dry or partly dry bulblets in 1,000 grams is warranted.

The majority of commenters who specifically addressed this proposal indicated support or no opposition to the change. One commenter indicated the change would not cause an undue hardship for farmers producing high quality wheat and would improve returns.

Commenters who were opposed to change indicated the present special grades work well, and changing would cause producer discounts and necessitate showing a bulblet count on the certificate. One commenter indicated that grade discounts should be placed on the number of bulblets rather than the garlicky designation. Another commenter stated that garlicky should be determined after removal of dockage.

Since discounts are generally assessed on the number of bulblets, this revision should not affect producer income, and the bulblet count will be shown on the certificate upon request. Actual discounts for garlic bulblets are still at the discretion of the buyer.

Garlic bulblet count is determined on the sample as a whole, i.e., before removal of dockage. This basis of determination provides information on the necessity for cleaning prior to processing and has not presented marketing problems or been adversely criticized.

No opposition was expressed to reduction of the work portion to 250 grams when more than 10 green garlic bulblets are present. Three commenters indicated, however, the bulblet count should always be based on 1,000 grams of wheat. FGIS concurs, and the bulblet count on a 250 gram work portion will always be calculated to reflect the quantity of bulblets in 1,000 grams.

In view of the above, § 810.308 is revised as proposed.

(c) *Castor Beans.*

The limit for castor bean seeds in the numerical grades (7 CFR 810.306 at (3)) is reduced from 2 to 1, i.e., when a 1,000 gram sample contains more than 1 castor bean the wheat is graded "U.S. Sample grade."

The numerical grade limit of 2 castor bean seeds is too lenient. Castor bean seeds are rarely found in any grain but the large size of the seed and the toxicity of the ricin found within, make it prudent to revise the limit to one castor bean. The majority of commenters who specifically addressed this proposal either supported or indicated no opposition to the change. No commenters opposed tightening the limits. Therefore, § 810.306 is revised as proposed.

(d) *Test Weight Requirements for Mixed Wheat.*

FGIS is revising the wheat standards to clarify the test weight requirements when Hard Red Spring wheat or White Club wheat predominate in a mixture (7 CFR 810.306(b)).

The test weight requirements for Hard Red Spring wheat and White Club wheat in the various grades differ from all other classes and subclasses of wheat. If Hard Red Spring wheat and or White Club wheat predominate in a mixture, the intent of the standards is to apply the test weight requirements of the predominating class. However, the grade chart is not definitive on this point, and differences in interpretation have resulted.

The majority of commenters who addressed this proposal specifically indicated support or no opposition to the clarification. One commenter opposed the proposal and indicated all mixtures of wheat should have a 60 pound per bushel minimum test weight requirement. This, however, would not be consistent with the test weight requirements for Hard Red Spring wheat and White Club wheat and the past procedure for determining the test weight of Mixed wheat containing a predominant amount of Hard Red Spring and/or White Club wheat. The chart in § 810.306 is, therefore, modified as proposed to indicate the test weight requirements for Hard Red Spring wheat or White Club wheat apply when one or both of these classes predominate in Mixed wheat.

(e) *Smutty Wheat.*

FGIS is deleting the requirement in the wheat standards which specifies that the presence of an extreme amount of smut will render wheat U.S. Sample grade (7 CFR 810.306 at (2)).

Currently, when smut is evident in a sample, the special grades "Light smutty" and "Smutty" are applied (7 CFR 810.308 (d) and (e)). Also, if a sample contains a quantity of smut so great that one or more grade requirements cannot be determined accurately, a Sample grade designation is applied. Inspection data show that wheat rarely contains so much smut that grade requirements cannot be determined accurately. The special grades appear to adequately inform the user of the condition of the wheat and make the requirement regarding extreme quantities of smut as Sample grade unnecessary.

The majority of commenters who specifically addressed this proposal supported or indicated no opposition to the change. Commenters opposed to the proposal indicated an extreme amount of smut should render wheat Sample grade. They did not, however, elaborate beyond that point.

FGIS has determined that deleting this requirement is necessary. Accordingly, § 810.306 is revised as proposed.

(f) *Certification of Western White Wheat.*

The grade designation for Western White wheat (7 CFR 810.307 (a)(5)) is being revised to list on official certificates the components of this class of wheat in order of predominance, as is done in mixed grains.

In Western White wheat, the percentage of White Club wheat is currently stated first in the "Remarks" section of the official certificate, followed by the percentage of other white wheat. This practice does not correspond with the certification procedures for mixtures of grain and other classes are to list the components of the mixture in order of predominance. In most samples Western White wheat, White Club wheat comprises a small or minimal proportion of the mixture, with other white wheat predominating.

All commenters who addressed this proposal indicated support for or no opposition to the change. No comments were received which directly opposed this revision. Accordingly, FGIS is revising the grade designation for Western White wheat in § 810.307 as proposed.

(g) *Basis of Determination.*

FGIS is revising the basis of determination in the wheat standards (7 CFR 810.303 (c)) to perform analysis of the factors wheat of other classes, contrasting classes, and subclasses on a work portion of the wheat free from

dockage and shrunken and broken kernels.

The current method of analysis for the factors wheat of other classes, contrasting classes, and subclasses is after removal of dockage. In contrast, heat-damaged kernels, damaged kernels (total), and foreign material analyses are performed on wheat after removal of dockage and shrunken and broken kernels (7 CFR 810.303 (c)).

Shrunken and broken kernels are pieces of wheat and other materials that pass through a 0.064 x ⅜ inch oblong-hole sieve. These shrunken and broken kernels are difficult to analyze for wheat of other classes, contrasting classes, and subclasses. Revision of the standards to permit determination of these factors after removal of shrunken and broken kernels will increase inspection accuracy and reduce inspection time.

All commenters who addressed this proposal supported or indicated no opposition to changing the basis of determination. No comments were received which directly opposed the change. Section 810.303 is, therefore, revised as proposed.

Red Wheat

FGIS has determined that an eighth class of wheat will not be established.

The Red Wheat class was proposed to enable the grain market to ascertain use and value of red wheat which exhibited nonuniform physical appearance atypical of existing classes. This proposed class would have included blends of those red wheat varieties which are particularly difficult to identify and which appear as mixtures consisting of two or more of the following classes: Hard Red Winter, Soft Red Winter, or Hard Red Spring wheat. The minor component would have represented a minimum of ten percent. The grade factors for all other classes and subclasses would have applied, except for wheat of other classes, with the additional factor, protein content. The minimum protein content for the grades 1, 2, 3, 4, and 5 was proposed as 13.5, 11.0, 10.0, 9.0, and 9.0, respectively.

The large majority of commenters opposed development of the Red wheat class. The predominant reasons stated in opposition to this class include the following: (1) Red wheat would adversely affect the price received by wheat producers; (2) identification, segregation, and protein determination could not be performed at the country elevator level; (3) Red wheat would be a "catch-all" class hard to identify; (4) protein should not be a grade determining factor; and (5) this class would adversely affect the domestic and foreign wheat markets. Three foreign commenters indicated the class would not be opposed if trade of the other classes was not affected. Several commenters supported the present method of classing wheat.

Evaluation of the comments indicated lack of support for the Red wheat class in all segments of the wheat industry. FGIS, therefore, determined that the Red wheat class should not be made a part of the wheat standards as proposed.

FGIS will continue to cooperate with plant breeders, university personnel, government agencies, and other interested parties to develop a suitable objective test to class wheat.

Other Comments

One commenter did not address the proposed changes in the January 13, 1984, notice but indicated that limits for insect infestation in the wheat standards are too lenient.

FGIS recognizes that insect infestation is a legitimate concern, but has determined that the present limits for insect infestation are as stringent as is practical. Many of the problems caused by insect infestation stem from hidden infestation; however, at this time an objective test to measure hidden infestation has not been developed which is suitable for use in inspection offices. FGIS will continue to monitor research related to detection of insects and, as progress is made in this research, FGIS will propose appropriate changes in the limits.

Incorporated also into this revision are nonsubstantive changes to update footnotes which references FGIS Handbooks.

List of Subjects in 7 CFR Part 810

Exports and grain.

PART 810—[AMENDED]

Accordingly, § 810.302 and § 810.303 and § 810.306 through 810.309 are amended as set forth below:

United States Standards for Wheat [1]

1. Section 810.302 is amended by revising paragraphs (e), (h), (j) and (m) as follows:

§ 810.302 Definition of other terms.

* * * * *

(e) *Dockage.* All matter other than wheat which can be removed readily from a test portion of the original sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Handbook.[2] Also, underdeveloped, shriveled, and small pieces of wheat kernels removed in properly separating the material other than wheat and which cannot be recovered by properly rescreening or recleaning. (See also § 810.305 and § 810.307.) For the purpose of this paragraph, "approved device" shall include the Carter Dockage Tester and any other equipment that is approved by the Administrator as giving equivalent results.[3]

* * * * *

(h) *Moisture.* Water content in wheat as determined by an approved device in accordance with procedures prescribed in the Equipment Handbook.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administration as giving equivalent results.[3]

* * * * *

(j) *Shrunken and broken kernels.* All matter which can be removed from a test portion of the dockage-free sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Handbook.[2] For the purpose of this paragraph, "approved device" shall be the 0.064 x ⅜ oblong-hole sieve.[3]

* * * * *

(m) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic-inch capacity) as determined on a dockage free test portion of the original sample using an approved device in accordance with instructions in the Grain Inspection Handbook.[2] Test weight per bushel shall be expressed to the nearest tenth of a pound. For the purpose of this paragraph "approved device" shall include the Fairbanks-Morse or Ohaus Test Weight Per Bushel Apparatus and any other equipment that is approved by the Administrator as giving equivalent results.[3]

2. Section 810.303 is amended by revising paragraph (c).

§ 810.303 Basis of determination.

* * * * *

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provision of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

[2] The following publications are referenced in these standards. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(a) Equipment Handbook U.S. Department of Agriculture, Federal Grain Inspection Service.

(b) Grain Inspection Handbook, U.S. Department of Agriculture, Federal Grain Inspection Service.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and request for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Wshington, D.C. 20250.

(c) *All other determinations.* All other determinations shall be upon the basis of the grain when free from dockage except the determination of heat-damaged kernels, damaged kernels (total), foreign material, other classes, contrasting classes, and subclasses shall be upon the basis of the grain when free from dockage and shrunken and broken kernels; and the determination of odor shall be upon either the basis of the sample as a whole or the grain when free from dockage.

* * * * *

§ 810.306 Grades and grade requirements.

Wheat

(a) Grades and grade requirements for all classes of wheat, except Mixed wheat. (*See also § 810.308*)

	Minimum limits of—		Maximum limits of—						
	Test Weight per bushel							Wheat of other classes [4]	
	Hard Red Spring wheat or White Club wheat (pounds [1])	All other classes and subclasses (pounds)	Heat damaged kernels (percent)	Damaged kernels (total) [2] (percent)	Foreign material (percent)	Shrunken and broken kernels (percent)	Defects (Total) [3] (percent)	Contrasting classes (percent)	Wheat of other classes [5] (percent)
U.S. No. 1	58.0	60.0	0.2	2.0	0.5	3.0	3.0	1.0	3.0
U.S. No. 2	57.0	58.0	0.2	4.0	1.0	5.0	5.0	2.0	5.0
U.S. No. 3	55.0	56.0	0.5	7.0	2.0	8.0	8.0	3.0	10.0
U.S. No. 4	53.0	54.0	1.0	10.0	3.0	12.0	12.0	10.0	10.0
U.S. No. 5	50.0	51.0	3.0	15.0	5.0	20.0	20.0	10.0	10.0
U.S. Sample grade									

U.S. Sample grade shall be wheat which:
(1) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or
(2) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria spp.*), 2 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, an equivalent quantity of other animal filth per 1,000 grams of wheat; or
(3) Has a musty, sour, or commercially objectionable foreign odor (*except smut or garlic odor*); or
(4) Is heating or otherwise of distinctly low quality.

[1] These requirements also apply when Hard Red Spring wheat or White Club wheat predominate in a sample of Mixed wheat.
[2] Includes heat-damaged kernels.
[3] Defects (total) include damaged kernels (total), foreign material, and shrunken and broken kernels. The sum of these three factors may not exceed the limit for defects.
[4] Unclassed Wheat of any grade may contain not more than 10 percent of wheat of other classes.
[5] Includes contrasting classes.

* * * * * * * * *

4. Section 810.307 is amended by revising paragraph (a) and footnote 4 of paragraph (b) to read as follows:

§ 810.307 Grade designations.

(a) *Grade designations for wheat.* (See also § 810.308). The grade designations for wheat shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade"; (3) the subclass, or in the case of Hard Red Winter wheat, Mixed wheat, Soft Red Winter wheat, and Unclassed wheat, the class; (4) each applicable special grade (see also section 810.309); and (5) when applicable, the word "dockage" together with the percentage thereof. In the case of Western White wheat, there shall be included under "Remarks" on the inspection certificate, in the order of predominance, the name and percentage of White Club wheat and other white wheat in the mixture. In the case of Unclassed wheat, there shall be included under "Remarks" on the inspection certificate the color or other characteristics which describe the wheat, together with the percentage. In the case of Mixed wheat, there shall be included under "Remarks" on the inspection certificate, in order of predominance, the name and percentage of the classes that comprise the mixture.

(b) *Optional grade designations.* * * *[4]

* * * * *

5. Section 810.308 is amended by revising paragraph (b), removing paragraph (c), redesignating paragraphs (d) through (g) as paragraphs (c) through (f) and by revising paragraph (e) as redesignated as follows:

Special Grades, Special Grade Requirements and Special Grade Designations

§ 810.308 Special grades and special grade requirements.

* * * * *

(b) *Garlicky wheat.* Wheat which contains in a 1,000-grain portion more than two green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

* * * * *

(e) *Weevily wheat.* Wheat which is infested with live weevils or other insects injurious to stored grain. As applied to wheat, the meaning of the term "infested" is set forth in the Grain Inspection Handbook.[2]

* * * * *

6. Section 810.309 is amended by revising paragraph (a) to read as follows:

§ 810.309 Special grade designation.

* * * * *

(a) The grade designation for ergoty, garlicky, light smutty, smutty, and weevily wheat shall include in the order listed, following the applicable class or subclass, the word(s) "Ergoty": "Garlicky": "Light Smutty": "Smutty": and "Weevily": as warranted, and all other information prescribed in section 810.307.

* * * * *

(Secs. 5 and 18, Pub. L. 94–582, 90 Stat. 2869 and 2884 (7 U.S.C. 76 and 87(e)))

Dated: May 3, 1984.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84-13171 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-EN-M

[4] The conditions are listed in the Grain Inspection Handbook. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 324, Amdt. 1; Valencia Orange Reg. 325, Amdt. 1; Valencia Orange Reg. 326]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 324 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 4–10, 1984. Amendment 1 of Regulation 325 increases the quantity of Valencias that may be shipped during the periods May 11–17, 1984. Regulation 326 establishes the quantity of Valencia oranges that may be shipped during the period May 18–24, 1984. These regulations are needed to provide for the orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: Amended Regulation 324 (§ 908.624) becomes effective for the period May 4–10, 1984. Amended Regulation 325 (§ 908.625) becomes effective for the period May 11–17, 1984. Regulation 326 (§ 908.626) becomes effective May 18, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

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

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

The amendments and regulation are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on February 14, 1984. The committee met again by telephone on May 7 and publicly on May 8, 1984, to consider current and prospective conditions of supply and demand for California-Arizona Valencia oranges. The committee reports the demand for Valencia oranges is excellent. Since there are Valencia oranges available to meet this demand, it is in the interest of producers and consumers to increase the allotments for the periods May 4–10 and 11–17, 1984, and to establish a comparable allotment for the period May 18–24, 1984.

There is insufficient time between the date when the information upon which these regulations are based became available and the effective date necessary to effectuate the declared policy of the Act. Therefore, it is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Interested persons were given an opportunity to submit information and views on the regulations at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make these provisions effective as specified, and handlers have been notified of these actions and their effective dates.

List of Subjects in 7 CFR Part 908

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

PART 908—[AMENDED]

1. Sections 908.624 and 908.625 are revised as follows:

§ 908.624 Valencia Orange Regulation 324.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period May 4, 1984, through May 10, 1984, are established as follows:

(a) District 1: 352,000 cartons;
(b) District 2: 398,000 cartons;
(c) District 3: Unlimited cartons.

§ 908.625 Valencia Orange Regulation 325.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period May 11, 1984, through May 17, 1984, are established as follows:

(a) District 1: 376,000 cartons;
(b) District 2: 424,000 cartons;
(c) District 3: Unlimited cartons.

2. Section 908.626 is added as follows:

§ 908.626 Valencia Orange Regulation 326.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period May 18, 1984, through May 24, 1984, are established as follows:

(a) District 1: 376,000 cartons;
(b) District 2: 424,000 cartons;
(c) District 3: Unlimited cartons.

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

Dated: May 10, 1984.

Thomas R. Clark,

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

[FR Doc. 80-13110 filed 5-15-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 923

[Cherry Regulation 22, Amdt.1]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container and Pack Requirements; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation increases the minimum size of 13 row size cherries to a minimum of $^{5}\%_{64}$ inch from a minimum of $^{4}\%_{64}$ inch. Such requirements affect the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. Such action is necessary to promote orderly marketing of suitable sizes of fresh Washington cherries in the interest of producers and consumers.

DATES: Effective May 28, 1984, through July 2, 1984. Comments which are received by June 15, 1984 will be considered prior to issuance of a final rule to become effective on and after July 3, 1984.

ADDRESSES: Send two (2) copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined pursuant to the standards of the Regulatory Flexibility Act, 5 U.S.C. 601–

612, that this action will not have a significant economic impact on a substantial number of small entities.

The Washington cherry interim rule is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Washington Cherry Marketing Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The interim rule would be effective during the period May 28, 1984, through July 2, 1984. Interested persons are invited to comment through June 15, 1984 with regard to the interim rule.

This amendment would increase limitations on the handling of Washington sweet cherries by permitting each handler during the period May 28, 1984, through July 2, 1984, to ship 13 row size cherries of a minimum $^{5}\%_{4}$ inch in diameter. The committee indicates the change would improve overall fruit quality in the pack. The shipment of low quality fruit disrupts orderly marketing because such fruit undermines buyer confidence in the quality of fruit sold in the markets. The increase in minimum size would likely improve sales of 13 row cherry packs, benefiting growers by increasing sales and thus returns. In this instance, elimination of the sizes smaller than those specified is appropriate in the interest of producers and consumers.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) Shipment of the 1984 Washington sweet cherry crop will begin on or about the effective date of this amendment; (2) the amendment was recommended by the committee following discussion at a public meeting; and (3) Washington sweet cherry handlers have been apprised of these requirements for 13 row cherries and the effective date.

List of Subjects in 7 CFR Part 923

Marketing agreements and orders, Cherries, Washington.

PART 923—[AMENDED]

Accordingly, the provisions of § 923.322 (Cherry Regulation 22) are hereby amended by revising paragraphs (a) introductory text, (a)(2), (b) introductory text and (c)(2) to read as follows:

§ 923.322 Cherry Regulation 22, Amendment 1.

(a) During the period May 28 through July 2, 1984, no handler shall handle, except as otherwise provided in paragraphs (b), (c) and (d) of this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

* * * * *

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $^{5}\%_{4}$ inch in diameter, except as hereinafter provided in paragraph (b)(2)(ii) and subparagraph (3) of this paragraph.

* * * * *

(b) *Containers.* During the period May 28 through July 2, 1984, no handler shall handle any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

* * * * *

(c) * * *

(2) When containers of cherries are marked with a minimum diameter of $^{5}\%_{4}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided,* That not more than 5 percent, by count, may be smaller than $^{5}\%_{4}$ inch in diameter.

* * * * *

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

Dated: May 10, 1984.

Thomas R. Clark,

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

[FR Doc. 84-12971 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1430

Milk Diversion Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to amend the regulations governing the Milk Diversion Program which are set forth at 7 CFR 1430.400 *et seq.*, to allow the Administrator, Agricultural Stabilization and Conservation Service (ASCS), or his designee, to approve the transfer of dairy cows by a participant in the program if it is determined that the transfer will not adversely affect the goals of the program.

EFFECTIVE DATE: May 16, 1984. Comments must be received by July 16, 1984 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Jerry W. Newcomb, Director, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Telephone (202) 447–5621.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "not major" since it will not result in: (1) An annual effect on the economy exceeding $100 million; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

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

The title and number of the federal assistance program to which this notice applies are Title—Commodity Loans and Purchases, Number 10.051, as found

in the Catalog of Federal Domestic Assistance.

Section 201(d) of the Agricultural Act of 1949 was amended by the Dairy and Tobacco Adjustment Act of 1983 to authorize a Milk Diversion Program. Under the program, the Secretary of Agriculture entered into contracts with milk producers who agreed to reduce, by a specified percentage, the quantity of milk marketed for commercial use during the contract period (i.e., January 1, 1984 through March 31, 1985) from the quantity of milk marketed commercially during an historical base period. In consideration for making the required reductions, the Secretary agreed to make diversion payments to producers in the amount of $10 per hundredweight.

The regulations which implemented the program restrict the transfer of dairy cows from the contract unit by a program participant. These regulations provide at 7 CFR 1430.410 that a producer participating in the program cannot sell, lease, or otherwise transfer dairy cows unless the cows: (1) Are sold for slaughter; (2) are sold, leased, or transferred to another program participant; or (3) are sold and delivered for export.

A number of situations have arisen concerning the sale, lease or transfer of dairy cows from a contract unit by participants in educational projects, such as 4–H and Future Farmers of America. Under the Milk Diversion Program regulations, the transfer of dairy cows from a contract unit by family members of a program participant is prohibited unless the transfer falls within one of the exceptions specified in § 1430.410. Since this adversely impacts upon the purpose and goals of the educational projects, it has been determined that the regulations should be amended to permit the transfer of dairy cows, in addition to those transfers already authorized in § 1430.410, if the Administrator, ASCS, or his designee determines that such transfers will not defeat the goals of the Milk Diversion Program. In addition to permitting the transfer of dairy cows in those situations involving educational projects, this amendment to the regulations will also allow the approval of the transfer of dairy cows in other meritorious circumstances.

Since the purpose of this amendment to the regulations is to make program requirements less restrictive under certain circumstances, it has been determined, for the reasons given above, that prior public rulemaking is unnecessary and contrary to the public interest. However, comments are requested with respect to this interim rule for a period of 60 days from the date of publication in the **Federal Register** and a final rule will be published together with any changes which are determined to be necessary as a result of the comments received.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Interim rule

PART 1430—[AMENDED]

Accordingly, 7 CFR § 1430.410 is amended by adding a new paragraph (d) as follows:

§ 1430.410 Restrictions on transfers of dairy cows.

* * * * *

(d) Notwithstanding any other provision of this section, a transfer by a producer participating in the program may also be approved if the Administrator, ASCS, or his designee, determines that the transfer will not defeat the goals of the Milk Diversion Program.

(Sec. 201(d), Agricultural Act of 1949, as amended (7 U.S.C. 1446(d); Sec. 102(b), Dairy and Tobacco Adjustment Act of 1983; and the Commodity Credit Corporation Charter Act (15 U.S.C. 714, *et seq.*))

Signed at Washington, D.C. on May 10, 1984.

John R. Block,

Secretary of Agriculture.

[FR Doc. 84-13181 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 84-031]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations governing the interstate movement of cattle because of brucellosis by (1) changing the classification of the States of Massachusetts and Pennsylvania and parts of Montana and Wyoming from Class A to Class Free and (2) making a change concerning the classifications for Texas by including Cooke County, Texas, in the portion of the State designated as Class B rather than in the portion of the State designated as Class C. This action is necessary because it has been determined that these States and parts of States meet the standards for their new classifications. The effect of these actions is to relieve certain restrictions on the interstate movement of cattle from these States and parts of States.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 811, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8711.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on February 1, 1984 (49 FR 3978–3980) amended the brucellosis regulations (contained in 9 CFR Part 78) by changing the classification of the States of Massachusetts and Pennsylvania and parts of Montana and Wyoming from Class A to Class Free, and by changing the classification of Cooke County, Texas, from Class C to Class B. The amendments, which were made effectively February 1, 1984, relieved certain restrictions on the interstate movement of cattle from these States and parts of States.

Comments were solicited for 60 days after publication of the amendments. No comments were received. The factual situation which was set forth in the document of February 1, 1984, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

The interim rule affirmed by this document is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that the interim rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Changing the status of the States and parts of States as provided in the interim rule reduces testing requirements on the interstate movement of certain cattle.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by the changes in status. Also, cattle from Certified Brucellosis-free herds moving interstate are not affected by this change in status. It has been determined that the changes in brucellosis status affirmed by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that the interim rule affirmed by this document will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 78

Animal diseases, Cattle, Quarantine, Transportation, Brucellosis.

PART 78—[AMENDED]

Accordingly, the interim rule published at 49 FR 3978–3980 on February 1, 1984, is adopted as a final rule.

(Secs. 4, 5, 6, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114a–1, 115, 120, 121, 125, 134b, 134f); 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 11th day of May, 1984.

Billy G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-13183 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 92

[Docket No. 84-038]

Importation of Cattle; Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations concerning requirements for the importation of cattle through the Harry S Truman Animal Import Center (HSTAIC) (1) to reflect that the HSTAIC facility can accommodate only 230 cattle rather than 400 cattle in any one importation; and (2) shorten the required notification period from 60 days to 30 days for the drawing to determine who would be authorized to import cattle. This action is necessary to accurately reflect the capacity of the HSTAIC facility for the importation of cattle and to require a notification period that is no longer than necessary to accomplish its purpose.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR 92.41 (referred to below as the regulations) contain special provisions governing the importation into the United States of cattle through the Harry S Truman Animal Import Center (referred to below as HSTAIC). On February 15, 1984, a document was published in the **Federal Register** (49 FR 5726–5727) which amended § 92.41 of the regulations to reflect that the HSTAIC facility can accommodate only 230 cattle rather than 400 cattle in any one importation and to shorten the required notification period from 60 days to 30 days for the drawing to determine who would be authorized to import cattle.

The interim rule was made effective on February 15, 1984. Comments were solicited for 60 days following publication of the interim rule. No comments were received. The factual situation which was set forth in the document of February 15, 1984, still provides a basis for the amendments.

Executive Order 12291 and Regulatory Flexibility Act

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

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

The number of cattle imported through the HSTAIC is insignificant compared with the total number of cattle imported into the United States each year. Further, the number of small entities importing cattle through the HSTAIC is insignificant compared with the number of small entities importing cattle into the United States. Therefore, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Meat and meat products, Quarantine, Transportation, Wildlife.

PART 92—[AMENDED]

Accordingly, the interim rule published at 48 FR 5726–5727 on February 15, 1984, is adopted as a final rule.

(Sec. 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202; 21 U.S.C. 111 and 135; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 11th day of May, 1984.

Billy G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-13182 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-34-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 31

Fees for Audits of Leverage Transaction Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: the Commission recently proposed to establish an annual fee for audits of leverage transaction merchants which are not members of a contract market or of a registered futures association. 49 FR 3876 (Jan. 31, 1984). As proposed, the fee would initially be set at $8,000, a figure which the Commission determined would be well below the average annual cost of auditing a leverage transaction merchant. The Commission is now adopting its proposed fee in final form, with a change in the date upon which the initial fee is due. In addition, the Commission is modifying the proposed fee to reflect that after paying an initial $8,000 fee, a leverage transaction merchant will not have to pay an additional fee until fiscal year 1986. The

fee is designed to recover Commission costs incurred only with respect to audits of leverage transaction merchants.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Daniel S. Goodman, Esquire, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254–9880.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 31, 1984, the Commission published for comment in the **Federal Register** a proposed annual fee of $8,000 for audits of leverage transaction merchants which are not members of a contract market or of a registered futures association. 49 FR 3876. Under the proposed fee schedule, any leverage transaction merchant which would not be audited by a self-regulatory organization pursuant to Commission-approved rules would be required to pay the annual fee. The initial $8,000 audit fee would accompany the firm's application for registration as a leverage transaction merchant.

Having reviewed the comments submitted by three firms,[1] each of which has applied or intends to apply for registration as a leverage transaction merchant, the Commission is now adopting the fee schedule as proposed, changing only the date on which the initial fee is due. For fiscal year 1984, the fee will be set at $8,000. This figure represents a very conservative estimate of the annual average cost to the Commission of conducting full-scope audits, limited-scope audits, and routine reviews of financial reports of a single leverage transaction merchant. If, upon reviewing its actual cost data when they become available, the Commission finds that its annual audit costs exceed $8,000 per leverage transaction merchant, the fee might be raised in future years. However, the fee will always be set so as not to exceed the actual average annual cost of auditing a leverage transaction merchant.

Under the proposed rule, the initial $8,000 audit fee would have been required to accompany a leverage firm's application for registration as a leverage transaction merchant. Some leverage firms have already submitted registration applications, however. Accordingly, the final rule has been changed to state that for those firms, the initial fee shall be paid within fifteen days of the effective date of the regulation. If a firm which has already submitted an application for registration as a leverage transaction merchant does not submit the $8,000 audit fee within the specified time, its application shall be considered withdrawn.

The Commission is also modifying its proposal to reflect that a leverage transaction merchant's second $8,000 payment will not be due until fiscal year 1986.[2] The initial fee will represent the costs of Commission audit functions during the last few months of fiscal year 1984 and all of fiscal year 1985.

II. Comments on Proposed Fee

One commenter expressed its belief that section 26 of the Futures Trading Act of 1978, as amended by section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a, upon which the Commission relies in promulgating this fee schedule, is not applicable to leverage transaction merchants. The Commission finds no support for that position.

Section 237 added the following language to Section 26 of the Futures Trading Act of 1978:

> (c) Nothing in this section shall limit the authority of the Commission to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act * * *.

The Conference Report accompanying the legislation, H.R. Rep. No. 964, 97th Cong. 2d Sess. 57 (1982) specifically authorizes fees to be charged for "(1) Commission audits of firms which are not members of contract markets or of a registered futures association." Neither the Act nor the Conference Report suggests that Congress did not intend for the Commission to charge fees in connection with its regulation of the leverage industry. Indeed, in 1982, Congress added language to Section 19 of the Commodity Exchange Act requiring the Commission to regulate leverage transactions "under such terms and conditions as the Commission shall prescribe * * *." 7 U.S.C. 23(c). Clearly, then, audits of leverage transaction merchants are "activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act." Fees not exceeding the actual cost to the Commission may therefore be charged for such audits.

A second commenter argued that the proposed audit fee was not authorized under the Independent Offices Appropriation Act of 1952 ("IOAA"), as amended by Pub. L. 97–258, 96 Stat. 1051 (Sept. 13, 1982) (*see* 31 USCA 9701), because Commission audits are of no value to leverage transaction merchants. While the Commission certainly does not agree that its audits will provide no benefit to the audited firms, the point is irrelevant, because the Commission is not relying on the IOAA as authority for its audit fee. *Cf.* 49 FR 3878, 3879 (Jan. 31, 1984) (IOAA cited as partial legal authority for proposed fees for leverage commodity registration). As explained above, the Commission believes that sufficient legal authority for its audit fee is found in the Commodity Exchange Act and in the Futures Trading Act of 1978, as amended by the Futures Trading Act of 1982.

The same commenter also contended that the Commission cannot charge a fee for auditing leverage transaction merchants until it obtains actual data concerning the costs of such audits. The Commission is mindful of its statutory obligation not to charge fees for an activity which exceed the actual cost thereof. 7 U.S.C. 16a(c). Nevertheless, the Commission believes that it is fully appropriate to set an audit fee initially at a figure based on a conservative estimate of the costs which will be incurred. While the Commission agrees that audits of leverage transaction merchants will differ in some significant respects from audits of futures commission merchants, the experience which the Commission has gained with the latter type of audit can certainly help the Commission to make a conservative estimate of the cost of the former. Of course, the Commission will review the $8,000 audit fee figure in subsequent fiscal years, when actual Commission cost data become available, to be sure that the fee does not exceed the Commission's actual costs.

One commenter termed the initial $8,000 audit fee "an additional fee solely for registration" and complained that the fee would not be refunded if a firm's application for registration as a leverage transaction merchant were denied. This characterization of the audit fee is not accurate. The fee is designed to recover Commission costs incurred only with respect to audits of leverage transaction merchants. The costs of an initial full-scale audit of a leverage firm will be incurred by the Commission regardless

[1] The three commenters were: First National Monetary Corporation (comments submitted by its general counsel, Simon, Deitch, Siefman, Tucker and Friedman), Monex International, Ltd., and American Coin Exchange.

[2] Before collecting the fee for fiscal year 1986, the Commission will review its audit costs for fiscal years 1984 and 1985 to determine whether it is necessary to change the size of the fee. The Commission will publish a notice in the **Federal Register** early in fiscal year 1986 stating when the fee is due and any change in its amount.

of whether or not the firm's application for registration is granted. The Commission believes that the costs of these initial full-scale audits alone will exceed $8,000 per leverage firm. Thus, because the Commission will have expended its time and resources for the qualifying audit, the Commission will not refund the initial $8,000 fee in the event that a firm's application for registration as a leverage transaction merchant is denied.

Finally, one commenter objected to the imposition of a uniform, average audit fee, stating that the cost of auditing different firms could vary widely. The commenter would have preferred a fee based on the actual work which the Commission's staff auditors conduct at each LTM. The Commission recognizes that the costs of auditing different leverage firms may vary. Nevertheless, substantial costs will be incurred in auditing every leverage firm. In this regard, the Commission notes that since each leverage transaction merchant is required to have a base adjusted net capitalization of at least $2,500,000, *see* Commission rule § 31.9, the Commission will be auditing only firms of substantial size. Indeed, the Commission would not be surprised to find that the $8,000 annual audit fee is so low that the cost of the initial audit of each leverage firm exceeds that figure. The Commission further believes that the predictability and administrative convenience of a fixed fee outweigh any advantages of charging each firm for the actual costs incurred during each audit. Once again, however, the Commission emphasizes that it will review its audit fee in subsequent fiscal years. If the disparity in the costs of auditing different leverage transaction merchants is significant, the Commission will consider revising the fee.

In proposing to establish an audit fee for leverage transaction merchants, the Commission indicated that the fee would become effective immediately if adopted in final form:

> The Commission has determined that should it decide to adopt the proposed fee schedule as a final fee schedule, good cause would exist for making the fee schedule effective immediately. *See* 5 U.S.C. 533(d)(3). An immediate effective date for the fee schedule would insure that all leverage transaction merchants subject to the audit fee would be treated equally and would enable the federal government to begin to recover the significant costs associated with such audits. (49 FR at 3877.)

No commenter objected to an immediate effective date, and the Commission retains its belief that an immediate effective date is important for the implementation of its program for auditing leverage transaction merchants. Accordingly, the audit fee shall be effective immediately upon publication in the **Federal Register**.

III. Regulatory Flexibility Act

The Commission has determined that leverage transaction merchants are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Previously the Commission determined that futures commission merchants ("FCMs") are not "small entities." 47 FR 18618 (April 30, 1982). This determination was based upon both the minimum financial requirements established for FCMs and the fiduciary nature of the FCM-customer relationship. *Id.* at 18619. The same reasoning applies to leverage transaction merchants. The minimum financial requirements for leverage transaction merchants include a base adjusted net capitalization figure of $2,500,000. Commission Rule § 31.9. By comparison, FCMs are required to have $50,000 net capitalization, in addition to other regulatory safeguards. 17 CFR 1.17.

Thus, the requirements of the Regulatory Flexibility Act do not apply to leverage transaction merchants. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule promulgated herein will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 31

Audits of leverage transaction merchants, Fees, Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular in sections 8, 8a(5), and 19, 7 U.S.C. 12, 12a(5), and 23; and in section 26 of the Futures Trading Act of 1978, as amended by section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a, the Commission hereby amends Part 31 of Chapter 1 of Title 17 of the Code of Federal Regulations by adding Appendix B. In taking this action, the Commission has considered the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

PART 31—LEVERAGE TRANSACTIONS

Part 31 is amended by adding Appendix B, as follows:

Appendix B—Schedule of Fees for Audits of Leverage Transaction Merchants

(a) Each leverage transaction merchant which is not a member of a self-regulatory organization with rules approved by the Commission providing for the auditing of such a firm shall pay an annual audit fee of $8,000. The initial fee must accompany the firm's application for registration as a leverage transaction merchant. Firms which have already submitted an application for registration as a leverage transaction merchant must submit the initial fee within 15 days of publication of this rule in the **Federal Register**. Thereafter, the fee will be collected annually, beginning in fiscal year 1986. The fee shall be paid by check or money order in the amount of $8,000 made payable to the Commodity Futures Trading Commission.

(b) Checks or money orders should be sent to the attention of the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. No checks or money orders may be accepted by personnel other than those in the Office of the Secretariat.

(c) Failure of a leverage transaction merchant to submit an audit fee in a timely manner will result in the Commission's refusal to process any new applications for registration of a leverage commodity submitted by that leverage transaction merchant and will be a sufficient ground for the Commission to revoke the registration of any previously registered leverage commodity.

Issued in Washington, D.C., on May 10, 1984, by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 84-13123 Filed 5-15-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 811

Sale or Release of Audiovisual Documentation; Correction

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on the sale or release of audiovisual documentation, that was published in the **Federal Register** March 20, 1980 (45 FR 17991). This action is necessary to correct references which have been redesignated or abolished.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Holmes, Headquarters United States Air Force/DASJR(S), Washington, D.C. 20330.

PART 811—[CORRECTED]

Accordingly, the Department of the Air Force is correcting 32 CFR 811.1 (c), (d) and 811.2(e)(1) to read as follows:

1. Sections 811.1 (c) and (d) are corrected to read as follows:

§ 811.1 Exclusions.

* * * * *

(c) Audiovisual records made for the Air Force Office of Special Investigations, for use in an investigation or a counterintelligence report. Parts 806 of this chapter and AFR 124–4 show who may use this photography.

(d) Audiovisual records made for aircraft and missile mishap investigators, for their investigations of Air Force aircraft and missile mishaps, per AFR 127–4. Part 806 of this chapter and AFR 124–4 show who may use this photography.

* * * * *

2. The introductory text of § 811.2(e)(1) is corrected to read as follows:

§ 811.2 Authority for using or releasing audiovisual materials.

* * * * *

(e) * * *

(1) The Secretary of the Air Force, Office of Public Affairs (SAF/PA), may release audiovisual materials (per AFR 190–1) to:

(10 U.S.C. 8012).

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 84–13164 Filed 5–15–84; 8:45 am]

BILLING CODE 3910–01–M

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32 CFR Part 880

Obtaining Medical, Dental, and Veterinary Care From Civilian Sources; Correction

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on obtaining medical, dental, and veterinary care from civilian sources, that was published in the Federal Register May 12, 1980 (45 FR 31113). This action is necessary to correct an error in the table of contents.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Holmes, Headquarters United States Air Force/DSAJR(S), Washington, D.C. 20330.

Accordingly, the Department of the Air Force is correcting 32 CFR Part 880 table of contents to read as follow:

The first line of the table of contents is corrected as follows:

PART 880—OBTAINING MEDICAL, DENTAL, AND VETERINARY CARE FROM CIVILIAN SOURCES

Subpart A—Obtaining Medical, Dental and Veterinary Care From Civilian Sources

* * * * *

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–13152 Filed 5–15–84; 8:45 am]

BILLING CODE 3910–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD–FRL–2587–8]

Approval and Promulgation of State Implementation Plans; Settlement of Litigation

AGENCY: Environmental Protection Agency.

ACTION: Rule-related notice of settlement of litigation.

SUMMARY: This notice describes a recent settlement of litigation concerning State implementation plans for visibility protection under the Clean Air Act between the Environmental Protection Agency (EPA) and the Environmental Defense Fund, Inc. (EDF), and other plaintiffs. This notice provides general information to the public, States, and Territories about how this Settlement Agreement may affect them.

FOR FURTHER INFORMATION CONTACT: Bruce V. Polkowsky, Office of Air Quality Planning and Standards, Control Programs Development Division (MD–15), U.S. EPA, Research Triangle Park, N.C. 27711 (919–541–5540).

SUPPLEMENTARY INFORMATION: On December 20, 1982, EDF and other plaintiffs filed a citizens suit under section 304(a) of the Clean Air Act, 42 U.S.C. 7604(a), in the United States District Court for the Northern District of California against EPA alleging failure to perform nondiscretionary duties concerning the adoption and implementation of State plans for control of visibility. *EDF* v. *Gorsuch*, NO. C–82–6850 (N.D. Calif.). The EDF argued that under Section 110 of the Act, 42 U.S.C. 7410, final plans for protection of visibility for all of the 36 States listed in the promulgation of the visibility rules on December 2, 1980 (45 FR 80084, 40 CFR 51.300–307), were to have been promulgated no later than September 1981, and at the time of their suit, all but one of the required States were without final visibility protection plans. Subsequently, the parties signed a Settlement Agreement, which was approved by Judge Robert P. Aguilar of the District Court in an order signed on April 20, 1984.

The Settlement Agreement establishes specific deadlines for the completion of State implementation plans (SIP's) for visibility protection for the 35 States currently lacking such plans. If States do not submit their own visibility SIP's to EPA for review and approval, EPA will have to develop and promulgate the necessary plans pursuant to Section 110(c) of the Act, 42 U.S.C. 7410(c).

The Agreement divides the current rule requirements into two parts and implements them sequentially. The first part requires SIP provisions for a visibility monitoring strategy and for assessment of visibility impacts of new sources, 40 CFR Part 51, 551.305 and 51.307. These requirements will also include incorporation of some definitions established in 40 CFR 51.301. However, in implementing the first part of the rules, the Agency will not address protection of integral vistas. New source review (NSR) and monitoring strategies for integral vistas will be addressed in the second part of the settlement. Under this first part of the settlement, EPA will issue notices of deficiencies and propose rules for the applicable States within 6 months (October 1984). The EPA must promulgate these rules within 8 additional months (June 1985), with certain allowances for comment period extensions. If the States submit plans to meet the monitoring and NSR requirements within 4 months from the close of the comment period (April 1985), EPA will review the submittal and either approve it or promulgate the Agency's rule within 12 months from the close of the comment period (December 1985). This would complete actions under the first part of the Settlement Agreement.

The second part of the Settlement Agreement would implement the remainder of the December 2, 1980, visibility rules (40 CFR Part 51, 51.300–51.307) as in effect 20 months from the signing of the court order (December 1985). At that time, EPA will determine the adequacy of the SIP's. Notices of deficiencies and proposals to remedy these deficiencies must be published within 6 months of EPA's determination (June 1986). The EPA must promulgate these rules within 8 months of proposal (February 20, 1987) with allowances made for extension of the comment period. If a State submits a plan to meet these requirements within 4 months of the close of the comment period (December 1986), EPA will review and approve the submittal or disapprove the

submittal and simultaneously promulgate the Federal rule within 12 months of the close of the comment period (August 1987).

If in the future, a State covered by this agreement submits an approvable plan after EPA has promulgated its own rule for that State, EPA may at that time withdraw its rule and simultaneously substitute the approved SIP.

The EPA encourages all affected States to prepare and submit their own visibility plans within the requisite dates outlined above so that they may be in a position to manage the visibility program within their States.

The District Court will retain jurisdiction of the case until 30 days after final approval by the Administrator or Federal promulgation of visibility protection plans for all required States whose plans have not been approved by the Administrator as of the date of this agreement.

The Settlement Agreement described above was completed by EDF, the Department of Justice, and EPA, and approved by Judge Robert P. Aguilar of the U.S. District Court for the Northern District of California in an order signed on April 20, 1984.

Dated: May 4, 1984.

John C. Topping,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-13129 Filed 5-15-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-6-FRL 2588-8]

Louisiana; Approval and Promulgation of Revisions to State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve revised sections of the State Implementation Plan (SIP) and Air Quality Regulations for Louisiana which were submitted to EPA by the Governor of the State. The revisions concern deletion of the State's ambient air standard for non-methane hydrocarbons. This notice amends 40 CFR Part 52.970.

EFFECTIVE DATE: This rulemaking will be effective on July 16, 1984, unless notice is received by 30 days from date of publication that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by Louisiana, and EPA's Evaluation Report may be examined during normal business hours at the following locations: EPA, Region 6, Air Branch, 1201 Elm, Street, Dallas, Texas 75270, EPA, Public Information Reference Unit, Library Systems Branch, 401 M Street, SW., Washington, D.C. 20460; and at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

J. Ken Greer, Jr., State Implementation Plan Section, Air & Waste Management Division, EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-9859, FTS 729-9859.

SUPPLEMENTARY INFORMATION:.

I. Background

The Governor of Louisiana submitted to EPA revisions to the State's SIP for air pollution control on October 19, 1983. The submittals included the deletion of § 14.0 from the SIP and the State's Air Quality Regulations. A public hearing was held and the submittals were adopted by the Louisiana Environmental Control Commission on July 28, 1983. Brief descriptions of the revised sections and EPA's actions are outlined below. An analysis of the revised sections and EPA's determination of their approvability is provided in EPA's Evaluation Report which is available for public review at the Regional Office, which is listed in the **ADDRESSES** section of this notice.

II. Description of the Revised Sections

The revision to § 14.0, Control of Air Pollution from Hydrocarbons (Non-methane), deletes the section from the State's Air Quality Regulations. § 14.0 concerns the State's ambient air standards for non-methane hydrocarbons. The state's standards for hydrocarbons were used as a guide for hyrocarbon emissions, and were the same as EPA's guideline National Ambient Air Quality Standard (NAAQS) for hydrocarbons, which EPA revoked in early 1983. The submittal also deletes mention of the hydrocarbon guideline standard from Table 1, 1a, and 2 of the Louisiana regulations; these tables outline the Louisiana air quality standards and the measurement methods for the standard.

The above described revised Sections have been reviewed by EPA and found to agree with EPA guidance as fully explained in the Evaluation Report.

EPA's Action

EPA approves the Louisiana SIP revisions deleting § 14.0 from the Louisiana SIP and Air Quality Regulations.

The public should be advised that this action will be effective 60 days from the date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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 July 16, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

Under 5 U.S.C. 605(b). I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

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 Louisiana 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 dioxides, Nitrogen dioxides, Lead Particulate Matter, Carbon Monoxide, Hydrocarbons, Intergovernmental Relations.

Dated: May 9, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart T—Louisiana

Section 52.970 is amended by adding new paragraph (c)(41), as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(41) Deletion of Air Control Regulation 14.0, and deletion of hydrocarbon guideline standard from Table 1, 1a, and 2, as adopted by the Louisiana Environmental Control Commission on July 28, 1983, was submitted by the Governor on October 19, 1983.

(Secs. 110, 172 and 301, Clean Air Act (42 U.S.C. 7410, 7502, 7601))

[FR Doc. 84-13131 Filed 5-15-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[AD-FRL 2589-2]

Michigan; Approval and Promulgation of Implementation Plans

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

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on a revision to the Michigan State Implementation Plan (SIP) related to Total Suspended Particulates (TSP) from coal-fired boilers at the General Motors (GM) Corporation's Warehousing and Distribution Division, which is located in Swartz Creek County. This revision approves Consent Order No. 18–1981 and its alterations, which requires that the company place air pollution control devices and/or other equipment on its Boiler No. 2 by October 15, 1985. EPA believes that approval of this SIP revision will not jeopardize maintenance of the TSP National Ambient Air Quality Standards (NAAQS), in Swartz Creek County.

EFFECTIVE DATE: This action will be effected July 16, 1984, unless notice is received within 30 days that someone wishes to submit critical comments.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Ms. Toni Lesser at (312) 886–6037 before visiting the Region V Office.)

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

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

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

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48910.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Programs Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Lesser, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On August 24, 1983, the State of Michigan submitted a SIP revision request for an extension of the compliance date for Boiler No. 2 for GM Corporation, Warehousing and Distribution Division. The request is in the form of Consent Order No. 18–1981. The Order allows GM an extended compliance date to install a control device on Boiler No. 2 until October 15, 1985.

The facility is located in Flint, Swartz Creek County which is an attainment area for particulates. The facility has 4 coal fired boilers identified as Boilers 1, 2, 3 and 4. Boiler 1 or 2 is used only during peak steam demand. Boilers 3 and 4 are used on a regular basis and are presently controlled and are also in compliance with the applicable mass emission limit under Michigan Rule 336.1331. The company indicated that only three boilers are needed to provide the maximum steam load during the winter months. The company also indicated that Boiler No. 2 will eventually be the third unit. Boilers No. 1 or 2, would, if operated as the third unit under specified conditions emit about 0.60 lb/1000 lbs. fuel gas corrected to 50% excess air.

Rule 336.1331 requires Boiler No. 2 to meet a limit of 0.45 lb/1000 lbs of fuel gas corrected to 50% excess air. The compliance plan to meet this limit is the installation of mechanical collectors on Boiler No. 2.

The State of Michigan granted the GM Corporation, Warehousing and Distributing Division a two-year extension until October 15, 1985 upon the condition that the facility comply with the following provisions:

—That the company shall not operate Boiler No. 1 or 2 unless the powerhouse steam demand exceeds 64,000 lbs. per hour or if an emergency arises which necessitates the unscheduled shutdown of Boilers 3 and 4.

—That the company shall notify the State, in the event that Boiler No. 1 or 2 is operated.

—That the company shall not operate Boiler No. 1 or 2 on a regular basis except as specified above, until the air pollution control equipment is installed and Boiler No. 2 has demonstrated compliance with the SIP mass emission limit of 0.45 lbs. per 1,000 lbs of gas corrected to 50% excess air.

EPA has reviewed Consent Order No. 18–1981 for the GM Corporation, Warehousing and Distribution Division described above (EPA Technical Support Document: February 27, 1984). EPA finds the October 15, 1985, compliance date extension approvable so long as the facility's Boiler No. 2 operates only on a standby basis or for peak periods when the power plant steam demand exceeds 64,000 lbs. per hour. Boiler No. 2 normally does not exceed 200 hours per year of operation. When operating during this variance period, Boiler No. 2 remains subject to the 0.60 lb/1,000 lbs. limitation. EPA believes that the compliance date extension until October 15, 1985 will not have a significant impact on the air quality in the Flint area due to the infrequent and restrictive use of Boiler No. 2 and, therefore, EPA approves this SIP revision.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on July 16, 1984. However, if we receive notice within June 15, 1984 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws this action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period. Today's action approved an action submitted by the State pursuant to the provisions of Section 110 of the Clean Air Act and imposes no requirements beyond those which the State has already imposed.

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. (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 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 July 16, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

This notice is issued under authority of sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: May 9, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart X—Michigan

Section 52.1170 is amended by adding paragraph (c)(76) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(76) On August 24, 1983, the State of Michigan submitted a State Implementation Plan (SIP) revision request for an extension of the compliance date for Boiler No. 2 for the General Motors Corporation Warehousing and Distribution Division, in Swartz Creek County. Consent Order No. 18–1981 extends the compliance date until October 15, 1985 for GMC to install mechanical collectors on Boiler No. 2.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410))

[FR Doc. 84–13133 Filed 5–15–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 529

[AD–FRL 2589–1]

Michigan; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking..

SUMMARY: The purpose of today's rulemaking is to approve and incorporate into the Michigan SIP additional control measures to attain and maintain the secondary particulate standard in Muskegon County. The control measures consist of (1) Consent Order APC No. 12–1979 for CWC Castings Division of Textron, Inc. and (2) a rule, Article 14 of Section J of Michigan County Air Pollution Control Rules, against open burning in Muskegon County. EPA believes that approval of these control measures will result in improvement in total suspended particulates (TSP) air quality in Muskegon County.

EFFECTIVE DATE: This action will be effective July 16, 1984, unless notice is received within 30 days that someone wishes to submit critical comments.

ADDRESSES: Copies of this SIP revision, are available for review at the following addresses:

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago Illinois 60604

Michigan Department of Natural Resources Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48910

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

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

Written Comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch, (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT: Toni Lesser, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On January 19, 1981, the State of Michigan submitted Consent Order APC No. 12–1979 between CWC Castings Division of Textron and the Michigan Air Pollution Control Commission (MAPCC) as a SIP revision to comply with the applicable requirements of the 1977 amendments to the Clean Air Act (ACT) for Muskegon County. To satisfy those requirements, Michigan committed to submit a final study of the Muskegon secondary particulate nonattainment area and to develop enforceable consent orders or additional emission limitations.

Consent Order APC No 12–1979, as submitted on January 19, 1981, for the CWC Casting Division of Textron, Inc. required reductions of point source emissions and fugitive emissions from Plants 1, 3, 4, and 5–7. In addition, Consent Order APC No. 12–1979 was designed to help alleviate the high ambient concentrations in Muskegon County where the facility is located.

On March 8, 1982, the State of Michigan submitted a copy of Muskegon County Air Pollution Control Rules and Regulations, amended March 27, 1973 concerning open burning, as part of its SIP. Article 14 of Section J of such regulation prohibits open burning in Muskegon County.

Under section 107 of the Act, a portion of Muskegon County has been designated an area of nonattainment for the secondary total suspended particulate (TSP) standard. There are seven significant sources of particulate emissions located within this nonattainment area, but only three of the sources (all owned by the CWC Castings), were determined to be dominant contributors to the monitored violations.

On January 14, 1982, EPA prepared a Technical Support Document (TSD) reviewing the State's TSP strategy for Muskegon. Michigan's strategy to attain and maintain the secondary TSP standard in the Muskegon nonattainment area consists of (1) A specific consent order for CWC Castings that requires emission reductions, and (2) a ban on open residential and leaf burning in Muskegon County (Article 14, Section J of the Muskegon County Air Pollution Commission Rules).

On October 4, 1983, the State of Michigan submitted alterations to Consent Order APC No. 12–1979 for the CWC Castings Division of Textron, Inc. The alterations to the consent decree require CWC Castings to adopt the following control measures:

(1) Install additional control device to reduce emissions from each charge door at cupola in Plant 3 and at east cupola in Plant 5. These devices shall be in operation by December 31, 1984, and shall be tested for compliance by February 15, 1985.

(2) Install additional demisting section after each venturi scrubber at Plant 3 cupola and at Plant 5 east cupola to eliminate the spotting of cars and other surfaces in the vicinity of the facilities. These demisters shall be operational be December 31, 1984 and be tested for compliance by May 1, 1985.

(3) Delete the requirement for installation of secondary collectors (wet caps) designed to reduce emissions during malfunction of the venturi scrubbers at Plant 3 cupola and at Plant 5 east cupola. In exchange for this deletion, the cupolas are required to shutdown immediately during malfunctions instead of being allowed to operate for the next 72 hours.

The altered consent decree extends the installation schedule of the specified control devices to December 31, 1984. Other control measures required by the original decree have already been completed. For reasons of public welfare, the alterations are expected to provide further emission reduction to the Muskegon strategy designed to attain and maintain the secondary particulate standards. The impacts of these alterations on the strategy are positive and, therefore, beneficial to air quality.

A review of the 1980–1982 monitoring data indicates that in 1982 there was a single violation of the secondary TSP standard in Muskegon County. This single violation is an improvement to the multiple violations in previous years, however, the State still lacks an approvable attainment demonstration for Muskegon County, and for this reason EPA is taking no rulemaking action on the adequacy of the overall

Part D secondary TSP attainment plan for Muskegon County.

EPA has reviewed Michigan's control measures consisting of (1) Altered Consent Order APC No. 12–1979 and (2) rule on open burning ban in Muskegon County to attain and maintain the secondary TSP standard. EPA believes that altered Consent Order APC No. 12–1979 contains enforceable emission limitations and control measures which will contribute to the attainment of the secondary particulate standards. EPA also believes that the rule on open burning ban is enforceable, effective and will result in air quality improvement.

EPA is today approving the additional enforceable control measures contained in Consent Order APC No. 12–1979 and the open burning ban rule. EPA is taking no action at this time on the overall approval of Michigan's Part D secondary nonattainment area for Muskegon County. EPA believes that this approval is a noncontroversial and routine action, and we are approving it today without prior proposal. This action will be effective on July 16, 1984. However, if EPA is notified by June 15, 1984 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws this action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period. Today's action approves an action submitted by the State pursuant to the provisions of section 110 of the Act and imposes no new requirements beyond those which the State has already imposed.

Under Executive Order 12291 (46 FR 13193), EPA must also judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a major regulation since it merely approves the State's actions. 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 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 July 16, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

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

Dated: May 9, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, is amended as follows:

Subpart X—Michigan

Section 52.1170 is amended by adding paragraph (c)(75) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(75) On October 4, 1983, the State of Michigan submitted: (1) A revised Consent Order APC No. 12–1979 between CWC Castings Division of Textron and the Michigan Air Pollution Control Commission and (2) Article 14, Section J of the Muskegon County APC Rules. Consent Order APC No. 12–1979 requires reductions of point source emissions and fugitive emissions and extends the installation schedule of specified control devices to December 31, 1984. Article 14, Section J, provides a ban on open residential and leaf burning in Muskegon County. EPA approves the additional control measures contained in Consent Order APC No. 12–1979 and the open burning ban. EPA takes no action on the overall approval of Michigan's Part D secondary nonattainment area for Muskegon County.

(Sec. 111, Clean Air Act (42 U.S.C. 7410))

[FR Doc. 84–13132 Filed 5–15–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–9–FRL–2588–7]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Under section 107 of the Clean Air Act, EPA is redesignating six areas to attainment in California. These actions were proposed on September 9, 1983 and include the following: reduce the size of the carbon monoxide (CO) nonattainment areas in Butte and San Joaquin Counties, redesignate the southern portion of Santa Barbara County to attainment for CO, reduce the size of the total suspended particulate matter (TSP) nonattainment areas in Santa Barbara and Ventura Counties and redesignate the Salinas Valley portion of San Luis Obispo County to attainment for TSP.

EFFECTIVE DATE: This action is effective June 15, 1984.

FOR FURTHER INFORMATION CONTACT: Doug Grano, (415) 974–7640.

ADDRESS: Doug Grano, Air Programs Branch (A–2–1), Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 974–7640.

SUPPLEMENTARY INFORMATION:

Background

On November 12, 1981, EPA published a notice of proposed rulemaking (46 FR 55722) that invited comments on nearly all of California's designations and proposed action on six California Air Resources Board (ARB) redesignation requests. That action was taken as a result of litigation with the Western Oil and Gas Association (WOGA). The forty-one comments to the proposed notice raised a number of scientific and legal issues. EPA is responding to the comments in a series or rulemaking actions. Three actions have been published thus far: A final notice on June 29, 1982 (47 FR 28100), a final notice on September 9, 1983 (48 FR 40722) and a proposed notice on September 9, 1983 (48 FR 40746). Also in regard to today's notice, EPA received from the ARB, redesignation requests for smaller nonattainment areas in San Joaquin and Butte Counties, respectively dated February 21 and 22, 1984.

This is the fifth action taken with respect to the November 12, notice of proposed rulemaking. In this notice, EPA is finalizing six of the nine redesignations proposed in the September 9, 1983 proposal notice (third action). EPA is acting on the three remaining redesignations in a separate rulemaking package. For a complete discussion of the proposed redesignation actions please refer to the September 9, 1983 **Federal Register** (48 FR 40746).

EPA received public comment letters from the ARB and the San Luis Obispo County Air Pollution Control District regarding the actions proposed in the September 9, 1983 notice. Briefly, the comments support the six redesignation actions that are being taken in this notice. These comments were

considered along with all other pertinent evidence by EPA and are discussed in detail in the Public Comment Technical Support Document (available at the Region 9 office and EPA Headquarters in Washington, D.C.).

Final Actions on Redesignation Requests

After careful evaluation and consideration EPA finds that the six redesignation actions are appropriate for approval and is taking final action in this notice. For the purposes of today's discussion, "urbanized areas" referred to below, are defined in the U.S. Department of Commerce, Bureau of the Census *Number of Inhabitants Report for California, 1980 U.S. Census.* Urbanized areas in general consist of a central city or cities and surrounding closely settled territory (urban fringe).

For the Chico urbanized area, the ARB definition which is similar to the urban census definition, is being used. It is defined as follows:

Chico Urbanized Area Description

The Chico urbanized area includes the Chico North (two parts), Chico West, and Mulberry census designated places, and the Chico incorporated place (excluding that portion of Bidwell Park east of the county subdivision line), as designated in the attached 1980 census map and legend, which are part of the document entitled *Index to Block Numbered 1980 Census Maps, Chico, CA., Standard Metropolitan Statistical Area* (Report No. PHC80-1-120), as published by the U.S. Department of Commerce, Bureau of Census.

The redesignations being finalized in today's notice are:

1. Reduce the CO nonattainment area from all of Butte County to a smaller area consisting of the Chico urbanized area.

2. Reduce the CO nonattainment area from all of San Joaquin County to a smaller area consisting of the Stockton urbanized area.

3. Revise the CO designation status of the Air Quality Maintenance Area (AQMA) portion of Santa Barbara County from nonattainment to attainment.

4. Revise the TSP designation for the Salinas Valley portion of San Luis Obispo County from nonattainment (secondary standard) to attainment.

5. Reduce the TSP nonattainment area from the entire western part of the non-AQMA portion of Santa Barbara County to an area including the city of Santa Maria. Specifically, this is defined as that area enclosed by a circle with a radius of 15 miles, centered at the Broadway Library Monitoring site in Santa Maria.

6. Reduce the TSP nonattainment area from the entire southern portion of Ventura County to a smaller area excluding Ojai Piru.

On November 16, 1983, (48 FR 52057) EPA redesignated the Lancaster portion of Los Angeles County from nonattainment to attainment for TSP. Typographical errors were made in the regulatory portion of that notice. EPA is correcting these errors in today's notice.

Regulatory Process

As a result of the actions described above, the requirements contained in Title 1, Part D (Plan Requirements for Nonattainment Areas) of the Clean Air Act, as amended, no longer apply to the areas redesignated to attainment or unclassified for their respective pollutants.

Under the Clean Air 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 acation may not be challenged later in proceedings to enforce the requirements. (See section 307(b)(2) of the CAA.)

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

(Secs. 107(d) and 301(a), Clean Air Act, as amended, (42 U.S.C. 7407(d) and 7601(a))

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National parks, Wilderness areas.

Dated: May 9, 1984.

William D. Ruckelshaus,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

Subpart C—Section 107 Attainment Status Designation

§ 81.305 [Amended]

1. In § 81.305 California, the attainment status designation tables are amended as follows:

A. The California—TSP table is amended as follows:

(1) In the South Central Coast Air Basin the designation of the Salinas Valley—El Pomar Estrella Planning Area portion of San Luis Obispo County is revised.

(2) In the South Central Coast Air Basin, the designation of the west area, Santa Barbara County (non-AQMA portion) is revised.

(3) In the South Central Coast Air Basin, the designation of Ventura County (south of Los Padres Nat'l. Forest bondaries) is revised.

(4) In the Southeast Desert Air Basin the designation of the Los Angeles County (S.E. Desert Air Basin Portion)—the Lancaster Quartz Hill area is revised.

B. The California—CO Table is amended as follows:

(1) In the South Central Coast Air Basin, the designation of the Santa Barbara AQMA portion is revised.

(2) In the San Joaquin Valley Air Basin, the designation of San Joaquin County is revised.

(3) In the Sacramento Valley Air Basin, the designation of Butte County is revised.

§ 81.305 California

CALIFORNIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• • •	•	•	•	•
South Central Coast Air Basin:				
San Luis Obispo County:				
Salinas Valley—El Pomar Estrella Planning Area				X.
• • •	•	•	•	•
Santa Barbara County (Non-AQMA Portion):				
A. West Area of North-South Boundary separating Santa Ynez and Lompoc Valleys:				
Santa Maria Area	X			
Outside Santa Maria Area				X.
• • •	•	•	•	•
Ventura County:				
North of 34°23' North Latitude				X.
South of 34°23' North Latitude	X			

CALIFORNIA—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * * * *				
Southeast Desert Air Basin:				
* * * * * * *				
Los Angeles County (S.E. Desert Air Basin Portion):				
Lancaster Quartz Hill Area				X.
Outside Lancaster Quartz Hill Area			X	
* * * * * * *				

* * * * * * *

CALIFORNIA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * * * *		
South Central Coast Air Basin:		
* * * * * * *		
Santa Barbara AQMA		X.
* * * * * * *		
San Joaquin Valley Air Basin (SJVAB):		
* * * * * * *		
San Joaquin County:		
Stockton Urbanized Area	X	
Outside Stockton Urbanized Area		X.
* * * * * * *		
Sacramento Valley Air Basin (SVAB):		
Butte County:		
Chico Urbanized Area	X	
Outside Chico Urbanized Area:		X.
* * * * * * *		

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[FR Doc. 84-13130 Filed 5-15-84; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3110

[Circular No. 2543]

Noncompetitive Leases; Amendment Reducing the Number of Copies Required With an Over-the-Counter Offer

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: In connection with finalizing a new oil and gas lease form, it was determined that there is no longer a need for five copies of an over-the-counter offer to lease oil and gas on the public lands and related documents. This final rulemaking reduces the number of copies of an offer and related documents that must be submitted from five to three.

EFFECTIVE DATE: June 15, 1984.

ADDRESS: Any suggestions or inquiries should be sent to: Director (620), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher, (202) 653-2187.

SUPPLEMENTARY INFORMATION: As a result of work on finalizing a new oil and gas lease offer form, the Bureau of Land Management has determined that it no longer needs to have an original and four copies of an offer and related documents filed in connection with each over-the-counter offer to lease oil and gas on the public lands. The changes in §§ 3111.1-1(a) and 3111.2-2(b) of the regulations in Title 43 of the Code of Federal Regulations will reduce the administrative burden on the public. Since this amendment is administrative in nature and imposes no new burdens on the public, the determination has been made by the Department of the Interior that the change need not be published as a proposed rulemaking with a required public comment period.

The principal author of this final rulemaking is Karl F. Duscher, Division of Fluid Mineral Leasing, Bureau of Land Management.

It is hereby determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 602 et seq.).

The amendment made by this final rulemaking reduces from five to three the number of copies that an individual will have to supply in connection with an over-the-counter offer to lease oil and gas on the public lands. The change will have an equal impact on all who participate in the over-the-counter leasing program.

There are no additional information collection requirements contained in this final rulemaking requiring approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 3110

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Act of May 21, 1930 (30 U.S.C. 301-306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) and the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514), Subpart 3111, Part 3110, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: May 1, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 3111—[AMENDED]

1. Section 3111.1-1(a) is amended by removing the phrase "4 copies" and replacing it with the phrase "2 copies".

2. Section 3111.2–2(d) is amended by removing the phrase "5 copies" and replacing it with the phrase "3 copies".

[FR Doc. 84–13147 Filed 5–15–84; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Part 4700

[Circular No. 2544]

Wild Free-Roaming Horse and Burro Protection, Management and Control; Amendment To Provide for Waiver of Adoption Fee

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking authorizes the Director, Bureau of Land Management, to waive or adjust the adoption fee established in 43 CFR 4740.4–3(d) for wild free-roaming horses and burros on determining that they are unadoptable at the full adoption fee and that it is in the public interest to waive the fee. The waiver authorization extends only to those persons willing and qualified to maintain the animals privately, and who agree to comply with all the regulations pertinent to wild horses and burros.

EFFECTIVE DATE: May 16, 1984.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John S. Boyles, (202) 653–9215.

SUPPLEMENTARY INFORMATION: This emergency rulemaking is published as an interim final rulemaking to enable the Director, Bureau of Land Management, to expedite the adoption of excess wild free-roaming horses and burros that are otherwise unadoptable by waiving or adjusting the adoption fee imposed by 43 CFR 4740.4–3(d)(1). The emergency has arisen because of the accumulation of about 2,000 animals that are not attractive to adopters because of age or physical characteristics. This unadoptable accumulation of horses and burros costs the United States between $4,000 and $5,000 per day in feed and maintenance costs. Of the animals captured during the course of a year, 20 to 30 percent of the healthy animals are similarly not attractive to adopters and are added to this growing inventory.

The Wild Free-roaming Horse and Burro Act of 1971, as amended, 16 U.S.C. 1331 *et seq.*, requires the humane destruction of excess wild horses and burros for which adoption demand does not exist. The Bureau of Land Management and the Forest Service, however, instituted a moratorium in January 1982, on the destruction of healthy wild horses and burros.

Adjusting or waiving the adoption fee for certain potential adopters is expected to provide an incentive for accepting the animals for private custody and ownership.

The Bureau of Land Management has determined that publication of a proposed rulemaking in the **Federal Register** with an opportunity for public comment before publication of a final rulemaking is impracticable and contrary to the public interest. It also has been determined that delaying the effective date of the rulemaking until 30 days after publication in the **Federal Register** would be contrary to the public interest. Expeditious action on the matter of authority to waive or adjust the adoption fee will contribute immediately to the welfare of the animals by increasing the likelihood that they will be adopted, and will benefit the public treasury be reducing present feed and maintenance costs.

The amendment contained in this interim final rulemaking will also be contained in a proposed rulemaking revising all of 43 CFR Part 4700. The proposed rulemaking will be published at a later date and will afford a further opportunity for public comment on the present amendment.

The principal author of this interim final rulemaking is John S. Boyles, Division of Wild Horses and Burros, assisted by the staff of the Office of Legislation and Regulatory Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The information collection requirements contained in 43 CFR Part 4700 have been approved by the Office of Management and Budget and assigned clearance numbers 1004–0042 and 1004–0046.

List of Subjects in 43 CFR Part 4700

Advisory committees, Aircraft, Intergovernmental relations, Penalties, Public lands, Range management, Wild horses and burros, Wildlife.

Under the authority of the Act of September 8, 1959 (18 U.S.C. 47), the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) and the Act of June 28, 1934, as amended (43 U.S.C. 315), Part 4700, Subchapter D, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

PART 4700—[AMENDED]

Section 4740.4–3 is amended by adding a new paragraph (d)(3) to read:

§ 4740.4–3 Custodial arrangements.

* * * * *

(d) * * *

(3) The Director may adjust or waive the adoption fee on determining that wild horses or burros in the custody of the Bureau of Land Management are unadoptable when the full adoption fee is required, and that it is in the public interest to adjust or waive the adoption fee stated in paragraph (a) of this section. The adjustment or waiver shall extend only to persons who are willing to maintain such animals privately, who demonstrate the ability to care for them properly, and who agree to comply with all rules and regulations relating to wild horses and burros.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

April 23, 1984.

[FR Doc. 84–13146 Filed 5–15–84; 8:45 am]
BILLING CODE 4310–84–M

FEDERAL MARITIME COMMISSION

46 CFR Part 587

[Docket No. 84–22]

Actions to Address Conditions Unduly Impairing Access of U.S.-Flag Vessels to Ocean Trade Between Foreign Ports

AGENCY: Federal Maritime Commission.

ACTION: Interim rule and request for comments.

SUMMARY: This rule implements section 13(b)(5) of the Shipping Act of 1984. The Shipping Act of 1984 will become effective on June 18, 1984. The rule describes the procedures to be followed when undue impairment of the access of a vessel documented under the laws of the United States (U.S.-flag vessel) to an ocean trade between foreign ports is

alleged to exist and the actions which the Commission may take to address such conditions.

DATES: Interim Rule effective June 18, 1984. Comments on Interim Rule due, August 14, 1984.

ADDRESS: Comments (original and 20 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT:

Robert A. Ellsworth, Director, Office of Policy Planning and International Affairs, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5870.

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: The Shipping Act of 1984 (the Act) was enacted on March 20, 1984 with an effective date of June 18, 1984. Section 13(b)(5) (46 U.S.C. app. 1712(b)(5)) of the Act provides that :

> If, after notice and hearing, the Commission finds that the action of a common carrier, acting alone or in concert with any person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including the imposition of any of the penalties authorized under paragraphs (1), (2), and (3) of this subsection (13)(b).[1]

This rule will implement section 13(b)(5) of the Act, and will constitute a new part, 46 CFR Part 587, entitled: Actions to Address Conditions Unduly Impairing Access of U.S.-Flag Vessels to Ocean Trade Between Foreign Ports, which will be included in new Subchapter D—Regulations Affecting Maritime Carriers and Related Activities in Foreign Commerce.

Section 13(b)(5) derives in part from section 14a of the Shipping Act of 1916 (46 U.S.C. 813) which empowered the Commission to investigate arrangements which unfairly excluded U.S.-flag carriers in foreign-to-foreign trades.[2] Section 14a was not considered adequate to protect U.S.-flag carriers in the new international ocean shipping environment. Section 13(b)(5) is intended to provide this needed protection and more specifically to address situations that may arise when contracting parties implement the United Nations Conference on Trade and Development Code of Conduct for Liner Conferences (UNCTAD Code). The UNCTAD Code, among other things, provides for a cargo sharing framework for conferences between contracting nations. Because the United States is not a contracting party to this Code, protecting the right of access of U.S.-flag carriers to trades where the UNCTAD Code will apply has been a central issue in maritime discussions with other nations of the Organization for Economic Cooperation and Development.[3] Section 13(b)(5) protects such rights in all cross trades, on a basis of reciprocity and thereby is consistent with one of the stated goals of the Act to encourage the development of an economically sound and efficient U.S.-flag liner fleet.

This rule delineates the procedures to be followed when an allegation of undue impairment of the access of a U.S.-flag vessel to a cross trade is made. It describes the kinds of information deemed relevant to a decision concerning such allegations, and the actions which the Commission may take in response, should it determine that conditions unduly impairing access of a U.S.-flag vessel to a trade between foreign ports exist.

In some respects, the section 13(b)(5) rule is similar to that implementing section 19 of the Merchant Marine Act of 1920 (46 U.S.C. 876(1)(b)).[4] Section 13(b)(5), however, specifically requires that notice and opportunity for hearing be afforded. The proposed rule fashions a procedure which is intended to fulfill this requirement and at the same time preserve the flexibility of the Commission to act expeditiously to address conditions of unduly impaired access. Such flexibility is necessary in order to assure that a U.S.-flag carrier does not suffer harm before remedial action is taken.

The Commission anticipates that problems relating to alleged impairment of U.S.-flag vessel access to cross trades will arise primarily in connection with foreign government laws and practices. However, section 13(b)(5) also empowers the Commission to take action where such undue impairment stems from commercial practices. The Commission does not propose to exclude alleged impaired access due to foreign government implementation of bilateral or multilateral treaties or other international agreements from its consideration under this rule. The Commission interprets the phrase "ocean trade between foreign ports" in section 13(b)(5) to include foreign-to-foreign ocean trade involving intermodal movements.

Section-by-Section Discussion

Section 587.1 states the purpose of this part which is to protect U.S.-flag carriers from being excluded or denied reasonable access to trades between foreign countries. The rule preserves the Commission's flexibility to act swiftly when harm to a U.S.-flag carrier is imminent. This rule, however, is not intended to interfere with the normal forces of competition in the marketplace. This section therefore states that a condition of unduly impaired access will be found only where it is shown that a U.S.-flag carrier has the ability to enter a particular trade or where actual participation in a trade by a U.S.-flag carrier is being eroded for reasons other than its commercial ability to compete. Finally, this section recognizes that U.S. maritime policy, U.S. Government shipping arrangements with other nations, and the degree of reciprocal access afforded in U.S. foreign trades to the carriers of the countries against whom action is contemplated, must be weighed when the Commission considers action under section 13(b)(5).

Section 587.2 sets forth those factors which would indicate the existence of conditions of unduly impaired access. This section makes clear that it is not necessary for a U.S.-flag carrier to suffer irreparable harm before relief under section 13(b)(5) may be granted. Such relief is available where it is shown that impairment of access is presently occurring or will likely occur because of existing or proposed government or commercial actions.

Section 587.3 identifies those persons who may file a petition for relief under section 13(b)(5) and provides for the filing of such a petition with affidavits of fact and memoranda of law with the Commission Secretary. This section also describes the contents of a petition for relief. Petitions which are deficient shall be returned with an explanation of the reason for rejection. Only petitions which meet these requirements will be noticed in the **Federal Register** to

[1] These penalties include suspension of the tariffs of a common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, and the imposition of a civil penalty of not more than $50,000 per shipment for the acceptance or handling of cargo for carriage under a tariff that has been suspended or after the common carrier's right to utilize that tariff has been suspended. *See* 46 U.S.C. app. 1712(b) (1) (2) (3).

[2] *See* H.R. Rep. No. 53, 98th Cong., 1st Sess. 22–23 (hereinafter referred to as House Report); S. Rep. No. 3, 98th Cong., 1st Sess. 38 (1983) (hereinafter referred to as Senate Report).

[3] *See* House Report at 23 and Senate Report at 38.

[4] The Commission's rules implementing section 19 presently may be found at 46 CFR Part 506. Part 506 is to be redesignated as 46 CFR Part 585 and transferred to new Subchapter D of the Commission's rules.

ensure the consideration of only *bona fide* petitions. This procedure is intended to discourage the filing of frivolous petitions and the abuse of these procedures for competitive and other reasons.

Section 587.4 is intended to provide further guidance as to the kind of information which the Commission regards as relevant to its consideration of matters arising under section 13(b)(5). The Commission may receive such relevant information from any reliable source. Such information shall be made part of the record and may be commented upon by any interested persons. Petitions and responses thereto and any accompanying affidavits and documents shall also be part of the record. The record established in a proceeding may provide the basis for Commission decision, including the imposition of sanctions.

Section 587.5 provides for notice to the Secretary of State of pending section 13(b)(5) matters. The Commission may, at its discretion, simultaneously initiate a proceeding under this part. Alternatively, the Commission may allow diplomatic negotiations to proceed or be completed before initiating any proceeding under this part.

Section 587.6 establishes procedures for hearing, either upon the filing of a petition which meets the requirements of § 587.3 or by the Commission upon its own motion. The Act does not specify any particular hearing procedure to be followed in section 13(b)(5) proceedings. Such proceedings could, depending on the circumstances, be limited to written submissions. The Commission may also undertake more formal procedures. Adversely affected parties will, however, be provided an opportunity to respond to any allegations of unduly impaired access under whatever procedure is used in a particular situation.

Section 587.7 enumerates sanctions which the Commission may impose when and where conditions of unduly impaired access of a U.S.-flag vessel are determined to exist. The Act gives the Commission broad authority in this regard. In addition to the specific penalties authorized under section 13(b)(1), (2) and (3), the Act empowers the Commission to take other action that it considers appropriate. This section provides for publication in the **Federal Register** of any decision imposing sanctions issued under this part. This order will generally be made effective 30 days after publication. This period is intended to accommodate the 10-day statutory review period provided the President, and allow a final opportunity for diplomatic resolution of the matter prior to the imposition of sanctions.

Section 587.8 implements the requirement under section 13(b)(6) of the Act that any order under section 13(b) be submitted to the President.

Section 587.9 makes explicit the Commission's power to suspend, discontinue or postpone proceedings under section 13(b)(5). This section also recognizes the importance of national defense and foreign policy concerns and provides for postponement, discontinuance or suspension if the President informs the Commission that such actions are required for reasons of national defense or the foreign policy of the United States.

This rule is being published as an interim rule with opportunity for comment. It will serve as interim rule until such time as a final rule is adopted.[5] This interim rule will take effect on June 18, 1984, the effective date of the Shipping Act of 1984, unless otherwise modified. All interested persons have been provided 90 days to comment on the proposed rule. This interim rule and all comments filed within the 90-day period will be used as the basis for a final rule pursuant to the requirements of the Administrative Procedure Act (5 U.S.C. 553). If individuals believe that there are serious problems created by this interim rule which should be addressed immediately, they should submit these concerns in writing to the Commission without prejudice to subsequently filing additional comments within the 90-day comment period.

The Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) that the proposed rule will not if promulgated have a significant economic impact on a substantial number of small entities, within the meaning of that Act. The primary economic impact of the proposed rule would affect common carriers by water, which generally are not small entities. A secondary impact may fall on shippers, some of which may be small entities, but that impact is not considered to be significant.

List of Subjects in 46 CFR Part 587

Foreign relations, Foreign trade, Maritime carriers, Rates and fares.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), and sections 13(b)(5), 15 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1712(b)(5), 1714 and 1716), the Federal Maritime Commission hereby proposes to amend Title 46, Code of Federal Regulations, by adding new Part 587 to Subchapter D to read as follows:

[5] The Commission was given the authority to prescribe interim rules, without adhering to notice and comment requirements, by section 17(b) of the Shipping Act of 1984.

Part 587—ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

Sec.

Authority: 5 U.S.C. 553; secs. 13(b)(5), 15 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1712(b)(5), 1714, and 1716).

§ 587.1 Purpose.

(a) It is the purpose of the regulations of this part to enumerate certain conditions resulting from the action of a common carrier acting alone or in concert with any person, or a foreign government, which unduly impair the access of a vessel documented under the laws of the United States (hereinafter "U.S.-flag vessel") to ocean trade between foreign ports, and to establish procedures by which the owner or operator of a U.S.-flag vessel (hereinafter "U.S.-flag carrier") may petition the Federal Maritime Commission for relief under the authority of section 13(b)(5) of the Shipping Act of 1984 (46 U.S.C. app. 1712(b)(5)). It is the further purpose of the regulations of this part to indicate the general circumstances under which the authority granted to the Commission under section 13(b)(5) may be invoked, and the nature of the subsequent actions contemplated by the Commission. This part also furthers the goals of the Act with respect to encouraging the development of an economically sound and efficient U.S.-flag liner fleet as stated in section 2 (46 U.S.C. app. 1701).

(b) The rules of this part implement the statutory notice and hearing requirement and ensure that due process is afforded to all affected parties. At the same time, the rules allow for flexibility in structuring proceedings so that the Commission may act with expedition whenever harm to a U.S.-flag carrier resulting from impaired access to cross trades has been demonstrated. The provisions of 46 CFR Part 502 shall not apply to this part except for those

provisions governing *ex parte* contacts and as the Commission may otherwise determine by order.

(c) The condition of unduly impaired access will be found only where a U.S.-flag carrier is fit, willing and able to enter a trade in which its access is being unduly impaired, or where actual participation in a trade by a U.S.-flag carrier is being eroded for reasons other than its commercial ability or competitiveness. However, the procedures of this part are not an instrument for harassment of foreign-flag carriers operating in the U.S. foreign trades.

(d) In examining conditions in a trade between foreign ports, and in considering appropriate action, the Commission will give due regard to U.S. maritime policy and U.S. Government shipping arrangements with other nations, as well as the degree of reciprocal access afforded in U.S. foreign trades to the carriers of the countries against whom Commission action is contemplated.

§ 587.2 Factors indicating conditions unduly impairing access.

For the purpose of this part, factors which would indicate the existence of conditions created by foreign government action or action of a common carrier acting alone or in concert with any person, which unduly impair access of a U.S.-flag vessel engaged in or seeking access to ocean trade between foreign ports, include, but are not limited to:

(a) Imposition upon U.S.-flag vessels of fees, charges, requirements, or restrictions different from those imposed on other vessels, or which preclude or tend to preclude U.S.-flag vessels from competing in the trade on the same basis as any other vessel;

(b) Reservation of a substantial portion of the total cargo in the trade to national flag or other vessels which results in failure to provide reasonable competitive access to cargoes by U.S.-flag vessels;

(c) Use of predatory practices, including but not limited to closed conferences employing fighting ships or deferred rebates, which unduly impair access of a U.S.-flag vessel to the trade;

(d) Any government or commercial practice that results in, or may result in, unequal and unfair opportunity for U.S.-flag vessel access to port or intermodal facilities or services related to the carriage of cargo inland to or from ports in the trade;

(e) Any other practice which unduly impairs access of a U.S.-flag vessel to trade between foreign ports.

§ 587.3 Petitions for relief.

(a) *Filing.* Any owner or operator of a liner, bulk, tramp or other vessel documented under the laws of the United States who believes that its access to ocean trade between foreign ports has been, or will be, unduly impaired may file a written petition for relief under the provisions of this part. An original and fifteen copies of such a petition shall be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

(b) *Contents.* Petitions for relief shall include the following:

(1) The name and address of the petitioner;

(2) The name and address of each party (carrier, person, or foreign government agency) against whom the petition is made;

(3) A concise description and citation of the foreign law, rule or government or commercial practice complained of;

(4) A certified copy of any law, rule, regulation or other document concerned and, if not in English, a certified English translation thereof;

(5) Any other evidence of the existence of such government or commercial practice;

(6) A description of the service offered or proposed, to which petitioner is alleging harm, supported by affidavits of fact, including information which indicates the ability of the petitioner to participate in the trade;

(7) A clear description, in detail, supported by affidavits of fact, of the harm already caused, or which may reasonably be expected to be caused, to the petitioner for representative period, including:

(i) Statistics documenting present or prospective cargo loss due to discriminatory government or commercial practices if harm is alleged on that basis; such statistics shall include figures for the total cargo carried or projected to be carried by petitioner in the trade for the period, and the sources of the statistics;

(ii) Evidence documenting how the petitioner is being prevented from entering a trade, if injury is claimed on that basis;

(iii) Statistics or other evidence documenting the impact of discriminatory government or commercial practices resulting in an increase in costs, service restrictions, or other harm on the basis of which injury is claimed, and the sources of the statistics; and

(iv) A statement as to why the period is representative;

(8) A memorandum of law addressing relevant legal issues; and

(9) A recommended action, rule or regulation, the result of which will, in the view of the petitioner, address the alleged conditions unduly impairing the access of petitioner to the affected trade.

(c) *Deficient petition.* A petition which substantially fails to comply with the requirements of paragraph (b) of this section shall be rejected and the person filing the petition shall be notified of the reasons for such rejection. Rejection is without prejudice to filing of an amended petition.

§ 587.4 Receipt of relevant information.

(a) In making its decision on matters arising under section 13(b)(5), the Commission may receive and consider relevant information from any owner or operator, or conference in an affected trade or from any foreign government either directly or through the Department of State or from any other reliable source. Relevant information may include, but is not limited to:

(1) Statistics, with sources, or if unavailable the best estimates pertaining to:

(i) The total cargo carried in the affected liner or bulk trade by type, source, value, tonnage and direction;

(ii) Cargo carried in the affected trade on vessels owned or operated by any person or conference, by type, source, value, tonnage and direction;

(iii) The percentage such cargo carried is of the total affected liner or bulk trade, on a tonnage and value basis;

(iv) The amount of cargo reserved by a foreign government for national-flag or other vessels in the affected trade, on a tonnage and value basis, and a listing of the types of cargo and specific commodities which are reserved for national-flag or other vessels;

(2) Information on the operations of vessels of any party serving the affected trade, including sailings to and from ports in the trade, taxes or other charges paid to foreign authorities, and subsidies or other payments received from foreign authorities;

(3) Information clarifying the meaning of the foreign law, rule, regulation or practice complained of, and a description of its implementation;

(4) Complete copies of all conference

and other agreements, including amendments and related documents, which apply in the trade.

(b) Once introduced or adduced, information of the character described in paragraph (a) of this section, and *bona fide* petitions and responses thereto, shall be made part of the record for decision and may provide the basis for Commission findings of fact and conclusions of law, and for the imposition of sanctions under this part.

§ 587.5 Notice to Secretary of State.

When there are indications that conditions unduly impairing the access of a U.S.-flag vessel to trade between foreign ports may exist, the Commission shall so notify the Secretary of State and may request that the Secretary of State seek resolution of the matter through diplomatic channels. If request is made, the Commission will give every assistance in such efforts, and the Commission may request the Secretary to report the results of such efforts within a specified time period.

§ 587.6 Hearing.

(a) Upon the filing of a petition which meets the requirements of § 587.3, or upon the Commission's own motion when there are indications that conditions unduly impairing the access of a U.S.-flag vessel to trade between foreign ports may exist, the Commission shall institute a proceeding pursuant to this part.

(b) Notice of the institution of any such proceeding shall be published in the **Federal Register** and interested, or adversely affected, persons will be allowed a period of time to reply to the petition by the submission of written data, views or legal arguments. Factual submissions shall be supported by affidavits and sworn documents.

(c) Following the close of the initial response period, the Commission may issue a final determination or order further hearings if warranted. If further hearings are ordered, they shall be conducted pursuant to procedures to be outlined by the Commission in its order.

§ 587.7 Decision; sanctions; effective date.

(a) Upon completion of any proceeding conducted under this part, the Commission may issue a decision containing its findings and conclusions.

(b) If the Commission finds that conditions unduly impairing access of a U.S.-flag vessel to ocean trade between foreign ports do exist, the following actions may be taken:

(1) Imposition of equalizing fees or charges applied in the foreign trade of the United States;

(2) Limitation of sailings to and from United States ports, or of amount or type of cargo carried, during a specified period;

(3) Suspension, in whole or in part, of any or all tariffs filed with the Commission for carriage to or from United States ports, including the carrier's right to use any or all tariffs of conferences of which it is a member for any period the Commission specifies, or until such time as unimpaired access is secured for U.S.-flag carriers in the affected trade. Acceptance or handling of cargo for carriage under a tariff that has been suspended, or after a common carrier's right to utilize that tariff has been suspended pursuant to rules of this part will subject a carrier to the imposition of a civil penalty as provided under the Act (46 U.S.C. app. 1712(b)(3)) of not more than $50,000 per shipment.

(4) Any other action the Commission finds necessary and appropriate to address conditions unduly impairing access of a U.S.-flag vessel to trade between foreign ports.

(c) A decision imposing sanctions shall be published in the **Federal Register** and, except where conditions warrant and for good cause, shall become effective 30 days after the date of publication.

§ 587.8 Submission of decision to the President.

Concurrently with the submission of a decision for publication in the **Federal Register** pursuant to § 587.7, the Commission shall transmit that decision to the President who may, within ten days after receiving the decision, disapprove it if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

§ 587.9 Postponement, discontinuance, or suspension of action.

The Commission may, on its own motion or upon petition, postpone, discontinue, or suspend any and all actions taken by it under the provisions of this part. The Commission shall postpone, discontinue, or suspend any or all such actions if the President informs the Commission that postponement, discontinuance, or suspension is required for reasons of the national defense or the foreign policy of the United States.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-13159 filed 5-15-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13, 21, 73, 74, 78, 87, 90, 94 and 95

[Docket No. 83-322, RM-3292; RM-2643; FCC 84-56]

Requirements for Licensed Operations in Various Radio Services

AGENCY: Federal Communications Commission.

ACTION: Report and order (final rule).

SUMMARY: The Commission modifies, and in certain instances eliminates, rules that require licensed commercial radio operators in the various rule parts indentified above. By rule amendments, the Commission allows the statutory requirements of a licensed operator for broadcast stations licensed under Parts 73 and 74 to be satisfied by a person who holds any class of commercial radio operator license or permit, unless that license or permit is otherwise endorsed, and deletes the requirements in Part 74 for a licensed operator for the operation or maintenance of Remote Pickup B/C Stations, Aural B/C STL and Intercity Relay Stations, Television Auxiliary B/C Stations, Low Power Auxiliary Stations, and Instructional Television Fixed Service. Additionally, it eliminates the rules that permit only licensed commercial operators to perform certain transmitter installation, maintenance, and service duties in the Private Land Mobile, Private Operational-Fixed Microwave and Personal Radio Services. Pursuant to 47 U.S.C. 154(f)(4)(E), the Commission generally endorses private sector technician certification programs conducted by organizations or committees representative of users in the Private Land Mobile and Fixed Services to have transmitter installation, maintenance, and service duties performed by such certified technicians. It further eliminates rules requiring that only licensed commercial operators perform certain duties in the Domestic Public Fixed and Cable Television Relay Services. It also modifies certain commercial radio operator licensing procedures and policies by rule changes that, among other matters, issue General Radiotelephone Operator Licenses for a lifetime term and extend the licenses from one to five years. The above actions further the Commission's goals of creating, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of telecommunications and the elimination of unnecessary regulation and policies.

EFFECTIVE DATE: June 15, 1984 for Rule Parts 13, 21, 73, 74, 78 and 87; November 12, 1984 for Rule Parts 90, 94, and 95.

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

FOR FURTHER INFORMATION CONTACT: Joyce Davila (202) 632–7240 or Lawrence R. Clance (202) 632–7591, Field Operations Bureau.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 13

Commercial radio operator licenses.

47 CFR Part 21

Communications common carriers.

47 CFR Part 73

Communications equipment, Radio broadcasting.

47 CFR Part 74

Communications equipment, Radio, Television.

47 CFR Part 78

Cable television, Communications equipment, Radio.

47 CFR Part 87

Aeronautical stations, Communications equipment, Radio.

47 CFR Part 90

Industrial radio services, land transportation radio services, Public safety radio services, Radiolocation services, Special emergency radio services.

47 CFR Part 94

Communications equipment, Operational-fixed microwave, Radio.

47 CFR Part 95

Communications equipment, Hobbies, Radio.

Report and Order (Proceeding Terminated)

In the matter of requirements for licensed Operators in Various Radio Services; RM–3292, RM–2643, General Docket 83–322.

Adopted: February 24, 1984.
Released: May 3, 1984.

By the Commission. Commissioner Quello concurring and issuing a statement.

I. Introduction

1. On April 20, 1983, the Commission released a *Notice of Proposed Rule Making* in General Docket 83–322 *(Notice)*, FCC 83–113, 48 FR 22591 (May 19, 1983), that proposed changes in certain rules contained in Commission Rule Parts 13, 21, 73, 74, 78, 90, 94 and 95. The *Notice* requested comments on the proposed modification and, in certain instances, elimination of Commission rules that require licensed commercial radio operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Services; the elimination of rules that permit only licensed commercial radio operators to perform certain duties in the Private Land Mobile and Fixed, Personal, Domestic Public Fixed, and Cable Television Relay Services; the issuance of General Radiotelephone Operator Licenses for a lifetime term; extension of the renewal grace period from one year to five years for commercial radio operator licenses that would continue to require renewal; abolishment of the restrictive endorsement placed on commercial radio operator licenses held by blind persons; elimination of the requirement that the holder of a Third Class Radiotelegraph Operator Permit repeat the Morse code tests when applying for a Second Class Radiotelegraph Operator License after one year has elapsed; and the abolishment of the Aircraft Radiotelegraph Endorsement. We have analyzed and considered all of the comments and correspondence received regarding this proceeding, revisited each of our proposals as set forth in the *Notice*, and taken cognizance of recent legislation enacted by Congress relating to several of the proposals. For the reasons discussed below, it is our view that the public interest will best be served by adopting most of the proposals as set forth in the *Notice* regarding this matter. We are, however, adopting modifications of our proposed rule changes regarding elimination of the requirement for licensed radio operators in the Personal Radio Services and taking certain additional actions related to those changes and to the proposal to issue General Radiotelephone Operator Licenses for a lifetime term.

II. Background

2. Two primary goals of the Commission are to create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of telecommunications and to eliminate unnecessary regulations and policies. As reflected in the *Notice*, we are continuing to review all of our rules and regulations with these as well as other major objectives in mind.

This Docket was initiated as another step in a series of proceedings that have examined our rules and procedures regarding commercial radio operator licenses or the requirements for such licenses as contained in Commission rule parts concerning various services. The *First Report and Order in the Matter of an* Inquiry Relating to the Commisson's *Radio Operator Licensing Program*, Docket No. 20817, 44 FR 1733 (January 8, 1979), 70 FCC 2d 2371 (1979), reduced the requirement for duty operators at AM and FM broadcast stations, except at those AM stations with critical directional antennas, to those holding any class of commercial operator license, including the Restricted Permit, in lieu of the Radiotelephone Third Class Operator Permit Endorsed for Broadcast Operation. The *Second Report and Order* in Docket No. 20817, 44 FR 66816 (November 21, 1979), authorized TV and directional AM stations to employ any class of operator for routine operations, provided the stations employ at least one First Class operator, and, collaterally, reduced the requirement to employ a "Chief" First Class operator from full-time to whatever less than full-time the licensee determined was necessary to maintain station compliance with our technical standards. The *Third Report and Order* in that same Docket, 45 FR 52154 (August 6, 1980), abolished the Radiotelephone Third Class Operator Permit and instituted the Marine Radio Operator Permit in its place where safety considerations or international agreements dictated a continuing need for licensed operators, primarily aboard Great Lakes freighters and certain charter fishing vessels. The *Fourth Report and Order* in Docket No. 20817, 46 FR 35450 (July 8, 1981), 87 FCC 2d 44 (1981), repealed rules that required operators who repair broadcast transmitting equipment to hold a Radiotelephone First Class Operator License; terminated the Radiotelephone First Class examination and license, renamed the Radiotelephone Second Class Operator License as the General Radiotelephone Operator License, and revised the broadcast rules to permit the holder of any class of commercial license, including a Restricted Radiotelephone Operator Permit, but excluding the Marine Radio Operator Permit, to maintain as well as operate broadcast transmitting equipment. More recently, in our *Report and Order in the Matter of Amendment of Part 5 of the Commission's Rules to Diminish Restrictions on the Licensing and Use of Experimental Stations* (Other Than Broadcast), Gen. Docket No. 82–469, FCC 83–471, released November 16, 1983; 48 FR 52733 (November 22, 1983), and *in the Matter of Revision and Update of Part 22 of the Public Mobile Radio Services Rules*, CC Docket No. 80–57, FCC 83–476, released December

19, 1983; 49 FR 3296 (January 26, 1984), the Commission, among other matters, eliminated the requirements that station operators and maintenance technicians in the Experimental Radio Services and in the Public Mobile Radio Services hold commercial radio operator licenses. In both of these proceedings, as in Docket 20817, we stressed the responsibility of licensees for ensuring the proper operation of their stations.

3. In the *Notice* concerning this matter, we expressed our belief that the specific rule requirements that we proposed to delete were unnecessary and would have no significant adverse impact on the quality or efficiency of communications in the radio services involved.

III. *Overview of Comments*

4. The Commission received more than 200 formal an informal comments and reply comments concerning this proceeding. While comments solicited by the *Notice* were due June 20, 1983 and reply comments July 20, 1983, we are granting a motion by the Associated Public-Safety Communications Officers, Inc. for acceptance of late-filed comments filed with the Commission on June 20, 1983. Additionally, we note that the *Notice* generated and extremely large amount of correspondence to the Commission, including Congressional letters an referrals. A considerable amount of the correspondence was received after the due dates for comments or reply comments, and many of the Congressional letters and referrals requested that consideration be given to the views and concerns of constituents. Therefore, in view of the substantial interest in this Docket and for the purpose of developing a full record regarding the proceeding, we are associating all the pertinent correspondence received by the Commission, irrespective of the date received or filed, with the Docket in this matter and taking all comments contained therein into consideration.

5. Among the organizations who filed comments and/or reply comments in this matter were: The American Association of State Highway and Transportation Officials; American Telephone and Telegraph Company (AT&T); Associated Public-Safety Communications Officers, Inc. (APCO); the Association of American Railroads; the California Public-Safety Radio Association, Inc.; the California State Office of Telecommunications; the Central Committee on Telecommunications of the American Petroleum Institute (CCTAPI); the Chicago Police Department; the City of Dallas; FARINON Division of the Harris Corporation (FARINON); Forest Industries Telecommunications (FIT); the General Electric Company; GTE Service Corporation (GTE); the Indiana State Police; the City of Indianapolis Police Department; the Iowa Department of Public Safety, Division of Communications; the County of Los Angeles Department of Communications; the Maryland State Police, Electronic Services Division (MSP); the Michigan Department of Natural Resources; the Michigan Department of State Police (MDSP); Motorola, Inc. (Motorola); Multimedia, Inc. (Multimedia); the National Association of Broadcasters (NAB); the National Association of Business and Educational Radio (NABER); the National Association of Radio and Telecommunications Engineers, Inc. (NARTE); the City of Newport News; the North Carolina Highway Patrol; the Northern California Chapter of the Associated Public-Safety Communication Officers, Inc.; the City of Port Huron; the City of Portland; TACTEC Systems, Inc. (TACTEC); and the Utilities Telecommunications Council (UTC). In addition to the organizations specifically identified above, a large number of other comments, correspondence, and congressional referrals were received from individuals who hold commercial radio operator licenses, two-way radio service and repair shops, commercial businesses that are licensed users of two-way radio communications, utility companies, and other municipal and county law enforcement agencies. The comments are discussed in more detail below, but it is generally noted that almost every comment or correspondence received in this matter was primarily concerned with and vigorously opposed to the Commission's specific proposal to eliminate rules that permit only licensed commercial radio operators to perform certain duties in the Private Land Mobile Radio and Private Operational-Fixed Microwave Services.

6. We further note, initially, that the comments of both NARTE and TACTEC opposed, in general, elimination of the requirement for General Radiotelephone Operator Licenses in all of the various rule parts specified in the *Notice*. NARTE stated that, in view of the importance of licensed personnel in ensuring the quality of radio transmissions, withdrawal of the license requirement would be contrary to the public interest and would exacerbate the technical problems resulting from increased spectrum congestion. It favored retention of the license requirement as a means of ensuring a certain level of technical competance and as a reliable basis to determine the threshold qualifications of applicants for employment as engineers and technicians. TACTEC asserted that elimination of the license requirement would cause an influx of unqualified technicians and unqualified general repair shops. GTE, while generally opposed to the Commission's proposal to delete the requirements for licensed commercial radio operators due to its concern for stability of operation and quality of service also noted that the considerations applying to each general type of service involved in the *Notice* are different, and implored the Commission to base its action on more carefully considered judgments than mere analogy to broadcasting.

Broadcast Services

7. In the *Notice*, we set forth a summary of our current requirements for licensed operators in the broadcast and broadcast-related services; referred to our previous Docket 20817; discussed the inconsistencies between present licensed operator requirements in the Broadcast Service and the International Broadcast, Experimental Broadcast, and Auxiliary Broadcast Services; and proposed to further modify our operator requirements for stations licensed under Parts 73 and 74 by allowing the statutory requirement of a licensed operator for all broadcast stations [1] licensed under Parts 73 and 74 of our rules to be satisfied by a person who holds any class of commercial radio operator license or permit, unless that license or permit is otherwise endorsed. We also proposed to delete the requirements in Part 73 for a licensed operator for the operation or maintenance of Instructional Television Fixed Service Stations, Broadcast Remote Pickup Stations, Aural Broadcast STL or Intercity Relay Stations, TV Broadcast Auxiliary Stations, or Low Power Auxiliary Stations since these types of stations are not used to broadcast directly to the public and do not, for the most part, operate in the broadcast frequency bands.

8. Of the comments filed in this proceeding, relatively few addressed the broadcast service proposals. NAB supported the Commission's proposals related to the broadcast services as being in the public interest and noted that none of the dire consequences previously predicted by opponents in Docket 20817 have materialized. It

[1] See section 318 of the Communications Act of 1934, as amended, 47 U.S.C. 318.

further asserted that it believes that the same rationale that justified the Commission's earlier action even more strongly supports the elimination of operator licensing requirements for the broadcast-related services. NAB stated:

> The broadcast industry has demonstrated that liberalized operator licensing requirements have in no way reduced the quality of service provided to the public but have, instead, given broadcasters new freedom to use their resources where they are most needed to service their respective communities.
>
> We know of no significant increase in violations of the Commission's technical standards which could be attributed to the 1981 licensing revision. Thus, we agree that it makes little sense to retain technical licensing requirements for the broadcast auxiliary services when there are no similar requirements for the broadcast service itself. As the Commission has pointed out, it is inconsistent to require the operator of an aural STL, for example, to hold a technical license when the operator of the main transmitter need not hold such a license. Broadcasters have proven that they can comply with the rules without federally-mandated technical licensing for those who operate their station transmitters. They are equally able to secure competent operators for their auxiliary services without a licensing requirement. Deleting those obsolete licensing requirements and the associated paperwork will free broadcasters to better utilize their employees' time and talents.[2]

Multimedia, in its comments, also supported the Commission's proposals relating to the broadcast services for similar reasons. GTE counseled that since it has been two years since the Fourth Report and Order in Docket 20817 that allowed the lowest-level commercial operator license as qualified to install, maintain, repair and technically supervise AM, FM and TV broadcast transmitting equipment, the Commission should review carefully its experience with technical violations to determine whether there has been any applicable increase, and expressed its opinion that the treatment of broadcast auxiliary stations should be consistent with that of broadcast stations. Several individuals who hold commercial radio operator licenses opposed the proposals concerning the broadcast services. The comments of Mr. Marvin A. Whitaker, Somerset, Kentucky, transmitter chief at an educational public television station, were representative of these and stressed that removing the requirement for the higher class of license would result in elimination of the last influence for good technical operation, and the gravitation of competent personnel to other fields with a resultant degradation in broadcast station technical performance.

Private Radio Services

9. In the *Notice* concerning this proceeding, the Commission noted that currently, with a few exceptions, only persons who hold a valid General (or First or Second Class) Radiotelephone Operator License may take responsibility for the installation, service, or maintenance of transmitters and for certain operating duties in the Private Land Mobile Services, the Private Operational-Fixed Microwave Service, and the Personal Radio Services. We indicated our awareness that the land mobile community is generally opposed to the removal of the requirements and our realization that knowledgeable service and installation technicians are often relied upon by our licensees in the Private Land Mobile Radio Services to advise them about our technical and administrative requirements. The Commissioin, however, expressed its belief that it is the station licensees themselves who are ultimately responsible for the control and proper operation of their stations, and that it appears to us that these station licensees should and can have the freedom to utilize whatever measures they deem appropriate to ensure that their stations are operated, serviced, and maintained in accordance with the Commission's technical rules and type-acceptance standards. We, therefore, proposed to abolished all rules requiring that transmitter maintenance, adjustment, and servicing in the Private Land Mobile, Private Operational-Fixed Microwave, and Personal Radio Services, be performed only by persons holding a commercial radio operator license.

10. As previously noted, almost every single comment filed in this proceeding specifically addressed and vigorously opposed this proposal. The commenters asserted a variety of reasons why the Commission should not abolish the commercial operator requirements in the private land mobile and fixed services including the potential for greatly increased interference and reduction of signal quality in these services; the effect of resultant interference and signal problems on the public safety radio services in particular; the broadcasting and these raido services are inherently different and cannot be equated; that users rely heavily upon the Commission's operator requirements since they lack the technical expertise to properly maintain or service their equipment; that users encounter difficulty, even with the present requirements, in obtaining qualified trained technicians; that elimination of the requirements would impose financial burdens on users in developing replacement standards; that licensed technicians in these services substantially assist the Commission in "policing" the services and in preventing interference and substantive rule violations; that deletion of the requirement would impose a greater burden on Commission resources in resolving the proliferation of interference problems that would occur; that elimination of the license requirements would be a "rebuff" to professional technicians who have worked diligently to obtain their professional credentials; and that such an action by the Commission will have an adverse effect upon the incomes of licensed technicians and thereby seriously affect their livelihood. Several of the commenters suggested possible alternative approaches to present Commission licensing procedures. The following references to specific comments are representative of the concerns and suggestions expressed.

11. Regarding the potential for greatly increased interference, virtually all of the commenters opposed to this proposal expressed the opinion that elimination of the operator license requirement for maintenance, service, and repair would result in extremely egregious problems in these services. CCTAPI stated:

> Equipment design has advanced at an incredible pace in recent years; and, as a consequence, some maintenance can be performed with the simple replacement of a printed circuit board. Nevertheless, even modern equipment with synthesized tuning and a growing variety of both narrowband and broadband emissions, as well as digital modulation, present maintenance problems that require the attention of trained personnel. The Commission should not overlook the fact that there are still in operation many varieties of older tube-type equipment that should also be maintained by a qualified technician. For the Commission to simply respond by stating that it is the licensee's responsibility to employ qualified maintenance personnel ignores the true need for a federal program. Certainly, there are many licensees who will ascertain that their equipment installation and maintenance is being performed by qualified personnel. There are hundreds of thousands of licensees in the Private Land Mobile Radio Services, however, and it is not at all clear that each licensee will accept this responsibility with the degree of commitment necessary to protect the public's interest. The malfunction of a few pieces of equipment can interfere with the ability of co-channel licensees to complete critical communications. This same co-channel consideration is not applicable in the broadcast services where most assignments are made on a geographically

[2] Comments of NAB at 3–4.

exclusive basis. However, failure of a licensee to properly discharge its responsibility in the mobile radio services can have a significant impact on other members of the public that share the same channel.[3]

12. Motorola implored the Commission to recognize that unlike mass media and most of common carrier, there are literally thousands of private systems co-existing in an extremely limited amount of spectrum; that these operations are not only spaced relatively close together in relation to adjacent channel systems, but in the vast majority of cases, share their own frequency with numerous co-channel licenses in a given operating area; and that under the best of circumstances, when all licensees use Commission licensed technicians and endeavor to operate their systems in full compliance with the Commission's rules and regulations, interference problems arise because of the sheer volume of transmissions. Motorola expressed its opinion that should even a small minority of users, because of a lack of technical expertise or desire to reduce expenses, employ unqualified technicians, the incidence of equipment-related interference problems would escalate sharply. It asserted that technicians licensed by the Commission almost invariably have the expertise and the incentive to ensure that private radio equipment operates properly. It also questioned the wisdom of the Commission in deleting the operator licensing requirement while simultaneously pursuing broad deregulation of technical standards in Docket 83–114, a Re-Examination of Technical Regulation. Motorola stated that the changes proposed in Docket 83–114 are so sweeping and are so logically related to this proceeding in the sense that as technical regulations are loosened, meeting remaining standards becomes increasingly critical, that it urged the Commission to delay action on this docket until it has satisfactorily resolved the questions posed in Docket No. 83–114.

13. NAB asserted that in the increasingly dense electromagnetic environment of broadcasting, private radio and other services, the potential for damaging interference is greater than ever before and stated the following:

> While we support the continued reliance on marketplace forces to assure licensee compliance with the Commission's technical rules as they relate to broadcasting, the Commission should consider the fact that marketplace forces do not always provide a similar incentive for compliance in every service. Indeed, in certain private radio services, marketplace forces may militate against compliance with the Commission's technical standards. To abandon the licensing requirements in these services is an invitation for the unqualified—and unscrupulous—to profit by providing inept and unlawful equipment adjustments for persons who cannot reasonably be expected to know whether the adjustments are lawful or unlawful. . . .
>
> As the Commission has noted, many leaders in the private radio services oppose the deregulation of operating licensing requirements in their own services. We share their concern.[4]

14. APCO stated that it considers this proposal extremely alarming and urged the Commission to recognize that, if implemented, it will have a severe adverse impact upon all the private radio services, and especially the public safety radio services whose safety-of-life and property purposes the Commission is obligated to promote. It further states:

> APCO does not dispute, of course, the fact that station licensees, rather than the technicians they hire, are responsible for proper operation of their private radio stations. Acceptance and discharge of this responsibility by individual licensees in all the services is key to the successful daily operation of the vast numbers of communications systems which network the entire country and the seriousness with which this responsibility is undertaken is evidenced by the relatively minimal number of instances in which Commission intervention is necessary to enforce its rules.
>
> APCO strongly disagrees, however, that a logical conclusion to be drawn from this fact is that the requirements for licensed commercial radio operators in certain services are rules "which are no longer necessary" and that their elimination is required in order to afford station licensees the "freedom" to discharge this responsibility as best they deem appropriate. To the contrary, Commission oversight and involvement in the qualifying of radio operators and its requirement that only such licensed operators perform important maintenance and service functions are minimal, nonburdensome regulations which actually further its general deregulatory aim as Commission involvement at this level better ensures that proper operating standards will be maintained and that its later intervention will not be required. Moreover, the requirements are an indispensable aspect of the Commission's obligation to oversee and foster efficient use of the spectrum and assure its continued availability for priority communications needs such as the provision of public safety services. For these reasons, APCO strongly urges the Commission to recognize that the requirements for licensed operators in the Private Land Mobile and Private Operational-Fixed Microwave Services are not the type of unnecessary and overburdensome regulations that should be eliminated and that it should refrain from abolishing these requirements as it has proposed.[5]

15. The Chicago Police Department contended that adoption of this proposal would lower the standard of technicians because there would be no criteria to judge their competence. It stated that a competent radio technician in the Public Safety Sector is extremely important because the standards of radio communications during possible life and death situations cannot be relaxed or compromised and further suggested that the Commission-administered test for the license be revised and improved to reflect present-day technology.

16. The Michigan Department of State Police indicated its vigorous opposition to this proposal and stated:

> The majority of cases of interference we have received to our system have come from transmitters that were misaligned by unqualified technicians and/or not given the proper attention by the licensee. In a recent case, a business service mobile was put in service at a fixed site as a base station with no tuning of the transmitter. The result was spurious emissions that blocked one of our receivers on our mobile channel. It was necessary for us to expand a great deal of time to locate this transmitter and convince the licensee to make corrections. To expect the licensee to keep a radio system operating properly without the advice and service of a technician familiar with FCC rules and transmitter tuning procedures is impractical. Our experience has shown this will not happen.[6]

17. FIT opposed the Commission's proposal and observed that the *Notice* did not spell out a Commission commitment to devote greater resources to inspection and monitoring that would be needed if unlicensed personnel were to be allowed to repair, maintain and install telecommunications equipment, and suggested that such a commitment should be made if the proposed regulation is adopted.

18. In both its comments and reply comments, NABER vigorously opposed Commission elimination of the existing technician requirements as a disservice to the public interest in that it substantially affects the quality of radio service available to the end user. In its reply comments, NABER reported on the results of a survey it conducted of land mobile radio dealers which disclosed that 87% of those responding did not support the Commission's proposal to abolish the rules requiring only the holder of a commercial radio operator's license to perform the maintenance, adjustment and servicing of a radio

[3] Comments of CCTAPI at 5–6.

[4] Comments of NAB at 2–3.

[5] Comments of APCO at 3–4.

[6] Comment of MDSP at 1.

transmitter and that 75.4% required a General Radiotelephone License as a prerequisite for employment. In its comments, NABER further stated:

In fact, NABER maintains that some certification process for private radio equipment technicians is of such importance to the end user, as a consumer of communications service, that NABER proposes an alternative to the commercial operator licensing requirements, should they be eliminated. In the alternative, NABER proposes that a representative industry group or groups administer a certification exam to all individuals seeking to operate and maintain equipment in the private radio services. To accord this certification exam the appropriate level of reliability, NABER recommends that the Commission officially approve both the certification exam and the industry group charged with the exam's administration. This type of industry self-regulation is used in other industries and is in keeping with the deregulatory spirit expressed by the Commission in this and other proceedings.[7]

19. NARTE, in its comments, addressed the possibility of licensing by the private sector. It stated the following:

If the Commission no longer wishes to devote the funds and resources to maintain and enforce its licensing program, NARTE recommends that the licensing activity be shifted to the private sector. Importantly, adoption of this recommendation would reduce Commission costs while simultaneously ensuring that only skilled engineers and technicians are allowed to operate transmitting equipment and systems.

Accordingly, in the event that the Commission wishes to curtail its licensing activity, NARTE proposes that the Commission retain the requirement that only licensed engineers and technicians be allowed to perform work on radio transmitting equipment and systems and certify non-governmental entities to develop and administer an equivalent or improved General Radiotelephone Operator License examination. NARTE believes that were the Commission to relinquish its responsibility of carrying on the licensing activity, licensed engineers and technicians should develop an alternative method of testing and screening future radio system engineers and technicians to ensure that all engineers and technicians possess the necessary basic skills and comprehension. NARTE is willing to work with the Commission and other organizations and entities to develop a satisfactory testing instrument.

NARTE believes that the industry could devise fair and sophisticated means of determining technical competence in a meaningful way and is committed to ensuring that the radio industry does not experience a decline in the high technical quality that is demanded of radio system engineers and technicians. The incentives to ensure that applicants for technical positions are fully qualified, combined with the desire of present operators to maintain the high standards of their profession, undoubtedly will lead to an appropriate form of testing designed and administered by private industry. As station licensees are ultimately responsible for the control and proper operation of their stations, this necessarily means that station licensees must require that persons applying for positions as radio telecommunications system engineers or technicians be able to show that they possess the knowledge and skills necessary to ensure the proper operation of the stations and system involved. Thus, NARTE feels that Commission withdrawal from administering and enforcing the license requirement should be accompanied by a plan that provides for non-governmental entities in updating, upgrading, and administering the General Radiotelephone License examination or its equivalent and retention and certain expansion of all existing license requirements.[8]

At a later point in its comments, NARTE further stated:

Allowing private entities to devise and administer the General Radiotelephone License examination, or an improved successor, is an appropriate mechanism for ensuring that qualified personnel engineer and work on radio transmitting equipment and systems. Under the framework recommended by NARTE, the Commission would certify and legitimize private entities to devise and administer the test. Importantly, certification of private entities to devise and administer the General Radiotelephone License examination or an improved successor and issue licenses must be viewed as an *official* replacement of the Commission's radio operator licensing program and not a *voluntary* industry (or private sector) effort. Thus, an unlicensed engineer or technician would be required to obtain a license from a Commission-certified private entity before the engineer or technician would be allowed to engineer or work on radio transmitting equipment and systems in the enumerated radio services. Recognition of an outside licensing program would provide an effective transition from any Commission decision to discontinue federal licensing requirements and maintain the high caliber of radio engineers. The Commission should welcome an industry-sponsored program which can assume the responsibilities previously held by the Commission while not compromising the integrity of radio telecommunication systems and their transmissions.

One of NARTE's goals is to continue and upgrade the testing and certification process in order to maintain standards by which a measure of proficiency may be established. In this respect, NARTE is developing a tiered testing and certification structure that could suitably replace the Commission's license structure to provide testing and certification of radio telecommunications technicians and engineers at various skill levels and in various specific areas of radio and telecommunications.

Although NARTE will be looking to be one of the entities that the Commission certifies to devise and administer the examinations, NARTE also encourages the Commission to certify other qualified entities to perform this function. The private entities must be barred from engaging in any discriminatory or arbitrary conduct and must be composed of industry peers. In addition, NARTE believes that any Commission rules providing for certification of non-governmental entities to administer the General Radiotelephone License examination must ensure that the standards and procedures established by the non-governmental entities be established in an objective manner, so that the standards and procedures do not amount to anticompetitive devices for excluding potential competitors. Explicit restrictions must be placed on the non-governmental entities in order to eliminate any potential anticompetitive problems which might be an outgrowth of the entities' activities.

Allowing non-governmental entities such as NARTE to carry out the licensing activity will result in a savings of Commission resources while simultaneously ensuring competence and recognition for qualified radio telecommunications engineers and technicians. In addition, the use of private entities to carry on the licensing activity will not compromise the development of a competitive telecommunications marketplace and indeed will enhance it through the increased skill levels available through the appropriate certification program.[9]

20. Several other commenters who strenuously opposed this particular proposal also addressed possible alternatives. UTC stated that in the event that the Commission decided that the license examination would be offered on a limited basis or will only be offered to fulfill international obligations, it recommends that the Commission take appropriate measures to certify well-qualified, non-governmental entities to devise and administer the license examination and to maintain the requirement that only licensed technicians be allowed to perform work on radio transmitters in the Private Land Mobile and Private Operational-Fixed Microwave Services. UTC further stated that recognition of Commission-certified private entities would be a suitable replacement for the federal licensing scheme and would perpetrate the high level of technical skills and training required of General Radiotelephone Operator Licensees. Motorola commented that if the Commission is convinced that this area should not be subject to governmental regulation, but rather should be governed by marketplace force, then it encourages the Commission to sanction an industry effort to assume responsibility for administering such a program; that the land mobile community, in this instance the

[7] Comments of NABER at 5.

[8] Comments of NARTE at 9–11.

[9] Comments of NARTE at 14–17.

marketplace, has objected vigorously to deletion of this requirement; that the marketplace apparently believes that there is significant value in having a mechanism which enables private users to make an intelligent, informed choice when hiring a technician; that under these conditions it would be entirely appropriate for the FCC to limit its involvement to official recognition of an industry sponsored program; and that this would allow the Commission to divorce itself from any regulation of technician licensing, yet ensure that private systems will continue to be served by competent personnel.

21. Regarding alternatives, APCO, in its reply comments, noted that the many comments received in this proceeding evidenced overwhelming opposition to the Commission's proposals with respect to the Private Radio Services and left the Commission with no choice but to retain its licensed operator requirements for the services. APCO further stated that it is precisely because of the importance of the functions performed by licensed operators that, contrary to the suggestions made by a few of the commenting parties, the Commission should not relinquish any part of its regulation of these operators to the private sector. It asserted that the qualifying and licensing of technical operators who carry the practical responsibility for ensuring a station's compliance with Commission technical standards is only appropriately performed by the Commission itself, and that while Commission sanction or certification of some sort of industry-devised testing and licensing procedure might be better than nothing, it would be little better, and more importantly, it would not be good enough. APCO contended that not only would any such system be vulnerable to the inequities and competitive pressures inherent in the private sector, but that the Commission as a taxpayer-supported, expert agency of the federal government is the entity most reasonably situated and well-equipped to perform these important functions; that though the retention of the licensed operator requirements for the Private Land Mobile and Operational-Fixed Microwave Radio Services and the concomitant functions of testing and license-issuing will admittedly require the devotion of a certain amount of Commission resources, the benefits of this system are well worth the price and could not possibly be duplicated in the private sector on an equivalent cost basis. It asserted that even more importantly, however, the significance of these functions to the Commission's regulatory scheme and the continued smooth operation of land mobile and operational-fixed microwave communications demand that they be performed by the regulating entity rather than the regulated.

22. Two of the comments filed in this proceeding supported the Commission's proposal to delete the license requirement in these services. AT&T, commenting only on elimination of the license requirement in the Private Radio Services as well as in the Domestic Public Fixed and Cable Television Relay Services, referred to other services where no such requirement exists and contended that there has been no noticeable adverse impact on the quality of those services. It attributed the lack of adverse impact in those services to the fact that it is in the best interests of a station licensee to ensure that the station is properly operated and maintained; asserted that as a result, the station licensee has a strong incentive to employ only qualified people to perform transmitter operations, maintenance and repair activities; and contended that in view of the incentive, it is unnecessary to ensure operator qualifications by requiring such individuals to hold a certain grade of operator license. FARINON, commenting primarily on the proposal as it relates to the Private Operational-Fixed Microwave Service, supported the Commission's proposal and stated that reliable manufacturers are and will continue to produce equipment of the type and quality to minimize a need for full field adjustments; that there is and will continue to be a substantial reduction in the need for skilled technicians; and that there is a continuing trend toward reliance on module replacements in lieu of in-field adjustments and "tweaking" which reduces the need for skilled technicians to operate and maintain private microwave systems. It also asserted that a review of Docket 20817 reflects that the comments filed in that proceeding were replete with examples of stations functioning very well without technical personnel and only occasional resort to outside engineers for major maintenance or repair. FARINON maintained that while Docket 20817 pertained to broadcast stations, the same thrust concerning reputable manufacturers producing reliable equipment can be extended to the Private Operational-Fixed Microwave Service as well.

Other Services

23. We also proposed to delete the requirements for licensed commercial radio operators from Part 78 of our rules and regulations, governing the Cable Television Relay Services, and from Part 21 of our rules and regulations concerning the Domestic Public Fixed Service. We indicated that we were not proposing to change our licensed operator requirements in the Maritime, Aviation, or International Fixed Public Radiocommunications Services. These are international radio services, and, as stated in the *Notice*, we believe that, at a minimum, certain implicit operator licensing obligations do exist.[10]

24. As previously noted, AT&T, in its comments, supported the Commission's proposal regarding these services. No other comments filed specifically addressed these services in terms of strong opposition to or support of the Commission's proposals.

Operator Licensing Procedures

25. The Commission proposed, in the *Notice*, to issue General Radiotelephone Operator Licenses for a license term concurrent with the lifetime of the holder. We expressed our view that since the vast majority of General Radiotelephone Operator Licenses are currently used in the United States, rather than on the high seas or abroad, we believe it is unnecessary to require updated identification data on General Radiotelephone Operator Licenses and that enforcement and record updating functions of the renewal process are not worth the cost associated with processing renewal applications. We also proposed to lengthen the renewal grace period from one year to five years for commercial radio operator licenses that would continue to require renewal rather than to continue processing routine grants of requests for waivers; to abolish the restrictive endorsement that we have placed on commercial radio operator licenses held by blind persons and leave the determination of whether blindness would be an impediment to performing necessary duties in any particular case up to the licensee; to delete the requirement that the holder of a Third Class Radiotelegraph Operator Permit repeat the Morse code tests when applying for a Second Class Radiotelegraph Operator License after one year has lapsed since there is no significant public benefit from the requirement; to abolish the Aircraft Radiotelegraph Endorsement since we are not aware of any stations still in operation which would require the endorsement; and to make minor

[10] See Radio Regulations of the ITU, Article 23, Section 11A, paragraphs 866D, 866E (redesignated Article 44, Section II, paragraphs 3407 through 3410 and Article 55, Section II, paragraphs 3885 and 3886 by WARC, 1979 Geneva).

editorial changes in Part 13 of the rules to improve its readability and accuracy.

26. Only a few of the comments filed addressed the lifetime General Radiotelephone Operator License proposal. NARTE opposed the lifetime license proposal on the basis that it would not create any incentive to pursue continuing education in order to advance in technical skills and knowledge toward higher certifications and would eliminate any inducement to remain current with the Commission's rules and regulations. It suggested that the Commission impose renewal fees to offset the costs of the enforcement and record updating functions of the renewal process. NARTE further stated that if the Commission should decide to delegate licensing activity to non-governmental entities, such action would eliminate the Commission's concerns about costs associated with processing license renewals, and that the costs would be borne jointly by private entities and renewal applicants. MSP opposed lifetime license renewals because it believed that the licensed operator files would become obsolete, and it would be difficult to trace or locate a licensed technician who had performed unreliable servicing of equipment.

27. Mr. Raphel Soifer, New York, New York, filed the petition to amend Part 13 of the Rules to extend the terms of all commercial radio operator licenses to encompass the lifetime of the holder that resulted in RM–2643. Mr. Soifer, in comments filed in this proceeding, suggested that the Commission may wish to consider allowing Radiotelephone First and Second Class Operator Licenses which are valid and outstanding on the effective date of this Report and Order to remain valid for the lifetime of the holder, and to be considered as General Radiotelephone licenses. He stated that this would obviate the need for holders of such licenses to submit them for renewal in order to receive General Radiotelephone licenses and that this further simplification of requirements would reduce costs and paperwork for both the Commission and licensees. Mr. William D. Harris, Greensboro, North Carolina supported the proposal with the stipulation that the previously issued Radiotelephone First Class commercial licenses still valid be renewable for life because of the professional pride of commercial operators in having obtained the higher license.

28. Regarding the proposed extension of the renewal grace period for commercial radio operators from one year to five years, MSP opposed this proposal on the basis that it appeared to be extending the possibility of operation without a license for a longer period of time, especially for those who depend on the license for their livelihood. MSP suggested a review and revision of the waiver processing provision instead to eliminate restrictive and time consuming requirements. No substantial comments were received concerning the other proposals regarding operator license procedures.

IV. Discussion

29. We will initially consider the proposals and comments concerning our operator licensing procedures, then address the proposals regarding requirements for licensed operators in the various services.

30. Concerning the proposed issuance of General Radiotelephone Operator Licenses for a lifetime term, we find that benefits derived from the current five-year renewal process in terms of enforcement and record updating functions are outweighed by the substantial costs of the present procedures in terms of staff resources required in processing renewal applications for this license. Adoption of the proposal will benefit the public interest by reducing agency expenses and allowing a more efficient allocation of resources, as well as relieving operators of the slight burden of applying for license renewal every five years. For enforcement purposes, the Commission has adequate sanction authority against operators available in terms of monetary forfeitures and operator license suspension for violation of Commission rules or the Act.[11] Thus, the practical loss of ability to issue short-term operator license renewals for General Radiotelephone Operator infractions is of minimal effect. Additionally, we do not believe that the requirement for operator license renewal acts as an incentive to pursue continuing education. We have not, for a considerable period of time, required examinations for operator license renewal. Moreover, we believe that such incentive depends more on the circumstances and attributes of individual operators. Since we abolished the Radiotelephone First Class Operator License and renamed the second class license as a General Radiotelephone Operator License in Docket 20817, there has been no higher Commission-administered radiotelephone operator examination and license. We also reject the imposition of fees on the public in order to continue the renewal process for this license. We believe that, in this instance, it is more in the public interest to reduce a our administrative costs in this manner than to impose an additional burden on the public. Irrespective of the action we are taking concerning rule requirements in various services, we note that the General Radiotelephone license is being retained due to requirements in services other than those addressed by our proposals. Therefore, our concerns about the costs of renewal processing are not totally eliminated by other actions taken in this Docket. Additionally, we note that Commission records that are used as a data-base for enforcement or other purposes concerning licensed commercial operators do not reflect or update addresses. The application forms that do reflect addresses at the time of application are currently maintained for eight years and then destroyed. When lifetime licensing is instituted, the applications will be permanently maintained in government archives, but the Commission's file data-base will still not reflect current address information.

31. Regarding lifetime renewals of previously issued Radiotelephone First or Second Class licenses, the formal abolishment and name change for those licenses and the subsequent requirement that they be renewed as General Radiotelephone Operator Licenses prevents us from inequitably designating as lifetime licenses the remaining ones that have not yet been renewed as General Radiotelephone Operator Licenses.

32. Since we will be issuing General Radiotelephone Operator Licenses for lifetime terms, we eventually plan to discontinue new issuances of that license in the present diploma-type form (FCC 758–E) and to issue it only in a card-type form. In order to provide the existing General Radiotelephone and Radiotelephone First and Second Class Operator License holders with an opportunity to obtain a diploma-type lifetime General Radiotelephone Operator License Certificate, we plan a one-time issuance of such certificates for a period of one-year. The mechanics of implementing the issuance of new lifetime General Radiotelephone Operator Licenses and the special lifetime certificate are presently under study, and we will announce further details concerning this matter in a public notice to be issued in the near future.[12]

[11] See 47 U.S.C. 503(b) and 47 U.S.C. 303(m).

[12] See paragraph 45 below regarding a restrictive endorsement that will appear on the new lifetime card-type general licenses.

The public notice will also provide further details concerning procedures to be followed where the license is to be used internationally and a photograph is required to ensure positive operator identification in foreign parts.

33. Concerning extension of the renewal grace period to five years, we note that the primary effect is to allow licensed operators with expired licenses to obtain renewals in that five year period without examination. Any operation of maintenance with an expired license would continue to be considered unlicensed as in the past, but the extended renewal grace period would benefit, for example, operators who left the industry and then returned and wanted to renew their licenses without an examination within that five year period. We believe that the proposal is in the public interest and that substantial benefits would be gained by eliminating the necessity for filing waiver requests.

34. We are adopting the proposed rule and procedural changes as set for the in the *Notice* concerning commercial radio operator licensing. We are also amending Rule § 87.137 to delete a reference to the Aircraft Radiotelegraph Endorsement and Rule § 13.70 to clarify that duplication of commercial radio operator license documents is prohibited only in instances of use for fraudulent purposes.

35. We now consider the *Notice* and the comments received regarding proposed changes in the requirements for licensed commercial operators in various services.

36. Concerning general opposition to our proposals to eliminate the requirement of the General Radiotelephone Operator License in the various services specified in the *Notice*, we believe that each radio service should be examined separately, as we have done and are doing here, to determine whether such proposals would best serve the public interest. Regarding retention of the licensing requirement as a means of ensuring a certain level of technical competence, we note that many commenters in this Docket, as is Docket 20817, remarked upon the irrelevance of the licensing examination to the present state of technology as well as the practical realities of servicing equipment, and even suggested a strong need to revise and update the licenses examination to more accurately reflect a measure of technical competence. We further note that the survey conducted by NABER of land mobile radio dealers, discussed in paragraph 18 above, reflected that 61.4% of those responding did not believe that the current Commission test for the operator's license accurately reflected the technology necessary for the repair of two-way radio. In order to make the Commission's test relevant to constant technological changes that occur, we would need to update the test periodically, such as every year. The Commission, however, does not have the resources to periodically update the test and to incorporate new technological developments in the examination. Thus, our tests will continue to be of dubious value. On the other hand, licensees who deal with technicians directly, and who are responsible for and have an economic interest in maintaining the proper operation of their systems, are in a better position than the Commission to ascertain the qualifications of technical personnel. Accordingly, licensees should be permitted to determine whether an individual is technically competent to operate, install, or service their systems. Additionally, we see no reason to delay action in this proceeding pending completion of Docket 83–114 concerning the re-examination of technical standards. That is a longer term proceeding that will examine our technical rules and standards in a number of services, and there, as here, we are using a service-by-service approach.

37. With regard to comments received in opposition to the proposed changes in the broadcast services, we believe that the proposed modifications and deletions of requirements are in the public interest. Since our deletion of the requirement in Docket 20817 for a higher level of operator license at broadcast stations to repair transmitter equipment, there has been no identifiable significant overall increase in interference problems in that service. In Docket 20817, we noted that the complete record in that proceeding did not demonstrate any significant correlation between operator licensing and signal quality interference control; that current available transmitting equipment had proven highly reliable; that marketplace forces and economic self-interest would better ensure that broadcasters employ competent operators and technicians than would a written examination; and that operator licensing imposes costs without concomitant benefits.[13] With particular regard to the broadcast service, nothing has occurred that changes our perception concerning those conclusions. Therefore, we conclude that it is inconsistent to retain the licensing requirements for these broadcast and auxiliary services and believe that the public interest is best served by adopting the proposals concerning the Broadcast Services as set forth in the *Notice*.

38. Regarding our proposals involving the Private Radio Services, it is initially noted that Congress recently enacted legislation that has a bearing on our consideration of the proposals. On December 8, 1983, the President signed H.R. 2755, the "Federal Communications Commission Authorization Act of 1983," Pub. L. 98–214. Section 10 of the legislation amended section 4(f)(4) of the Communications Act of 1934, 47 U.S.C. 154(f)(4), to add a new subparagraph (E), which states as follows:

> The Commission shall have the authority to endorse certification of individuals to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services (as defined by the Commission by rule) if such certification programs are conducted by organizations or committees which are representative of the users in those services and which consist of individuals who are not officers or employees of the Federal Government.

39. The above amendment is permissive, rather than mandatory, and to the extent it allows the Commission to endorse efforts by industy organizations or committees in the private land mobile services and fixed services to implement a comparable substitute to the Commission's present operator licensing program in those services, it is very broad and allows us a great deal of discretion.[14]

40. In view of this recent legislation and the overwhelming concern reflected in the comments received in this proceeding regarding potential interference and signal quality in the Private Land Mobile Radio and the Private Operational-Fixed Microwave Services, as well as the other concerns cited in the comments, we believe that this legislation enables us to develop an excellent compromise between our original proposals and the indicated desires of the private land mobile and private operational-fixed microwave communities. It allows us to endorse industry efforts in that particular marketplace to address in a responsive manner, through self-regulation, the expressed concerns of that community of users and technicians. It further assists us in accomplishing our objectives by allowing the Commission to eliminate unnecessary government regulation and involvement. Moreover, a

[13] See *Fourth Report and Order*, 87 FCC 2d 44 (1981) at p. 70.

[14] For the legislative history of Section 10, H.R. 2755, *see* 129 CONG. REC. S16863 (daily ed. Nov. 18, 1983) (remarks of Sen. Pressler) and 130 CONG. REC. E72 (1984) (remarks of Rep. Dingell).

modern industry certification program can be far more current and effective as a standard for measurement of technical ability than the outdated written examination system administered by the Commission. We anticipate that it will provide considerably better service to the public and the marketplace community.

41. Therefore, we strongly endorse and encourage organizations or committees representative of users in the Private Land Mobile Radio and Private Operational-Fixed Microwave Services to establish a national industry certification program or programs for technicians.

42. We further believe that the development of and details concerning the establishment of such a program or programs are best handled by the private sector itself, and that the Commission's involvement should be limited to a vigorous overall endorsement of such a certification program or programs by the industry and to the rule modifications discussed below. Unlike Commission implementation of recent legislation involving the use of Amateur Radio Service volunteers for license examination purposes, the issuance of commission licenses are not involved here. Moreover, we interpret the recent legislation as affording the Commission a substantial amount of flexibility, and if difficulties do arise as a result of the action we are taking, we can, if necessary, revisit this matter to determine whether a more structured Commission supervision of certification programs is necessary pursuant to the statute. The Field Operations Bureau will monitor and report back to the Commission concerning any appreciable increase in interference experienced in the Private Radio Services. However, we see no need at present to project this agency into the organizational process in terms of establishing specific guidelines and standards or certifying particular programs. Rather, we believe that such matters should be left to the appropriate industry groups, and that they are best able to determine the specific needs and requirements of an effective technician certification program or programs, as well as appropriate standards for administration. It appears to us that concerns regarding possible anticompetitive or discrimination problems with private sector certification programs are not well founded. As we note in the *Fourth Report and Order* in Docket 20817,[15] trade organizations are free to devise voluntary standards that are not exclusionary, and we believe that a relevant, non-discriminatory examination that would simply provide a voluntary screening device can be formulated and implemented by the private sector. We disagree with APCO that only the Commission can appropriately perform the qualifying and licensing function regarding technicians and believe that an industry program, which may even be able to incorporate some type of "practical" or "hand-on" tests or criteria concerning the certification of technicians, is eminenty preferable to the present method of Commission licensing in these services. We do, however, offer several observations and suggestions. The legislation requires "organizations or committees representative of users" in the private land mobile and fixed service. Therefore, our endorsement of such programs does not extend to the establishment of a certification program by a private commercial entity. Secondly, we suggest that in order to be truly effective, a certification program or programs should be national in scope rather than regional, statewide, or local. We also believe that it would be extremely beneficial and advisable for the several commenting parties who are organizations or groups of users or technicians and who have indicated an interest in an industry certification program, as well as the others who may now wish to participate, to collaborate and confer with each other in order to attemp the development of one or more national private sector programs and to ensure that the certification program or programs eventually established will reflect effective standards of technical competence. In the near future, we plan to issue a Public Notice advising users and technicians of those organizations or committees who have expressed to the Commission an interest in establishing a technical certification program. The Commission stands ready to provide whatever assistance it can to interested organizations or groups in terms of supplying background information on our past examinations and licensing procedures. We further recommend highly and request that provision be made to "grandfather" existing General Radiotelephone Operator License holders (and First and Second Class License holders) into any newly established industry certification program or programs.

43. As indicated in our *Notice*, the station licensees are ultimately responsible for the control and proper operation of their stations, and we believe that licensees should have the freedom to utilize whatever measures they deem appropriate to insure that their stations are operated, serviced, and maintained in accordance with our technical rules and type-acceptance standards. Nevertheless, we do wish to support the industry technician certification effort as strongly as possible, consistent with our philosophy regarding licensee responsibility. Therefore, we are adopting modifications of our original proposed changes to Rule §§ 90.433 (Private Land Mobile Radio Service) and 94.103 (Private Operational-Fixed Microwave Service) to specify with greater emphasis the ultimate responsibility of the licensee or station owner for proper operation of the station and to endorse and express our belief that the installation, service, or maintenance of transmitting equipment should be performed by a qualified technician certified by organizations or committees representative of users in the private land mobile or fixed services pursuant to 47 U.S.C. 154(f)(4)(E).

44. We are also, by rule modifications, encouraging the use of certified technicians in the Personal Radio Services, because we believe that many of the same concerns apply in those services, particularly the General Mobile Radio Service, as are present in the private land mobile and fixed services. We further note that since the *Notice* in this matter was issued, the Part 95 Rules dealing with the General Mobile Radio Service were updated and codified. See *Report and Order in the matter of update and codification of the General Mobile Radio Service Rules*, FCC 83-332, 48 FR 35234 (August 3, 1983). Our rule changes concerning the General Mobile Radio Service have been modified and revised accordingly.

45. In order to provide industry groups and committees concerned with the technician certification effort sufficient time to establish a program or programs, we will not make the particular rule changes discussed in paragraphs 43 and 44 effective until 180 days after publication of this Report and Order in the **Federal Register**. Should a further extension of time be required, we will consider such requests at a later date. Additionally, we note that footnote six in our *Notice* referred to specifically endorsing *new* lifetime General Radiotelephone Operator Licenses to discourage broadcast personnel from applying for these licenses unless they are otherwise required to hold them. This endorsement will limit the validity of *all new* General Radiotelephone Operator Licenses to operation,

[15] See 87 FCC 2d 44, page 68.

maintenance and repair of stations in the Aviation, Maritime, and International Fixed Public Radiocommunications Services only. The restrictive endorsement will begin appearing on *new* licenses when the card-type form is issued.[16] The new card-type form with the restriction will *not* be issued until the rule modifications discussed in paragraphs 43 and 44 become effective. Moreover, the special lifetime General Radiotelephone Operator License Certificate to be issued for a one-year period to existing general and first and second class license holders and any renewals after issuance of the special lifetime certificate will *not* reflect this restrictive endorsement.

46. We applaud the initiative shown by those organizations concerned with the Private Land Mobile Radio and Private Operational-Fixed Microwave Services in seeking to establish their own certification program or programs and believe that this approach in these unique services will best serve their communities of users and technicians, as well as the public interest.

47. Regarding the Cable Television Relay Service and the Domestic Public Fixed Services, we received no substantive comments specifically directed to and in opposition to our proposals. We believe that the nature of and circumstances present in those services differ markedly from the high-volumed shared frequency usage considerations found in the Private Radio Services and that the public interest is best served by adopting our proposed rule changes in those services and deleting the requirements concerning radio operators. Once again, we wish to stress that these changes are being made consistent with the Commission's policies and rules that it is the station licensees themselves who are ultimately responsible for the control and operation of their stations.

V. Conclusions

48. In view of the above discussion, we are adopting the proposals concerning modification or deletion of the requirement for licensed operators from our rules as set out in our *Notice*, with the exception of the proposals concerning the Private and Mobile Radio Services, Private Operational-Fixed Microwave Service, and the Personal Radio Services. Regading those services, we are modifying our proposed rule changes to emphasize that the installation, and/or service, and maintenance of transmitters should be performed by qualified technicians certified by organizations or committees representative of users in the private land mobile and fixed services. We are further adopting our proposed rule and procedural changes as set forth in the *Notice* concerning commercial radio operator licensing. The Commission strongly endorses and encourages organizations or committees representative of users in the Private Land Mobile Radio and Private Operational-Fixed Microwave Services to establish a national industry certification program or programs for technicians. We are further planning to issue a special one-time diploma-type lifetime General Radiotelephone Operator License Certificate to existing General Radiotelephone and Radiotelephone First and Second Class Operator License holders.

VI. Regulatory Flexibility Act—Final Analysis

49. *Need for rules and objectives.* The Commission has concluded that the modification or elimination of Commission rules that require licensed commercial radio operators in the Experimental Broadcast, International Broadcast, Auxiliary Broadcast, Private Land Mobile, Fixed, Personal, Domestic Public Fixed, and Cable Television Relay Services, and the modification of certain commercial radio operator licensing procedures to reduce the administrative burden on Commission resources are in the public interest. Our objectives are to create, to the maximum extent possible, an unregulated, competitive, marketplace environment for the development of telecommunications, and to eliminate unnecessary regulations and policies.

50. *Issues raised by the public in response to the initial analysis.* We have taken into account the various issues raised by the public concerning the proposed rules. As a result of these comments and recent legislation, we have modified, consistent with our objectives, some of the original proposals.

51. *Alternatives that would lessen impact.* Commission adoption of modified rule changes regarding the Private Radio Services and support of private sector technician certification programs for those services lessens the impact of this action on small publishers producing examination study guides and on small business two-way radio users since the private sector certification program or programs will replace present Commission commercial radio operator requirements. We believe that we have diminished the impact to the maximum extent possible consistent with achieving the public interest objectives mentioned above. We will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing any significant economic impact on small entities.

VII. Ordering Clauses

52. Authority for these amendments appears in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and section 553 of the Administrative Procedures Act, 5 U.S.C. 553.

53. Accordingly, it is ordered, that Parts 13, 21, 73, 74, 78, and 87 of the Commission's Rules (47 CFR Parts 13, 21, 73, 74, 78, and 87) are amended as shown in the Appendix attached thereto, effective June 15, 1984. It is further ordered, that Parts 90, 94, and 95 of the Commission's Rules (47 CFR Parts 90, 94, and 95) are amended as shown in the Appendix attached hereto, effective November 12, 1984.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 13—[AMENDED]

A. Part 13 of Title 47 of the Code of Federal Regulations, Commercial Radio Operators, is amended as follows:

1. Section 13.1 is revised to read as follows, and the two Notes following it are removed:

§ 13.1 Basis and purpose.

(a) *Basis.* The basis for the rules contained in this part is the Communications Act of 1934, as amended, and applicable treaties and agreements to which the United States is a party.

(b) *Purpose.* The purpose of the rules in this part is to prescribe the manner and conditions under which commercial radio operators are licensed by the Commission.

2. Section 13.2 is revised to read as follows:

§ 13.2 Classification of operator licenses and endorsements.

(a) Commercial radio operator licenses issued by the Commission are classified in accordance with the Radio Regulations of the International Telecommunications Union.

(b) The following licenses are issued by the Commission. International classification, if different from the license name, is given in parenthesis

[16] See paragraph 32 above.

(1) First Class Radiotelegraph Operator's Certificate.

(2) Second Class Radiotelegraph Operator's Certificate.

(3) Third Class Radiotelegraph Operator's Certificate (radiotelegraph operator's special certificate).

(4) General Radiotelephone Operator License (radiotelephone operator's general certificate).

(5) Marine Radio Operator Permit (radiotelephone operator's restricted certificate).

(6) Restricted Radiotelephone Operator Permit (radiotelephone operator's restricted certificate).

(c) The following license endorsements are affixed by the Commission, to provide special authorizations or restrictions. Applicable licenses are given in parenthesis.

(1) Ship Radar endorsement (First and Second Class Radiotelegraph Operator's Certificates, General Radiotelephone Operator License).

(2) Six Months Service endorsement (First and Second Class Radiotelegraph Operator's Certificates).

(3) Restrictive endorsements; relating to physical handicaps, English language or literacy waivers, or other matters (all licenses).

(d) The following former licenses and endorsements are no longer issued; however, those outstanding are valid until expiration. Upon renewal, holders of these former licenses may be issued one or more of the licenses listed in paragraph (a), in accordance with § 13.28.

(1) Radiotelephone First Class Operator License—last issued December 1981.

(2) Radiotelephone Second Class Operator License—last issued December 1981.

(3) Radiotelephone Third Class Operator Permit—last issued October 1980.

(4) Broadcast endorsement—last issued February 1979.

3. In § 13.3, paragraph (c) is revised to read as follows:

§ 13.3 Holding of more than one commercial radio operator license.

* * * * *

(c) Each person who is legally eligible for employment in the United States may, if necessary, simultaneously hold:

(1) One General Radiotelephone Operator License and one Restricted Radiotelephone Operator Permit; or,

(2) One Marine Radio Operator Permit and one Restricted Radiotelephone Operator Permit.

* * * * *

4. Section 13.4 is revised to read as follows:

§ 13.4 Term of licenses.

(a) Commercial radio operator licenses are normally valid for a term of five years from the date of issuance, except as provided in paragraph (b) of this section.

(b) General Radiotelephone Operator Licenses and Restricted Radiotelephone Operator Permits are normally valid for the lifetime of the holder. The terms of all Restricted Radiotelephone Operator Permits issued prior to November 15, 1953, and valid on that date, were extended to encompass the lifetime of such operators.

§ 13.5 [Amended]

5. In § 13.5, paragraph (c)(2) and the note following is removed.

6. Section 13.12 is amended by revising the title of the section, the introductory portion of (a), (b)(1), (b)(2)(ii), and (b)(2)(iii) to read as follows:

§ 13.12 Additional requirements for First Class Radiotelegraph Operator's Certificate and Six Months Service Endorsement.

(a) First Class Radiotelegraph Operator's Certificate.

* * * * *

(b) * * *

(1) An endorsement may be placed on a First or Second Class Radiotelegraph Operator's Certificate attesting that the holder has had at least six months satisfactory service in the aggregate as a radio officer in a station on board a ship or ships of the United States.

(2) * * *

(ii) Under the authority of a First or Second Class Radiotelegraph Operator's Certificate prescribed and issued by the Federal Communications Commission; and

(iii) While licensed as a radio officer by the U.S. Coast Guard in accordance with the Act of May 12, 1948 (46 U.S.C. 229 a–h).

* * * * *

§ 13.21 [Amended]

7. Section 13.21 is amended by removing the text of paragraph (a)(7), and substituting therefor the word "reserved."

8. Section 13.22 is revised to read as follows:

§ 13.22 Required qualifications.

Commercial radio operator licenses are issued only to eligible applicants found qualified by the Commission, as follows:

(a) To be qualified to hold any commercial radio operator license, an applicant must have the ability to transmit correctly and receive correctly spoken messages in the English language.

(b) To qualify for a new commercial radio operator license other than the Restricted Radiotelephone Operator Permit, an applicant must demonstrate Morse code skill, if required, and a satisfactory knowledge of the material in one or more of the elements listed in § 13.21, by passing all examinations required for the class of license to be issued:

(1) First Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 3 and 4.

(ii) Written examinations covering elements 1 and 2, 5 and 6.

(2) Second Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse Code tests 1 and 2.

(ii) Written examinations covering elements 1 and 2, 5 and 6.

(3) Third Class Radiotelegraph Operator's Certificate.

(i) Transmitting and receiving Morse code tests 1 and 2.

(ii) Written examinations covering elements 1 and 2, and 5.

(4) General Radiotelephone Operator License.

(i) Written examination covering element 3.

(5) Marine Radio Operator Permit.

(i) Written examination covering elements 1 and 2.

(c) No examination is required for the Restricted Radiotelephone Operator Permit. Instead, an applicant must certify that he or she:

(1) Is legally eligible for employment in the United States; or, if not so eligible, holds an aircraft pilot certificate valid in the United States or an FCC radio station license in his or her name;

(2) Can speak and hear;

(3) Can keep at least, a rough written log; and,

(4) Is familiar with provisions of applicable treaties, laws, rules and regulations which govern the radio station he or she will operate.

9. Section 13.24 is revised to read as follows:

§ 13.24 Passing score.

To pass a written examination, an applicant must answer at least 75 percent of the questions correctly.

10. Section 13.25 is amended by revising paragraph (a), as follows:

§ 13.25 Examination credit for licenses held.

(a) The holder of a valid commercial radio operator license (or a license which could be renewed under the provisions of § 13.28) who applies for another class of commercial radio operator license will not be required to retake the written examinations or telegraphy tests which were required to obtain the license held.

* * * * *

11. Section 13.26 is amended by revising the heading and the chart as follows:

§ 13.26 Cancellation of superfluous licenses.

* * * * *

License issued	License(s) cancelled
First Class Radiotelegraph Operator's Certificate.	Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
Second Class Radiotelegraph Operator's Certificate.	Third Class Radiotelegraph Operator's Certificate, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
Third Class Radiotelegraph Operator's Certificate.	Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit, Restricted Radiotelephone Operator Permit.
General Radiotelephone Operator License.	Radiotelephone First Class Operator License, Radiotelephone Second Class Operator License, Radiotelephone Third Class Operator Permit, Marine Radio Operator Permit.
Marine Radio Operator Permit.	RadiotelephoneThird Class Operator Permit.

12. Section 13.27 is revised, and the note after it is removed:

§ 13.27 Re-examination waiting period.

An applicant who fails a written examination or code test required for a commercial radio operator license shall not apply for any class of license requiring that examination or test until 60 days after the date the examination or test was failed.

13. § 13.28, paragraph (a) is revised to read as follows:

§ 13.28 License Renewals.

(a) Commercial radio operator licenses issued for five year terms may be renewed, by proper application, at any time during the last year of the license term or during a five year grace period following expiration. Expired licenses are not valid during the grace period.

* * * * *

14. Section 13.61 is revised, and the four "Notes" currently associated with it are removed, as follows:

§ 13.61 Need for licensed commercial radio operators.

Rules which require Commission station licensees to employ licensed commercial radio operators to perform certain transmitter operating, maintenance, or repair duties are contained in Parts 73, 74, 81, 83 and 87 of this chapter.

15. Section 13.70 is revised to read as follows:

§13.70 Fraudulent licenses.

No licensed radio operator or other person shall alter, duplicate for fraudulent purposes, or fraudulently obtain or attempt to obtain, or assist another to alter, duplicate for fraudulent purposes, or fraudulently obtain or attempt to obtain an operator license. Nor shall any person use a license issued to another or a license that he or she knows to be altered, duplicated for fraudulent purposes, or fraudulently obtained.

16. A new § 13.77 is added, as follows:

§ 13.77 Required endorsements.

(a) All Marine Radio Operator Permits shall bear the following endorsement:

This permit does not authorize the operation of AM, FM or TV broadcast stations.

(b) General Radiotelephone Operator Licenses issued to persons who first qualify for that classification of license (see § 13.22) on or after shall bear the following endorsement:

This license is valid for operation, maintenance, and repair of stations in the Aviation, Maritime, and International Fixed Public Radiocommunications Services only.

PART 21—[AMENDED]

B. Part 21 of Title 47 of the Code of Federal Regulations, Domestic Public Fixed Radio Service, is amended as follows:

§ 21.203 [Removed]

1. Section 21.203 is removed.

§ 21.205 [Removed]

2. Section 21.205 is removed.

§ 21.207 [Amended]

3. Section 21.207 is amended by removing paragraph (e).

4. Section 21.208 is amended by revising paragraph (e) (1) and removing paragraphs (e) (2), (g), and (h) as follows:

§ 21.208 Station records.

* * * * *

(e) * * *

(1) The results and dates of the transmitter measurements required by § 21.207.

(2) [Removed]

* * * * *

(g) [Removed]

(h) [Removed]

PART 73—[AMENDED]

C. Part 73 of Title 47 of the Code of Federal Regulations, Radio Broadcast Services is amended as follows:

1. Section 73.764 is amended by revising paragraph (a), and removing the note following the section:

§ 73.764 International broadcast station operator requirements.

(a) One or more operators holding a commercial radio operator license (any class, unless otherwise endorsed) must be on duty where the transmitting apparatus of each station is located and in actual charge thereof whenever it is being operated.

* * * * *

2. Section 73.1515 is amended by revising paragraph (c)(6) and removing the note which follows paragraph (c)(6):

§ 73.1515 Special field test authorizations.

* * * * *

(c) * * *

(6) Test transmitters must be operated by or under the immediate direction of an operator holding a commercial radio operator license (any class, unless otherwise endorsed).

* * * * *

3. In § 73.1860, paragraph (a) is revised to read as follows:

§ 73.1860 Transmitter duty operators.

(a) Each AM, FM or TV broadcast station must have at least one person holding a commercial radio operator license (any class, unless otherwise endorsed) on duty in charge of the transmitter during all periods of broadcast operation. The operator must be on duty at the transmitter location, a remote control point, an ATS monitor and alarm point, or a position where extension meters are installed under the provisions of § 73.1550.

* * * * *

4. In § 73.1870, paragraph (a) is revised to read as follows:

§ 73.1870 Chief operators.

(a) The licensee of each AM, FM, or TV broadcast station must designate a

person holding a commercial radio operator license (any class, unless otherwise endorsed) to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another licensed operator as the acting chief operator on a temporary basis.

* * * * *

PART 74—[AMENDED]

D. Part 74 of the Title 47 of the Code of Federal Regulations, Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services, is amended as follows:

1. Section 74.18 is amended by revising paragraph (b), removing the Note following paragraph (c) and adding new paragraphs (d) and (e) to read as follows:

§ 74.18 General operator requirements.

* * * * *

(b) Except as noted in paragraph (e) of this section, stations authorized under the provisions of this Part may be operated by any person designated by the station licensee.

(c) * * *

(d) Except as noted in paragraph (e) of this section, the installation, adjustment, and maintenance of any transmitter licensed under the provisions of this Part may be performed by any person deemed qualified to perform such duties by the licensee.

(e) Persons who perform any operating or transmitter technical duties licensed under Subparts A, B, C, G and L must hold a commercial radio operator license (any class, unless otherwise endorsed).

§ 74.166 [Removed]

2. Section 74.166 is removed.

§ 74.266 [Removed]

3. Section 74.266 is removed.

§ 74.366 [Removed]

4. Section 74.366 is removed.

§ 74.468 [Removed]

5. Section 74.468 is removed.

§ 74.565 [Removed]

6. Section 74.565 is removed.

§ 74.665 [Removed]

7. Section 74.665 is removed.

8. Section 74.750 is amended by revising paragraph (g) to read as follows:

§ 74.750 Transmission system facilities.

* * * * *

(g) Low power TV or TV translator stations installing new type accepted transmitting apparatus incorporating modulating equipment need not make equipment performance measurements and shall so indicate on the station license application. Stations adding new or replacing modulating equipment to existing low power TV or TV translator transmitting apparatus must have a qualified operator (§ 74.18) examine the transmitting system after installation. This operator must certify in the application for the station license that the transmitting equipment meets the requirement of paragraph (d)(1) of this section. A report of the methods, measurements, and results must be kept in the station records. However, stations installing modulating equipment solely for the limited local origination of signals permitted by § 74.731 need not comply with the requirements of this paragraph.

§ 74.766 [Removed]

9. Section 74.766 is removed.

§ 74.868 [Removed]

10. Section 74.868 is removed.

§ 74.966 [Removed]

11. Section 74.966 is removed.

§ 74.1266 [Removed]

12. Section 74.1266 is removed.

PART 78—[AMENDED]

E. Part 78 of Title 47 of the Code of Federal Regulations, Cable Television Relay Services, is amended as follows:

1. Section 78.51(a)(2) is revised as follows:

§ 78.51 Remote control operation.

(a) * * *

(2) An operator shall be on duty at the remote control position and in actual charge thereof at all times when the station is in operation.

* * * * *

2. Section 78.53 (a)(4) and (a)(5) are revised as follows:

§ 78.53 Unattended operation.

(a) * * *

(4) Personnel responsible for the maintenance of the station shall be available on call at a location which will assure expeditious performance of such technical servicing and maintenance as may be necessary whenever the station is operating. In lieu thereof, arrangements may be made to have a person or persons available at all times when the transmitter is operating, to turn the transmitter off in the event that it is operating improperly. The transmitter may not be restored to operation until the malfunction has been corrected by a technically qualified person.

(5) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station which may affect its operation shall be performed by or under the immediate supervision of a technically qualified person.

* * * * *

§ 78.59 [Amended]

3. Section 78.59(d) is removed.

4. Section 78.61 is amended by revising paragraphs (a), (c), (d), and (f) and by removing and reserving paragraph (b) to read as follows:

§ 78.61 Operator requirements.

(a) Except in cases where a CARS station is operated unattended in accordance with § 78.53 or except as provided in other paragraphs of this section, a person shall be on duty at the place where the transmitting apparatus is located, in plain view and in actual charge of its operation or at a remote control point established pursuant to the provision of § 78.51, at all times when the station is in operation. Control and monitoring equipment at a remote control point shall be readily accessible and clearly visible to the operator at that position.

(b) [Reserved]

(c) Any transmitter tests, adjustments, or repairs during or coincident with the installation, servicing, operation or maintenance of a CARS station which may affect the proper operation of such station shall be made by or under the immediate supervision and responsibility of a person responsible for proper functioning of the station equipment.

(d) The operator on duty and in charge of a CARS station may, at the discretion of the licensee, be employed for other duties or for the operation of another station or stations in accordance with the rules governing such stations. However, such duties shall in no way impair or impede the required supervision of the CARS station.

* * * * *

(f) Mobile CARS stations operating with nominal transmitter power in excess of 250 milliwatts may be operated by any person whom the licensee shall designate: Provided that a person is on duty at a receiving end of the circuit to supervise operation and to immediately institute measures sufficient to assure prompt correction of

any condition of improper operation that may be observed.

§ 78.69 [Amended]

5. Section 78.69(d)(2) is removed.

6. Section 78.107(d) is revised as follows:

§ 78.107 Equipment and installation.

* * * * *

(d) The installation of a CARS station shall be made by or under the immediate supervision of a qualified engineer. Any tests or adjustments requiring the radiation of signals and which could result in improper operation shall be conducted by or under the immediate supervision of a person with required knowledge and skill to perform such tasks.

* * * * *

PART 87—[AMENDED]

F. Part 87 of Title 47 of the Code of Federal Regulations, Aviation Services, is amended as follows:

1. Section 87.137 is revised to read as follows:

§ 87.137 Radio stations using radiotelegraphy.

(a) Except as provided in § 87.135, an aircraft radio station, when transmitting radiotelegraphy by any type of the Morse Code shall be operated by a person holding a radiotelegraph first- or second-class operator license.

(b) Except as provided in §§ 87.135 and 87.139, a station other than an aircraft station, when transmitting by any type of the Morse Code for purposes other than automatically keyed station identification, shall be operated by a person holding any class of radiotelegraph license or permit.

PART 90—[AMENDED]

G. Part 90 of Title 47 of the Code of Federal Regulations, Private Land Mobile Radio Services, is amended, as follows:

1. Section 90.433 is revised to read as follows:

§ 90.433 Operator requirements.

(a) No operator license or permit is required for the operation, maintenance, or repair of stations licensed under this part.

(b) Any person, with the consent or authorization of the licensee, may employ stations in this service for the purpose of telecommunications.

(c) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station should be performed by or under the immediate supervision and responsibility of a person certified as technically qualified to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services.

(d) The provisions of paragraph (b) of this section shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations (including all transmitter units thereof), in accordance with the terms of the licenses of those stations.

§ 90.435 [Reserved]

2. Section 90.435 is removed and reserved.

PART 94—[AMENDED]

H. Part 94 of Title 47 of the Code of Federal Regulations, Private Operational-Fixed Microwave Service, is amended as follows:

1. Section 94.103 is amended to revise paragraphs (a), (c) and (d) and to remove (e) as follows:

§ 94.103 Operator requirements.

(a) No operator license is required for the operation, maintenance, or repair of stations licensed under this part.

* * * * *

(c) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station should be performed by or under the immediate supervision and responsibility of a person certified as technically qualified to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services.

(d) The provisions of paragraph (b) of this section authorizing unlicensed persons to operate stations shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them (including all transmitter units thereof), or for the proper functioning and operation of those stations (including all transmitter units thereof) in accordance with the terms of the licenses of those stations.

PART 95—[AMENDED]

I. Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is revised as follows:

1. In Subpart A—General Mobile Radio Service, § 95.129(b)(3) is revised to read as follows:

§ 95.129 Station equipment.

* * * * *

(b) * * *

(3) Has been internally adjusted or repaired by anyone except a person authorized under § 95.131.

* * * * *

2. Section 95.131(a) is revised to read as follows:

§ 95.131 Service station transmitters.

(a) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station should be performed by or under the immediate supervision and responsiblity of a person certified as technically qualified to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services.

* * * * *

3. Section 95.133(b) (1) and (2) are revised to read as follows:

§ 95.133 Modification to station transmitters.

* * * * *

(b) * * *

(1) By the original manufacturer of the transmitter.

(2) In accordance with the original manufacturer's instructions by a person authorized under § 95.131.

4. In Subpart C—Radio Control (R/C) Radio Service paragraph (b) of § 95.221 (R/C Rule 21) is revised to read as follows:

§ 95.221 (R/C) Rule 21) How do I have my R/C transmitter serviced?

* * * * *

(b) You are responsible for the proper operation of the station at all times and are expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. Each internal repair and each internal adjustment to an FCC type accepted R/C transmitter (see R/C Rule 9) must be made in accord with the Technical Regulations (see Subpart E). The internal repairs or internal adjustments should be performed by or under the immediate supervision and responsibility of a person certified as technically qualified to perform transmitter maintenance and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services.

* * * * *

5. In Subpart D—Citizens Band (CB) Radio Service, paragraph (b) of § 95.424 (CB Rule 24) is revised to read follows:

§ 95.424 (CB Rule 24) How do I have my (CB) station transmitter serviced?

* * * * *

(b) You are responsible for the proper operation of the station at all times and are expected to provide for observations, servicing and maintenance as often as may be necessary to ensure proper operation. You must have all internal repairs or internal adjustments to your CB transmitter made in accordance with the Technical Regulations (see Subpart E). The internal repairs or internal adjustments should be performed by or under the immediate supervision and responsibility of a person certified as technically qualified to perform transmitter maintenance and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services.

6. In Subpart E—Technical Regulations, paragraph (c) of § 95.621, and paragraph (e)(2) of § 95.645 are revised to read as follows:

§ 95.621 Compliance with technical requirements.

* * * * *

(c) In each case, the report which is submitted must describe the results of the tests and adjustments and the test equipment and procedures used. A copy of this report must also be kept in the station records.

* * * * *

§ 95.645 Additional requirements for type acceptance.

* * * * *

(e) * * *

(1) * * *

(2) Warnings concerning any adjustments which could result in improper technical performance.

* * * * *

Concurring Statement of FCC Commissioner James H. Quello

February 24, 1984.

In re: Report and Order, General Docket 83-322; Requirements for Licensed Operators in Various Radio Services

I believe that the Commission has a legitimate role in the licensing of technicians for the various services it regulates. Insofar as licensing ensures a certain minimum level of competence, it can reduce the need for the Commission to expend scarce resources tracking down after it develops.

Although I am satisfied that an adequate licensing program can produce significant benefits, I do not believe the Commission has had an adequate licensing program for a number of years. We have been unwilling to devote sufficient resources to the preparation of tests and to ensure that they were geared to state of the art technology. We have been unwilling to update our tests with sufficient frequency to prevent wide distribution of test questions. We have been unwilling to re-test upon license renewal to determine continued competence.

In short, our licensing program has, over the years, degenerated into essentially a paper exercise without significant meaning in terms of screening for competence. Obviously, many of those who hold FCC licenses are highly competent and perform their functions with a high degree of knowledge and skill. The point is that their skill level and the FCC license they hold have very little to do with each other. Today's Commission action to eliminate the licensing program is, in my view, merely a public acknowledgment of that sad fact.

Therefore, I concur.

[FR Doc. 84-13017 Filed 5-15-84; 8:45 am]

BILLING CODE 6712-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1803, 1804, 1807, 1812, 1814, 1815, 1816, 1817, 1819, 1822, 1823, 1825, 1827, 1830, 1832, 1835, 1842, 1845, 1849, 1851, 1852 and 1853

Acquisition Regulations; Promulgation of NASA FAR Supplement Directive 84-1

AGENCY: National Aeronautics and Space Administration, Procurement Policy Division.

ACTION: Final rule.

SUMMARY: This document promulgates amendments to NASA acquisition regulation contained in NASA FAR Supplement Directive (NFSD) 84-1.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546 , Telephone: (202) 453-2118.

SUPPLEMENTARY INFORMATION:

At 49 FR 8460 (March 7, 1984), NASA published a notice of proposed rulemaking which made available to the public a copy of NASA FAR Supplement Directive 84-1 for review and possible comment. All comments received have been considered and the Directive has been revised where necessary. This document reflects amendments to the NASA FAR Supplement contained in NFSD 84-1 concerning the following:

1. A note had been added setting an effective date of April 1, 1984, for the FAR and NASA FAR Supplement (NFS).

2. The Office of Management and Budget (OMB) recently issued a rule (5 CFR 1320) 48 FR 13666, clearly establishing applicability of the Paperwork Reduction Act to collection of information associated with Federal acquisition. Requests for information from 10 or more firms in connection with the acquisition of goods or services by the Federal Government are now subject to the same review and approval requirements as are other collections of information under the Act. OMB has stated that after April 1, 1984, only those collections of information bearing a current OMB control number will be considered to be approved under the Paperwork Reduction Act. A new section 1801.105 is added to the NFS to accomodate existing and future OMB control (approval) numbers. Display of numbers on solicitation and contract documents is prescribed.

3. Sections 1815.407 and 1852.215-10 are revised to allow NASA to continue its policy of considering late "best-and-final" offers when it is in the best interest of the Government.

4. Section 1815.805-5 is revised to raise from $100,000 to $250,000 the threshold for requesting field pricing support for all contract types except for cost-reimbursement, cost sharing, cost-plus-award-fee, and cost-plus-fixed-fee. For those listed contract types, the threshold remains at $1,000,000. Procedures for audit information requests are revised.

5. Coverage related to letter contracts is revised or deleted to eliminate redundancies and conflicts between policy and clauses in the FAR and the NASA FAR Supplement, as follows:

(a) Section 1815.971, Payment of profit or fee under letter contracts is revised to

remove reference to letter contract termination clauses.

(b) The following clauses in Part 52, and their related prescriptions are removed in their entirety:

1852.232–72 Payments (Letter Contracts).
1852.232–76 Authority to Obligate Funds.
1852–249–70 Termination—Fixed-Price Letter Contract.
1852.249–71 Termination—Cost-Reimbursement Type Letter Contract.

6. The conflict between FAR 16.303 and NFS 1816.303 (d)(1) was resolved by removing the NASA FAR Supplement coverage that allowed the payment of any profit or fee on cost-sharing contracts.

7. A new Subpart 1817.71, Exchange or Sale of Personal Property, has been added.

8. Coverage at NFS 1819.705–1 that was in conflict with the FAR 19.705–1 policy of allowing monetary incentives to increase subcontracting opportunities was removed. Such incentives are authorized.

9. NFS sections 1823.7102 and 1823.223–71 are amended to revise the procedure for processing applications for authorizations of radio frequency assignments under NASA contracts.

10. Coverage is added under NFS Subparts 1827.3, 1827.4 and 1852.227 to implement and supplement FAR Subparts 27.3 and 27.4. This NASA coverage supersedes most of these two FAR subparts and provides the clauses for use in NASA contracts except for the patent rights clause for use in small business contracts, for which the FAR clause (52.227–11, Patent Rights—Retention by the Contractor—Short Form) will be used. FAR Subparts 27.1, General and 27.2, Patents, have material, including clauses, for which no NASA FAR Supplement coverage is necessary.

11. Part 1832 is amended as follows:

(a) 1832.702–70 has been revised to authorize incremental funding of cost-type research and development contracts.

(b) Coverage has been added on payments by wire (see 1832.111–70, 1832.172, and the clause at 1852.232–78).

12. NASA has obtained a class deviation to FAR 35.014(b)(2)(iii). In the FAR, the contracting officer has the authority to make a determination that title to items of equipment purchased for $5,000 or more using Government funds provided for the conduct of basic or applied scientific research may vest in the Government if the contracting officer determines that vesting of title in the contractor would not further the objectives of the agency's research program. NFS 1835.014, Government property and title, is added to require that such determination be made at a level higher than the contracting officer.

13. Portions of the NASA Procurement Regulation will also apply to contracts awarded under the FAR and NASA FAR Supplement. Therefore, the following continue to be applicable in the NASA FAR Supplement:

a. At Part 1830, 1830.101, Appendix O, Cost Accounting Standards (PRD 83–4);

b. At Part 1845, 1845.104, Supplement 3, Contract Property Maintenance; and

c. At Part 1841, 1841.671–6, Supplement 50, Financial and Contractual Status (FACS) Reporting System.

14. At Part 1852, 1852.243–1, 1852.243–2, and 1852.243–3, authorization has been added to increase the "30 day" period for submission of any proposal for adjustment to up to 60 days for fixed-price, cost-reimbursement, and time-and-materials or labor hours changes.

15. The following forms are inserted into Part 1853 of the NFS: NASA Forms 456, 566, 1018, 1098, 1356, 1413, 1432, and 1434.

16. Several changes, are made which correct typographical errors, make editorial improvements or clarifications and replace coverage from NASA Procurement Regulation that was inadvertently left out during the printing of the NASA FAR Supplement. Though extensive, these changes do not make significant changes in NASA policy or procedures.

The NFS material published in this Directive is effective April 1, 1984, and shall remain in effect until: (1) Changed by a subsequent NFSD or Procurement Notice (PN); (2) incorporated into any new edition of the NFS; or (3) specifically canceled.

List of Subjects in 48 CFR Ch. 18

Government procurement.

S. J. Evans,

Assistant Administrator for Procurement.

1a. The authority citation for 48 CFR Ch. 18 reads as follows:

Authority: 42 U.S.C. 2473(c)(1).

1b. The following note is added at the beginning of Chapter 18 to read as follows:

Note.—The Federal Acquisition Regulation (FAR) and the National Aeronautics and Space Administration (NASA) FAR Supplement are effective April 1, 1984, for all solicitations and resultant contracts issued by NASA.

PART 1801—FEDERAL ACQUISITION REGULATIONS SYSTEM

Subpart 1801.1—Purpose, Authority, Issuance

2. Section 1801.104–2(a) is amended by adding a sentence to the end of the paragraph to read as follows:

1801.104–2 Arrangement of regulations.

(a) * * * However, in 48 CFR Chapter 18 the dash has been removed; therefore, the first four digits preceding the point refer to the CFR part number.

* * * * *

3. Sections 1801.105, 1801.105–1 and 1801.105–2 are added as follows:

1801.105 OMB approval under the Paperwork Reduction Act.

1801.105–1 NASA FAR Supplement requirements.

The following OMB control numbers apply:

NASA FAR supplement segment	OMB approval No.
All	(Available from NASA Headquarters Procurement Policy Division).

1801.105–2 Solicitations and contracts.

Various requirements in an RFP/IFB or contract, generally in the statement of work, are not tied to specific paragraphs cleared in 1801.105–1, but yet require information collection or recordkeeping. The following OMB number applies to these requirements:

OMB approval No.	Expiration date
2700–0042	9/30/86

Display the OMB approval number in the upper right hand corner of each solicitation/contract. Overprinting is authorized by 1853.104.

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1803.70—Contracts Between NASA and Former NASA Employees

1803.7001 [Amended]

4. (a) Section 1803.7001(a) is amended by changing the citation at the end of the paragraph to read "1815.105–70(c)" in place of "1815.670(c)."

(b) In the last line of paragraph (b), the citation in changed to read "1815.105–70(d) (1), (2), and (3)" in place of "1815.670(d) (1), (2), and (3)."

PART 1804—ADMINISTRATIVE MATTERS

Subpart 1804.6—NASA Contract Reporting

5. Section 1804.671–6 is revised to read as follows:

1804.671–6 Special procurement placement codes (PPC) for certain procurements under $10,000 (no NASA Form 507 required).

(a) For Special procurement placement codes (PPC) for certain procurements under $10,000 see Supplement 50, Financial and Contractual Status (FACS) Reporting System of the NASA Procurement Regulation (41 CFR Ch. 18, Volume III).

(b) The accounting copies on all procurements under $10,000 to Disadvantaged Business Firms—Direct shall be coded with a second letter M of the PPC, *e.g.*, BM, KM, etc. (See PPC matrix in Supplement 50, Subpart 1.)

(c) The accounting copies on all procurements under $10,000 to "Women-Owned Business Firms" shall be coded with a second letter W of the PPC, *e.g.*, BW, KW, etc. (See PPC matrix in Supplement 50, Subpart 1.)

PART 1807—ACQUISITION PLANNING

Subpart 1807.71—Master Buy Plan Procedure

1807.7102 [Amended]

6. In section 1807.7102(c), change "$12,500,000" to read "$2,500,000".

1807.7103 [Amended]

7. Section 1807.7103–1 is amended by changing the citation "1807.7103 (a) or (b)" to read "1807.7103–3 (a) or (b)."

1807.7104 [Amended]

8. Section 1807.7104 is amended in the first sentence by changing the words "Headquarters review and approval are submitted in accordance with established procedures." to read "Headquarters review and approval are submitted in accordance with this subpart."

PART 1812—CONTRACT DELIVERY OR PERFORMANCE

Subpart 1812.1—Delivery or Performance Schedules

1812.102 [Amended]

9. Section 1812.102(b) is amended by changing the clause title in the first sentence to read "Reports of Work" in place of "Reports of Works."

PART 1814—FORMAL ADVERTISING

10. New Subpart 1814.3, consisting of 1814.302, is added to read as follows:

Subpart 1814.3—Submission of Bids

1814.302 Bid submission.

In accordance with FAR 14.302(b)(1), NASA has elected not to authorize consideration of telegraphic bids that are communicated by means of a telephone call to the designated office.

PART 1815—CONTRACTING BY NEGOTIATION

11. In Part 1815, the table of contents is amended by removing the entry for 1815.406–2.

Subpart 1815.1—General Requirements for Negotiation

1815.105–70 [Amended]

12. In section 1815.105–70(b)(1), insert "$1,000" in place of "$500."

Subpart 1815.4—Solicitation and Receipt of Proposals and Quotations

1815.406–2 [Removed]

13. Section 1815.406–2 is removed in its entirety.

14. In section 1815.406–5(a), paragraph (a)(1), the first word is amended to read "Include" in the place of "Includes." Paragraphs (a) (2), (3) and (11) are removed and paragraphs (a) (4) thru (10) and (12) and (13) are redesignated as paragraphs (2) thru (10) respectively. New paragraphs (11) and (12) are added to read as follows:

1815.406–5 Part IV—Representations and instructions.

(a) * * *

(11) Include a statement that: "PROPOSALS MUST SET FORTH FULL, ACCURATE, AND COMPLETE INFORMATION AS REQUIRED BY THE REQUEST FOR PROPOSAL (NCLUDING ATTACHMENTS). THE PENALTY FOR MAKING FALSE STATEMENTS IN PROPOSALS IS PRESCRIBED IN 18 U.S.C. 1001." This statement shall be suitably modified when quotations are requested.

(12) Include instructions that offeror promptly acknowledge receipt of the request for proposal or request for quotation and advise whether it intends to submit a proposal or offer.

* * * * *

15. In section 1815.407, the last sentence is revised to read as follows:

1815.407 Solicitation provisions.

* * * Alternate I allows the contracting officer to accept late proposals or proposal modifications and late "best and final" offers if, in the contracting officer's judgment, it is in the Government's best interest.

Subpart 1815.7—Make-or-Buy Programs

1815.704 [Amended]

16. In section 1815.704(b), change "$5,000,000" to read "$500,000."

Subpart 1815.8—Price Negotiation

17. In section 1815.805–5, paragraph (a), introductory text, (1), (2) and (3) is revised beginning with the word "modification", paragraph (c) is revised and paragraph (d) is added to read as follows:

1815.805–5 Field pricing support.

(a) * * * modification resulting from a proposal in excess of $250,000, see FAR 15.805–5(a)(1), except that for cost reimbursement, cost sharing, cost-plus-award-fee, or cost-plus-fixed-fee type of contract this amount shall be $1,000,000.

* * * * *

(c) When the contracting officer determines that adequate informaton to establish reasonableness of price without field pricing support is available within NASA, except that a review by the auditor is still needed, the contracting officer should address the request directly to the cognizant audit office. An information copy of this request shall be provided to the cognizant ACO.

(d) When input from the ACO or auditor involves merely a verification of information, contracting officers are encouraged to obtain this verification by direct telephone contact with the cognizant office. Such action shall be recorded in the contract file.

Subpart 1815.9—Profit

18. Section 1815.971 is amended to read as follows:

1815.971 Payment of profit or fee under letter contracts.

It is NASA policy to pay profit or fee on definitized contracts only.

PART 1816—TYPES OF CONTRACTS

Subpart 1816.2—Fixed-Price Contracts

1816.203–4 [Amended]

19. Section 1816.203–4(h) is amended by inserting "Evaluation of Offers Subject to Economic Price Adjustment," in place of "Evaluation of Bids Subject to Economic Price Adjustment,".

Subpart 1816.3—Cost-Reimbursement Contract

20. Section 1816.303 is amended by revising paragraph 1816.303(c)(2)(ii) (*B*) and (*C*) and the first sentence of paragraph (d)(1) to read as follows:

1816.303 Cost sharing contracts.

(c) * * *
(2) * * *
(iii) * * *

(*B*) The extent to which particular area of research requires special stimulus in the national interest; and

(*C*) The extent to which research effort or result is likely to enhance the contractor's capability, expertise, or competitive position.

(d) * * *

(1) *Payment of fee or profit.* No fee or profit will be paid to a contractor, and only an agreed portion of allowable costs will be reimbursed.

21. Sections 1816.307 and 1816.307–70 are added to read as follows:

1816.307 Contract clauses.

1816.307–70 NASA contract clauses.

(a) The contracting officer may, when appropriate, insert the clause at 1852.216–7005, Estimated Cost and Fixed Fee, in the Schedule. Modifications to the clause are authorized.

(b) The contracting officer may, when appropriate, insert the clause at 1852.216–7006, Payment of Fixed Fee, in the Schedule. Modifications to the clause are authorized.

Subpart 1816.4—Incentive Contracts

1816.405 [Amended]

22. In section 1816.405 the citation is amended to read "1852.216–7007" in place of "1852.216–7004."

PART 1817—SPECIAL CONTRACTING METHODS

Subpart 1817.70—Procurement With Military Departments

23. Sections 1817.7002–1, 1817.7002–2, 1817.7002–3 and 1817.7002–4 are added to read as follows:

1817.7002–1 Acceptance by Military Department.

(a) Except as provided in (c) below, within 30 days after receipt of a NASA-Defense Purchase Request, the Military Department concerned will forward to the initiator of the request an Acceptance of MIPR form, DD Form 448–2, in quadruplicate. Each DD Acceptance Form will show the action being taken or to be taken to fill the requirement and the name and complete address of the Department of Defense contracting activity for future direct contact by the initiator.

(b) To the extent feasible, all documents including acceptances, contracts, correspondence, shipping documents, work or project orders, and Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) billings will reference the NASA-Defense Purchase Request number and the item number when appropriate.

(c) Acceptance by the Military Department is not required for NASA-Defense Purchase Requests covering deliveries of common-use standard stock items which the supplying department has on hand or on order for prompt delivery at published prices.

1817.7002–2 Changes in estimated total prices.

When a Military Department determines that the estimated total price (Block 9, NASA Form 523) of the items to be acquired for NASA is not sufficient to cover the required reimbursement, or is in excess of the amount required, a request for an amendment will be forwarded to the NASA originating office. The request will indicate a specific dollar amount, rather than a percentage, and will include justification for any upward adjustment requested. Upon approval of the request, an amendment to the NASA Defense Purchase Request shall be forwarded by the NASA contracting office concerned to the DoD contracting activity.

1817.7002–3 Payments.

Except when agreements provide that reimbursement is not required, payments to the Military Departments for supplies and services furnished to or acquired for NASA shall be effected on the basis of Standard Form 1080 billings submitted to the NASA office designated in Block 11 of the NASA-Defense Purchase Request. Billings shall be supported in the same manner as billings between Military Departments.

1817.7002–4 Contract clause.

The contracting officer shall insert the clause at 1852.217–70, Property Administration and Reporting, when the contracting officer determines that property will be involved in a NASA-Defense Purchase Request.

24. Subpart 1817.71, consisting of section 1817.7100, is added to read as follows:

Subpart 1817.71—Exchange or Sale of Personal Property

1817.7100 Policy.

Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended, (40 U.S.C. 481(c)) authorizes the exchange or sale of Government personal property and the application of the exchange allowance or proceeds from sale to the acquisition of similar property for replacement purposes. NASA installations and contractors are authorized to conduct exchange/sale transactions as long as the requirements and restrictions of the Federal Property Management Regulations, Subchapter H, paragraphs 101–46, and NHB 4300.1 are followed. In conducting such exchange/sales, NASA contractors must obtain the contracting officer's prior written approval and must report the transactions to the cognizant NASA installation Property Disposal Officer (PDO).

PART 1819—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 1819.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

1819.705 and 1819.705–1 [Removed]

25. Sections 1819.705 and 1819.705–1 are removed.

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 1822.8—Equal Employment Opportunity

26. Section 1822.804–2 is revised to read as follows:

1822.804–2 Construction.

In compliance with FAR 22.804–2(b), a listing of covered geographical areas will be published in NASA FAR Supplement Directives.

PART 1823—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

Subpart 1823.71—Frequency Authorization

27. Section 1823.7102 is revised to read as follows:

1823.7102 Forms.

NASA Form 566, Application for Authorization of Radio Frequency Assignment (see 1853.223–566), shall be used. The contracting officer shall

obtain the necessary NASA Form 566 approval and other procedural details from the Installation Spectrum Manager.

PART 1825—FOREIGN ACQUISITION

Subpart 1825.1—Buy American Act-Supplies

28. Section 1825.105 is amended by revising the table appearing in the introductory text of paragraph (c), and by revising "$100,000" in paragraphs (c)(1)(iii) and (3)(iii) to read "$250.000."

1825.105 Evaluating offers.

(c) * * *

Item	Low foreign bids (include transportation to destination and duty)		Low domestic bids (Include transportation to destination)			Difference (percent)
	A company	B company	C Company	D company	E company	
1	$50,000		$60,000			20
2	100,000		115,000			15
3		$50,000		$55,500		11
4	50,000				$56,500	13
5		75,000		81,750		9
6	50,000		55,000			10
7	25,000		26,750			7
8	12,500				16,250	30
			256,750	137,250	72,750	

29. Part 1827 is added to read as follows:

PART 1827—PATENTS, DATA, AND COPYRIGHTS

Subpart 1827.3—Patent Rights Under Government Contracts

Sec.

Subpart 1827.4—Data and Copyrights.

Authority: 42 U.S.C. 2473 (c)(1).

Subpart 1827.3—Patent Rights Under Government Contracts

1827.370 Scope of subpart.

As authorized by FAR 27.300, pursuant to statutory requirements, this subpart sets forth NASA policy, procedures, and contract clauses with respect to inventions, discoveries, improvements, and innovations made in the performance of any work under any contract of NASA. Except where the FAR is specifically cited, this subpart supersedes FAR Subpart 27.3 in its entirety.

1827.371 Definitions.

"Administrator," as used in this subpart, means the Administrator of NASA or duly authorized representative.

"Contract," as used in this subpart, means any actual or proposed contract, agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

"Made," as used in this subpart, means conception or first actual reduction to practice.

"Nonprofit organization," as used in this subpart, means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

"Practical application," as used in this subpart, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

"Reportable item," as used in this subpart, means any invention, discovery, improvement, or innovation of the contractor, whether or not the same is or may be patentable or otherwise protectible under Title 35 of the United States Code, conceived or first actually reduced to practice in the performance of any work under any NASA contract or in the performance of any work that is reimbursable under any clause in any NASA contract providing for reimbursement of costs incurred prior to the effective date of the contract.

"Small business firm," as used in this subpart, means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.3–8 for small business contractors and in 13 CFR 121.3–12 for small business subcontractors will be used. (See FAR Part 19.)

"Subject invention," as used in this subpart, means any reportable item which is or may be patentable or otherwise protectible under Title 35 of the United States Code.

1827.372 Policy.

(a) *Introduction.* (1) NASA policy with respect to any invention, discovery, improvement, or innovation made in the performance of any work under any NASA contract or subcontract with other than a small business firm or nonprofit organization, and the allocation of property rights related thereto, are based upon section 305 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457); and, to the extent not inconsistent with such statute, the Presidential Memorandum on Government Patent Policy to the Heads of Executive Departments and Agencies dated February 18, 1983. NASA policy with respect to any invention made in the

performance of experimental, developmental, or research work with a small business firm or a nonprofit organization is based on 35 U.S.C. Chapter 18 (Pub. L. 96–517) and OBM Circular A–124. The objectives of NASA policy with respect to any NASA contract subject to section 305 of said Act are to obtain the prompt reporting of inventions, discoveries, improvements, and innovations made in the performance of any work thereunder (whether or not patentable) in order to protect the Government's interest therein and to provide the widest practicable and appropriate dissemination, early utilization, expeditious development, and continued availability thereof for the benefit of the scientific, industrial, and commercial communities and the general public. In addition, the objectives of NASA policy with respect to inventions made in the performance of work under all NASA contracts are to use the patent system to promote the utilization of inventions arising from federally supported research or development; to encourage maximum participation of industry in federally funded research and development efforts; to insure that these inventions are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of the inventions made in the United States by United States industry and labor; to insure that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the cost of administering policies in this area.

(b) *Contractor right to title.* (1) With respect to any NASA contract with other than a small business firm or a nonprofit organization (contracts subject to section 305 of the National Aeronautics and Space Act, as amended, see paragraph (d) below), it is the policy of NASA to waive the rights (to acquire title) of the United States (with the reservation of a Government license set forth in paragraph (c) below and the march-in rights of paragraph (f) below) in and to any invention made in the performance of work thereunder when the Administrator determines that the interests of the United States will be served thereby. This policy, as well as the procedures and instructions for such waiver of rights, are set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1. These Regulations adopt the Presidential Memorandum on Government Patent Policy of February 18, 1983, as a guide in acting on a contractor's request for such waiver of rights (i.e., request for title). Waiver may be requested in advance of contract for any or all of the inventions that may be made under the contract, or for individual identified inventions reported under the contract. When waiver of rights is granted, the contractor's right to title, the rights reserved by the Government, and other conditions and obligations of the waiver will be included in an Instrument of Waiver executed by NASA and the party receiving the waiver.

(2) With respect to any contract with a small business firm or nonprofit organization, the contractor's right to receive title is as stated in FAR 27.302(b).

(3) It is also a policy of NASA to consider for a monetary award, when referred to the NASA Inventions and Contributions Board, any invention made in the performance of a NASA contract and reported to NASA pursuant to this subpart, and for which an application for patent has been filed.

(c) *Government license.* (1) For each invention made in the performance of work under any NASA contract with other than a small business firm or a nonprofit organization and for which waiver of rights has been granted pursuant to 14 CFR Part 1245, Subpart 1, the Government shall reserve an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign Government pursuant to any treaty or agreement with the United States.

(2) For any invention made in the performance of work under any contract not subject to the Government license of paragraph (c)(1) above, FAR 27.302(c) shall apply.

(d) *Government right to receive title.* (1) Under section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)), any invention made in the performance of work under a NASA contract becomes the exclusive property of the United States when certain determinations stated therein relating to the employment status of the person making the inventions are made, *unless* the Administrator waives all or any part of such rights. NASA has adopted the Presidential Memorandum on Government Patent Policy as a guide in acting on a contractor's request for waiver. (See paragraph (b) above.)

(2) Thus NASA acquires title to any subject invention under any NASA contract with other than a small business firm or a nonprofit organization (i.e., those contracts subject to said section 305(a)) unless waiver has been granted and made applicable to such invention. Such contracts are required to contain the clause at 1852.227–70, New Technology. Paragraph (b) of that clause sets forth the circumstances under which NASA acquired title to a subject invention under section 305(a). When waiver is granted, the contractor's right to title will be included in an Instrument of Waiver executed by NASA and the party receiving the waiver.

(3) With respect to any contract with a small business firm or a nonprofit organization, FAR 27.302(d) shall apply.

(e) *Utilization reports.* FAR 27.302(e) shall apply, except that for NASA contracts with other than a small business firm or a nonprofit organization the requirements for utilization reports shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, and any Instrument of Waiver executed thereunder.

(f) *March-in rights.* FAR 27.302(f) shall apply except that for any NASA contract with other than a small business firm or nonprofit organization the march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Section 1245, Subpart 1, and any Instrument of Waiver executed thereunder.

(g) *Preference for United States industry.* (1) FAR 27.302(g) shall apply, except that with respect to any NASA contract with other than a small business firm or a nonprofit organization, any waiver of the requirements of FAR 27.302(g) shall be in accordance with the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

(h) *Minimum rights to contractor.* (1) With respect to any NASA contract with other than a small business firm or a nonprofit organization, for each reported subject invention to which the Government acquires title, the contractor is normally granted (pursuant to 14 CFR Part 1245, Subpart 1) a revocable, nonexclusive, royalty-free license in each patent application filed in any country and in any resulting patent. The license extends to the contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the contractor is a part, and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license and right is transferable only with the approval of the Administrator except when transferred to the successor of

that part of the contractor's business to which the invention pertains.

(2) The contractor's domestic license granted in accordance with paragraph(h)(1) above may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 14 CFR Part 1245, Subpart 2, Licensing of NASA Inventions. This license will not be revoked in any field of use or geographical area in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that country. The procedures for revocation or modification of any license set forth herein, domestic or foreign, shall be in accordance with 14 CFR 1245.211.

(3) With respect to any contract with a small business firm or a nonprofit organization, FAR 27.302(h) shall apply.

(i) *Confidentiality of inventions.* FAR 27.302(i) shall apply.

1827.373 Contract clauses.

(a) *Patent rights—retention by the contractor (short form).* (1) The contracting officer shall insert the clause at FAR 52.227–11, Patent Rights—Retention by the Contractor (Short Form), in any contract (and solicitation therefor) with a small business firm or a nonprofit organization for the performance of experimental, developmental, or research work unless a determination is made to use another clause pursuant to one of the exceptions set forth in paragraph (c) below. The clause shall be modified as specified at 1852.227–11.

(2) If the acquisition of patent rights for the benefit of a foreign Government is required under a treaty or executive agreement or if the agency head or designee determines at the time of contracting that it would be in the national interest to acquire the right to sublicense foreign Governments or international organizations pursuant to any existing treaty or agreement, the contracting officer shall use the clause with its Alternate I.

(3) To qualify for the clause at FAR 52.227–11, a prospective contractor may be required to certify that it is either a small business firm or a nonprofit organization. If there is reason to question the status of the prospective contractor, the contracting officer may file a protest in accordance with 13 CFR 121.3–5 if small business firm status is questioned or require the prospective contractor to furnish evidence of its status as a nonprofit organization.

(b) *New technology.* As authorized in FAR 27.302(c)(2), the contracting officer shall insert the clause at 1852.227–70, New Technology, in any NASA contract (and solicitation therefor) with other than a small business firm or a nonprofit organization if such contract is to be performed in the United States, its possessions, or Puerto Rico and has as a purpose the performance of experimental, developmental, research, design, or engineering work. As illustrative, but without limitation, contracts for any of the following purposes may be considered to involve the performance of work of the type described above:

(1) Conduct of basic or applied research.

(2) Development, design, or manufacture for the first time of any machine, article of manufacture, or composition of matter to satisfy NASA's specifications or special requirements.

(3) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique.

(4) Testing, evaluation, or experimentation with a machine, process, concept, or technique to determine whether the same is suitable or could be made suitable for a NASA objective.

(5) Construction work or architect-engineer services having as a purpose the performance of experimental, developmental, or research work or test and evaluation studies involving such work.

(6) The operation of facilities or the coordination and direction of the work of others where such activities involve the performance of work of any of the types described in paragraphs (b) (1) through (5) above.

(c) *Other patent rights clauses.* The contracting officer shall use a patent rights clause other than as specified in (a) or (b) above, under the following circumstances.

(1) When work is to be performed outside the United States, its possessions, and Puerto Rico by contractors that are not small business firms, nonprofit organizations, or domestic firms, the clause at FAR 52.227–13, Patent Rights—Acquisition by the Government, shall be used. For the purposes of this subparagraph, the contracting officer may presume that a contractor is not a domestic firm unless it is known that the firm is not foreign owned, controlled, or influenced. (See FAR 27.304–4(a) regarding subcontracts with U.S. firms.)

(2) When a contract is placed for another Government agency, such agency may request use of a specific patent rights clause (see FAR 27.304–2). If the agency for whom the contract is to be placed does not request a specific clause to be used, the contracting officer, upon consultation with installation Patent Counsel, may use the clause of paragraph (a) or (b) above, as applicable.

(3) When the contract is with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work, a determination may be made not to use the clause specified in paragraph (a) above by using the criteria and procedures in FAR 27.303(d). In such case, installation Patent Counsel is to be consulted for the appropriate clause to use.

(d) *Requests for waiver of rights to inventions.* The procedures for requesting waiver of rights to any inventions made in the performance of work under any NASA contract with other than a small business firm or nonprofit organization are set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1. In order to advise prospective contractors of those procedures, the contracting officer shall insert the provision at 1852.227–71, Requests for Waiver of Rights to Inventions, in all solicitations that include the clause at 1852.227–70, New Technology.

(e) *Designation of New Technology Representative and Patent Representative.* The contracting officer shall insert the clause at 1852.227–72, Designation of New Technology Representative and Patent Representative, in all solicitations and contracts containing the clause specified in paragraph (a) or (b) above. It may also be inserted, upon consultation with installation Patent Counsel, in solicitations and contracts using another patent rights clause in accordance with paragraph (c) above.

(f) *Patent rights clause for subcontracts.* The contracting officer shall insert the clause at 1852.227–73, Patent Rights Clause for Subcontracts, in all solicitations and contracts that include the clause at 1852.227–11, Patent Rights—Retention by the Contractor (Short Form).

1827.374 Procedures.

1827.374-1 General.

(a) *Greater rights determinations.* In any NASA contract with other than a small business firm or nonprofit organization and with respect to which advance waiver of rights has not been granted (see 1827.372(b) above), the contractor (or an employee-inventor of the contractor after consultation with the contractor) may request waiver of title to an individual identified subject invention pursuant to the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1. In any contract with a small business firm or nonprofit organization, FAR 27.304-1(a) shall apply.

(b) *Retention of rights by inventor.* The NASA Patent Waiver Regulations 14 CFR Part 1245, Subpart 1, shall apply for any invention made in the performance of work under any NASA contract with other than a small business firm or a nonprofit organization. For inventions made under a contract with a small business firm or a nonprofit organization, FAR 27.304-1(b) shall apply.

(c) *Government assignment to contractor of rights in Government employees' inventions.* FAR 27.304-1(c) shall apply.

(d) *Additional requirements.* See 1852.227-11.

(e) *Revocation or modification of contractor's minimum rights.* Revocation or modification of the contractor's license rights (see 1827.372(h)(2)) shall be in accordance with the procedures of 14 CFR Part 1245, Subpart 1, for subject inventions made and reported under any NASA contract with other than a small business firm or a nonprofit organization, and in accordance with FAR 27.304-1(e) for subject inventions made and reported under any contract with a small business firm or a nonprofit organization. The contractor's right to appeal a NASA determination to revoke or modify any such license shall be in accordance with 14 CFR Part 1245, Subpart 2, Licensing of NASA Inventions.

(f) *Modification, waiver, or omission of rights of the Government or obligations of the contractor.* (1) In any NASA contract with other than a small business firm or a nonprofit organization, the rights of the Government or obligations of the contractor described in 1827.372 (c) through (h) shall be modified, waived, or omitted only to the extent, and pursuant to the procedures, set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

(2) In any contract with a small business firm or nonprofit organization, FAR 27.304-1(f) shall apply.

(g) *Exercise of march-in rights.* (1) With respect to inventions made in the performance of work under any NASA contract with other than a small business firm or nonprofit organization, the procedures for the exercise of march-in rights shall be as set forth in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

(2) With respect to inventions made under any contract with a small business firm or a nonprofit organization, FAR 27.304-1(g) shall apply.

(h) *License and assignments under contracts with nonprofit organizations.* FAR 27.304-1(h) shall apply.

1827.374-2 Contracts placed by or for other Government agencies.

FAR 27.304-2 shall apply.

1827.374-3 Contracts for construction work or architect-engineer services.

(a) If a NASA contract for construction work or architect-engineer services with other than a small business firm or a nonprofit organization has as a purpose the performance of experimental, developmental, or research work, or test and evaluation studies involving such work, and the contract calls for, or can be expected to involve, the design of a Government facility or of novel structures, machines, products, materials, processes, or equipment (including construction equipment), the contract shall include the clause at 1852.227-70, New Technology, except as provided in FAR 27.304-3(b).

(b) For all other contracts for construction work or architect-engineer services, FAR 27.304-3 applies.

1827.374-4 Subcontracts.

(a) The policies and procedures covered by this subpart apply to all contracts at any tier. Hence, unless otherwise authorized or directed by the contracting officer, a contractor awarding a subcontract and a subcontractor awarding a lower-tier subcontract are required to select and include one of the following clauses, suitably modified to identify the parties, in the indicated subcontracts:

(1) The clause at 1852.227-70, New Technology, in any subcontract with other than a small business firm or nonprofit organzation if a purpose of the subcontract is the performance of experimental, developmental, research, design, or engineering work of any of the types described in 1827.373(b) (1) through (6).

(2) The clause at FAR 52.227-11, Patent Rights—Retention by the Contractor (Short Form), modified in accordance with 1852.227-11, in any subcontract with a small business firm or a nonprofit organization if a purpose of the subcontract is the performance of experimental, developmental, or research work.

(b) Whenever a prime contractor or a subcontractor considers the inclusion of one of the above clauses in a particular subcontract to be inappropriate or a subcontractor refuses to accept the proffered clause, the matter shall be resolved by the contracting officer in consultation with installation Patent Counsel.

(c) It is Government policy that contractors and subcontractors shall not use their ability to award subcontracts as economic leverage to acquire rights for themselves in inventions resulting from such subcontracts.

1827.374-5 Appeals.

FAR 27.304-5 shall apply unless otherwise provided in the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1.

1827.375 Administration of the new technology and patent rights clauses.

1827.375-1 New technology and patent rights follow-up.

(a) It is important that the Government and the contractor know, protect, and exercise their rights in inventions, discoveries, improvements, and innovations made in the performance of work under contracts of NASA in order to insure their expeditious availability to the public and foster commercial use, and to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for infringement. To attain these ends, contracts having the clause at 1852.227-70, New Technology, the clause at FAR 52.227-11, Patent Rights—Retention by the Contractor (Short Form), or any other patent rights clause (hereinafter referred to as "the clause" unless otherwise indicated), should be so administered that—

(1) Reportable items and subjects inventions are identified, disclosed and reported as required by the clause, and requests for waiver of title or election of title, when appropriate, are timely made;

(2) The rights of the Government in reportable items and subject inventions are established;

(3) Where patent protection is appropriate, patent applications are timely filed and prosecuted;

(4) The rights of the Government in filed patent applications are documented by formal instruments such as licenses or assignments; and

(5) Expeditious commercial utilization of such reportable items and subject inventions is achieved.

(b)(1) For each contract containing the clause, the contracting officer shall designate representatives (hereinafter referred to as the "New Technology Representative" and the "Patent Representative") to administer the clause, protect the Government's rights, and take other actions in relation thereto. The New Technology Representative shall be the Technology Utilization Officer or the staff member (by titled position) having cognizance of technology utilization matters for the NASA installation concerned; and the Patent Representative shall be the Patent Counsel (by titled position) having cognizance of patent matters for the NASA installation concerned. Designation of these representatives in the contract is made by use of the clause at 1852.227-72, Designation of New Technology Representative and Patent Representative.

(2) The contracting officer shall—

(i) Furnish the New Technology Representative a copy of each contract (and modifications thereto) containing the clause, and copies of the final technical report, interim technical progress reports, and other pertinent material provided under the contract, unless the New Technology Representative indicates otherwise;

(ii) Notify the New Technology Representative as to which NASA installation organizational element has technical cognizance of the contract; and

(iii) Furnish the Patent Representative a copy of each contract (and modifications thereto) containing the clause, and copies of the final technical report, interim progress reports, and other pertinent material provided under the contract, unless the Patent Representative indicates otherwise.

(3) The New Technology Representative and the Patent Representative shall maintain complete files of correspondence and other actions involving their respective administration of the clause. Copies of documents which are appropriate for inclusion in the general contract files shall be furnished to the contracting officer.

(4) If a subject invention is made under funding agreements of more than one agency, at the request of the contractor or on their own initiative, the agencies shall designate one agency as responsible for administration of the rights of the Government in the invention.

1827.375-2 Follow-up by contractor.

(a) *Contractor procedures.* Each NASA contractor other than a small business firm or nonprofit organization is required to establish and maintain active and effective procedures to insure that reportable items are promptly identified, reported, and disclosed in order to meet the requirements of the clause. These procedures must include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or first actual reduction to practice of reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the contractor must furnish the contracting officer or designated representative a description of such procedures for evaluation and for a determination as to their effectiveness.

(b) *Contractor reports.* (1) During the period of performance of each contract or subcontract, the contractor or subcontractor is required to submit to the New Technology Representative (or any other representative designated by the contracting officer) all disclosures of reportable items and subject inventions, interim reports, subcontract identification, and other information in the manner required by the clause; and upon the completion of the work under the contract or subcontract, the final report if required by the clause.

(2) Reporting of reportable items as required by the "New Technology" clause promptly and before the completion of contract work, and prompt submission of the final report upon completion of contract work, will aid New Technology clearance. Timely submission of annual interim reports, where contracts cover a period of more than one year, will also facilitate clause administration and expedite final clearance.

1827.375-3 Follow-up by Government.

(a) The New Technology Representative shall review, as necessary, the technical progress of work performed under the contract to ascertain whether the contractor and its subcontractors, where appropriate, are complying with the reporting requirements of the clause. This effort should be directed primarily toward contracts and subcontracts which, by the nature of the experimental, developmental, research, or other work to be performed, or the dollar amounts involved, are likely to produce reportable items or subject inventions of significant quantity or quality, or toward contracts and subcontracts where there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts and subcontracts should be spot-checked when feasible. These follow-up activities may include—

(1) Reviewing technical reports submitted by the contractor;

(2) Requesting the Patent Representative to check sources for patents issued to the contractor in fields related to the contractor's Government contracts;

(3) Interviewing contractor personnel regarding work under the contract, observing the work on-site, and inspecting laboratory notebooks and other records of the contractor related to work under the contract where so authorized by the clause;

(4) Interviewing agency technical personnel concerning novel developments in contracts under their cognizance; and

(5) Ensuring that the contractor is timely in submitting the reports of reportable items and disclosure of subject inventions, interim reports, subcontract identification, and final reports as required by the clause.

(b) The New Technology Representative shall forward to the Patent Representative copies of all contractors' and subcontractors' written reports of reportable items and disclosures of subject inventions, and a copy of the written statement, if any, submitted with the report of the reportable item. The New Technology Representative shall consult with the Patent Representative whenever a question arises as to whether a given reportable item is to be considered a subject invention or whether it was made in the performance of work under the contract. All correspondence relating to inventions and waivers under the New Technology clause, and election of title under the Patent Rights—Retention by the Contractor (Short Form) clause will also be promptly forwarded to the Patent Representative.

(c) The Patent Representative shall review each reportable item to ascertain whether it is to be considered a subject invention, obtain any determinations required by paragraph (b) of the New Technology clause, and so notify the contractor. As to any subject invention, the Patent Representative shall (1) ensure that the contractor has provided sufficient information to protect the Government's rights and interests therein and to permit the preparation,

filing, and prosecution of patent applications, (2) make determinations of inventorship, and (3) assure the preparation of instruments establishing the Government's rights therein. The Patent Representative shall also, as necessary, conduct selected reviews of the nature set forth in paragraph (a) above to ensure that subject inventions are identified, adequately documented, and timely reported or disclosed.

(d) Upon receipt of any final report required by the clause, and upon determination that the contract work is complete, the New Technology Representative shall determine whether the contractor has complied with the reporting requirements of the clause. If so, the New Technology Representative shall certify compliance, obtain the Patent Representative's concurrence with such certification, and forward the certification to the contracting officer. Such determinations generally will require consultation with cognizant technical personnel.

(e) Either the New Technology Representative or the Patent Representative, in consultation with the other, may prepare opinions, make determinations, and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (g) of the New Technology clause. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractor's books, records, and other documents in accordance with paragraph (f) of the New Technology clause and take corrective action as appropriate. However, no action shall be taken by either the New Technology Representative or the Patent Representative that would constitute a final decision under the Disputes clause, would involve a change or an increase in the work required to be performed under the contract that is inconsistent with any right of appeal provided in FAR 27.304–5 or 14 CFR 1245.1, or is otherwise outside the scope of obligations imposed upon the contractor by the contract.

(f) If it is determined that a contractor or subcontractor does not have a clear understanding of the rights and obligations of the parties under a patent rights clause, or that its procedures for complying with the clause are deficient, a post-award orientation conference or letter should ordinarily be used to explain these rights and obligations (see FAR Subpart 42.5). When a contractor fails to establish, maintain, or follow effective procedures for identifying, disclosing, and, when appropriate, filing patent applications on inventions (if such procedures are required by the patent rights clause), or after appropriate notice fails to correct any deficiency, the contracting officer or representative may require the contractor to make available for examination books, records, and documents relating to the contractor's inventions in the same field of technology as the contract effort to enable a determination of whether there are such inventions and may invoke the withholding of payments provision (if any) of the clause. The withholding of payments provision (if any) of the patent rights clause or of any other contract clause may also be invoked if the contractor fails to disclose a subject invention. Significant or repeated failures by a contractor to comply with the patent rights obligation in its contracts shall be documented and made a part of the general file (see FAR 4.801(c)(3)).

(g) Release of final payment under the contract and, if applicable, any reserve set aside under the withholding provisions of the clause for deficiencies and delinquent reporting not corrected as of the time of the submission of the final report by the contractor, shall not be approved by the contracting officer until receipt of the New Technology Representative's certification of compliance, and the Patent Representative's concurrence therewith, as specified in paragraph (d) above.

1827.375–4 Conveyance of invention rights acquired by the Government.

(a) When the Government acquires the entire right, title, and interest in an invention under the clause at 1852.227–70, New Technology, a determination of title is to be made in accordance with section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)) and reflected in appropriate instruments executed by NASA and forwarded to the contractor.

(b) When the Government acquires the entire right, title, and interest in an invention other than pursuant to paragraph (a) above, FAR 27.305–4 shall apply.

1827.375–5 Publication and release of invention disclosures.

FAR 27.305–5 shall apply.

Subpart 1827.4—Data and Copyrights

1827.470 Scope of subpart.

This subpart sets forth NASA policy, procedures, and solicitation provisions and contract clauses with respect to (a) rights in data and copyrights and (b) requirements for data.

1827.471 Definitions.

"Computer software," as used in this subpart, means computer programs, computer data bases, and documentation thereof.

"Data," as used in this subpart, means recorded information, regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analyses or any financial, business, and management information required for contract administration purposes.

"Form, fit, and function data," as used in this subpart, means data relating to, and sufficient to enable, physical and functional interchangeability; as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

"Limited rights," as used in this subpart, means the rights of the Government in limited-rights data, as set forth in a Limited Rights Notice if included in a data rights clause of the contract.

"Limited-rights data," as used in this subpart, means data that embodies trade secrets or is commercial or financial and confidential or privileged, to the extent that such data pertains to items, components or processes developed at private expense, including minor modifications thereof. (NASA may, however, adopt when appropriate (see 1827.473–2(b)) the following alternate definition: "Limited-rights data," as used in this subpart, means data developed at private expense that embodies trade secrets or is commercial or financial and confidential or privileged.)

"Restricted computer software," as used in this subpart, means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is published copyrighted computer software.

"Restricted rights," as used in this subpart, means the rights of the Government in restricted computer software as set forth in a Restricted Rights Notice if included in a data rights clause of the contract or as otherwise may be included or incorporated in the contract.

"Unlimited rights," as used in this subpart, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute

copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

1827.472 Policy.

It is necessary for NASA, in order to carry out its missions and programs, to acquire or obtain access to many kinds of data produced during or used in the performance of its contracts. Such data may be required to obtain competition among suppliers; fulfill certain responsibilities for disseminating and publishing the results of NASA activities; insure appropriate utilization of the results of NASA supported research, development, and demonstration activities; and meet other programmatic and statutory requirements. At the same time, NASA recognizes that its contractors may have a property right or other valid economic interest in certain data resulting from private investment, and that protection from unauthorized use and disclosure of this data is necessary in order to prevent the compromise of such property right or economic interest, avoid jeopardizing the contractor's commercial position, and maintain NASA's ability to obtain access to or use of such data. The protection of this data by NASA is also necessary to encourage qualified contractors to participate in NASA programs and apply innovative concepts to such programs. The specific procedures and prescriptions for use of solicitation provisions and contract clauses set forth below are framed in light of the above considerations to strike a balance between NASA's needs and the contractor's property rights and economic interests.

1827.473 Procedures.

1827.473-1 General.

All contracts that require data be produced, furnished, or acquired must contain terms that delineate the respective rights and obligations of NASA and the contractor regarding the use, duplication, and disclosure of such data, except certain contracts resulting from formal advertising that require only existing data (other than limited-rights data and restricted computer software) to be delivered and reproduction rights are not needed for such data. As a general rule, the data rights clause at 1852.227-74, Rights in Data—General, including Alternatives I, II, and/or III where determined appropriate as discussed in 1827.473-2, is to be used for this purpose. However, certain types of contracts, the particular subject matter of a contract, or the intended use of the data, may require the use of other prescribed clauses or do not need a prescribed clause, as discussed in 1827.473-3 or 1827.473-4.

1827.473-2 Basic rights in data clause.

(a) *Summary.* The clause at 1852.227-74, Rights in Data—General, is structured to strike a balance between NASA's needs in carrying out its missions and programs and the contractor's needs to protect property rights and valid economic interests in certain data arising out of private investment. This clause enables the contractor to protect from unauthorized use and disclosure data that qualifies as limited-rights data or restricted computer software. (See paragraph (b) below for an alternate definition of limited-rights data.) This clause also specifically delineates the categories or types of data that NASA is to acquire with unlimited rights. (See paragraph (c) below.) The contractor may protect qualifying limited-rights data and restricted computer software under this clause by either withholding such data from delivery to NASA; or when NASA has a need to obtain delivery of limited rights data or restricted computer software, by delivering such data with limited rights or restricted rights with authorized notices on the data. (See paragraphs (d) and (e) below.) In addition, this clause enables contractors to establish and/or maintain copyright protection for data first produced and/or delivered under the contract, subject to certain license rights. (See paragraph (f) below.) This clause also includes procedures that apply when NASA questions whether notices on data are authorized (see paragraph (g) below) or when a contractor wishes to add or correct omitted or incorrect notices on data (see paragraph (h) below); and addresses the contractor's right to release, publish or use certain data involved in contract performance (see paragraph (i) below).

(b) *Alternate definition of limited-rights data.* In the clause at 1852.227-74, Rights in Data—General, in order for data to qualify as limited-rights data, in addition to being data that either embodies a trade secret or is data that is commercial or financial and confidential or privileged, such data must also pertain to items, components, or processes developed at private expense, including minor modifications thereof. However, where appropriate, NASA may determine to adopt in the clause the alternate definition for limited-rights data that does not require that such data pertain to items, components, or processes developed at private expense; but rather that the data that either embodies a trade secret or that is commercial or financial and confidental or privileged be produced at private expense in order to qualify as limited-rights data. As an example, this alternate definition may be used where the principal purpose of a contract does not involve the development, use, or delivery of items, components, or processes that are intended to be acquired for use by or for the Government (either under the contract in question or any anticipated follow-on contracts relating to the same subject matter). Other examples include contracts for market research and surveys, economic forecasts, socio-economic reports, educational material, health and safety information, management analysis, and related matters. This alternate definition of limited-rights data may be adopted, where appropriate, by using the clause with its Alternate I. This Alternate I is to be used only with approval of the Procurement Officer and concurrence of installation Patent Counsel.

(c) *Unlimited-rights data.* Under the clause at 1852.227-74, Rights in Data—General, the following data is acquired with unlimited rights except as provided in paragraph (f) below for copyrighted data: (1) Data first produced in the performance of contract; (2) form, fit, and function data delivered under a contract; (3) data (except as may be included with restricted computer software) that constitutes manuals or instructional and training material for installation, operation, or routine maintenance and repair delivered under a contract; and (4) all other data delivered under a contract unless such data qualifies as limited-rights data or restricted computer software. If any of the foregoing data is published copyrighted data with the notice of 17 U.S.C. 401 or 402, it is acquired under a copyright license as set forth in paragraph (f) below rather than with unlimited rights.

(d) *Protection of limited-rights data.* (1) The contractor may protect data (other than unlimited-rights data or published copyrighted data) that qualifies as limited-rights data under the clause at 1852.227-74, Rights in Data—General, by withholding such data from delivery and providing form, fit, and function data in lieu thereof; or, if the clause is used with its Alternate II and delivery of the data is required, by delivering such data with limitations on its use and disclosure. The mode of protection afforded the contractor (i.e. withhold or deliver with limited rights) is provided for in paragraph (g) of the

clause at 1852.227–74, Rights in Data—General. Paragraph (g)(1) of this clause allows the contractor to withhold limited-rights data and provide form, fit, and function data in lieu thereof. Alternate II adds paragraph (g)(2) to this clause to enable NASA selectively to request the delivery of withheld or withholdable data with limited rights. The limitations on the Government's right to use and disclose limited-rights data when the clause is used with its Alternate II are set forth in a "Limited Rights Notice" that the contractor is required to affix to such data. The specific limitations in the Notice are described in paragraph (d)(2) below. As provided in the Notice, the period for which these limitations apply is 7 years. However, where the contractor justifies to the satisfaction of the contracting officer that the 7-year period is inadequate to protect the useful life of the limited-rights data, the contracting officer may agree to a longer period after consultation with the installation Patent Counsel.

(2) Limited-rights data delivered with the Limited Rights Notice contained in paragraph (g)(2) (Alternate II) will not, without permission of the contractor, be used by the Government for purposes of manufacture, and will not be disclosed outside the Government except for certain limited purposes as may be included in the Notice, and then only if the Government makes the disclosure subject to prohibition against further use and disclosure by the recipient. Specific purposes which may be included in the Limited Rights Notice of paragraph (g)(2) of the clause are set forth below. The purpose set forth in paragraph (d)(2)(i) below is to be included unless the contracting officer determines it is not necessary. The purposes set forth in paragraphs (d)(2) (ii) through (v) below may be included if determined necessary by the contracting officer. No other purposes are to be included without approval of the Procurement Officer and concurrence of installation Patent Counsel.

(i) Use by support service contractors.

(ii) Evaluation by nongovernment evaluators.

(iii) Use by other contractors participating in the Government's program of which this contract is a part, for information and use in connection with the work performed under their contracts.

(iv) Emergency repair or overhaul work.

(v) Release to a foreign government, as the interests of the United States may require, for information or evaluation, or for emergency repair or overhaul work by or on behalf of such government.

(3) As an aid in determining whether the clause should be used with its Alternate II, the provision at 1852.227–75, Notification of Limited-Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 1852.227–74, Rights in Data—General. This provision requests an offeror to state in a response to a solicitation, to the extent feasible, whether limited-rights data or restricted computer software is likely to be used in meeting the data requirements set forth in the solicitation. In addition, the need for Alternate II should be considered during the negotiations of a contract, particularly if negotiations are based on an unsolicited proposal. However, use of the clause at 1852.227–74, Rights in Data—General, without Alternate II does not preclude this Alternate from being used subsequently by amendment during contract performance should the need arise for delivery of limited-rights data that has been withheld or identified as withholdable.

(e) *Protection of restricted computer software.* (1) The contractor may protect computer software that qualifies as restricted computer software under the clause at 1852.227–74, Rights in Data—General, by withholding such data from delivery and providing form, fit, and function data in lieu thereof; or if the clause is used with its Alternate III and delivery of the software is required, by delivering the software with restricted rights regarding its use, disclosure, and reproduction. The mode of protection afforded the contractor (i.e. withhold or deliver with restricted rights) is provided for in paragraph (g) of the clause at 1852.227–74, Rights in Data—General. Paragraph (g)(1) of this clause allows the contractor to withhold restricted computer software and provide form, fit, and function data in lieu thereof. Alternate III adds paragraph (g)(3) to this clause to enable NASA selectively to obtain delivery of the withheld or withholdable computer software with restricted rights. The restrictions on the Government's right to use, disclose, and reproduce restricted computer software when the clause is used with its Alternate III are set forth in a "Restricted Rights Notice" which the contractor is required to affix to such computer software. When restricted computer software delivered with such Notice is published copyrighted computer software, it is acquired with a restricted copyright license, without disclosure prohibitions, as also set forth in the Notice. The specific restrictions in the Notice are set forth below.

(2) Restricted computer software delivered with the Restricted Rights Notice of paragraph (g)(3) (Alternate III) will not be used or reproduced by the Government, or disclosed outside the Government, except that the computer software may be—

(i) Used or copied for use in or with the computer for which it was acquired, including use at any Government installation to which such computer may be transferred;

(ii) Used or copied for use in or with a backup computer if the computer for which it is acquired is inoperative;

(iii) Reproduced for safekeeping (archives) or backup purposes;

(iv) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of any derivative software incorporating restricted computer software are made subject to the same restricted rights; and

(v) Disclosed and reproduced by support contractors or their subcontractors, subject to the same restrictions under which the Government acquired the software.

(3) The restricted rights set forth in paragraph (2) above are the minimum rights the Government normally obtains with restricted computer software and will automatically apply when such software is acquired under the Restricted Rights Notice of paragraph (g)(3) (Alternate III) of the clause. However, either greater or lesser rights, consistent with the purposes and needs for which the software is to be acquired, may be specified in the contract. Any additions to, or limitations on, the restricted rights set forth in the Restricted Rights Notice of paragraph (g)(3) of the clause are to be expressly stated in the contract; or, with approval of the contracting officer, in a collateral agreement incorporated in and made part of the contract. (See 1827.473–4(b).)

(4) As an aid in determining whether the clause should be used with its Alternate III, the provision at 1852.227–75, Notification of Limited-Rights Data and Restricted Computer Software, may be included in any solicitation containing the clause at 1852.227–74, Rights in Data—General. This provision requests an offeror to state in a response to a solicitation, to the extent feasible, whether limited-rights data or restricted computer software is likely to be used in meeting the data requirements set forth in the solicitation. In addition, the need for Alternate III should be considered during negotiations of a contract, particularly if negotiations are based on an unsolicited proposal. However, use of the clause at 1852.227–74, Rights in Data—General, without Alternate III does not preclude this Alternate from

being used subsequently by amendment during contract performance, should the need arise for the delivery of restricted computer software that has been withheld or identified as withholdable.

(5) Whenever data that would qualify as limited-rights data if delivered in human-readable form is formatted as a computer data base for the purposes of delivery under a contract containing the clause at 1852.227–74, Rights in Data—General, such data is to be treated as limited-rights data subject to the Limited Rights Notice of paragraph (g)(2) (Alternate II) of that clause, and not as restricted computer software subject to the Restricted Rights Notice of paragraph (g)(3) (Alternate III) of that clause.

(f) *Copyrighted data.* (1) *Data first produced in the performance of a contract.* (i) In order to enhance the transfer or dissemination of information produced at Government expense, contractors may be granted permission to establish claim to copyright subsisting in data first produced in the performance of work under a contract containing the clause at 1852.227–74, Rights in Data—General. In paragraph (c)(1) of the clause, this permission is granted for scientific and technical articles based on the work performed under the contract and published in academic, professional and technical journals. For all other data, such permission may be granted by the contracting officer, in consultation with installation Patent Counsel, in accordance with the procedures in paragraph (f)(1)(ii) below.

(ii) Usually, permission for a contractor to establish claim to copyright for data first produced under the contract will be granted under paragraph (c)(1) of the clause at 1852.227–74, Rights in Data—General, when copyright protection will enhance the appropriate transfer or dissemination of such data. The request for permission must be in writing, and may be made either at the time of contracting or subsequently during contract performance. It should identify the data involved or furnish a copy of the data for which permission is requested, as well as a statement as to the intended publication or dissemination media or other purpose for which copyright is desired. The request normally will be granted unless (A) the data consists of a report that represents the official views of the agency or that the agency is required by statute to prepare, (B) the data is intended primarily for internal use by the Government, (C) the data is of the type that the agency itself distributes to the public under an established program, or (D) the data is of a type that is subject to limited distribution due to Government policy.

(iii) Whenever a contractor establishes claim to copyright subsisting in data first produced in the performance of a contract, the Government normally is granted a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, perform publicly and display publicly, by or on behalf of the Government, for all such data, as set forth in paragraph (c)(1) of the clause at 1852.227–74, Rights in Data—General. However, NASA may on a case-by-case basis obtain on equitable terms a license of lesser scope than set forth in paragraph (c)(1) of the clause if the contracting officer determines, with concurrence of installation Patent Counsel, that such lesser license will substantially enhance the transfer or dissemination or any data first produced under the contract.

(2) *Data not first produced in the performance of a contract.*

(i) Contractors are not to incorporate in data delivered under a contract any data that is not first produced under the contract and that is marked with the copyright notice of 17 U.S.C. 401 or 402, without either (A) acquiring for or granting to the Government a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data or (B) obtaining permission from the contracting officer to do otherwise. However, if computer software not first produced under contract is delivered with the copyright notice of 17 U.S.C. 401 or 402, the Government's license will be as set forth in paragraph (g)(3) (Alternate III) if included in the clause at 1852.227–74, Rights in Data—General, or as otherwise may be provided in a collateral agreement incorporated in or made part of the contract.

(ii) Contractors delivering data with both an authorized limited-rights or restricted-rights notice and the copyright notice of 17 U.S.C. 401 or 402 should modify the copyright notice to include the following (or similar) statement: "Unpublished—all rights reserved under the copyright laws." If this statement is omitted, the contractor may be afforded an opportunity to correct it in accordance with 1827.473–2(h). Otherwise, data delivered with a copyright notice of 17 U.S.C. 401 or 402 may be presumed to be published copyrighted data subject to the applicable license rights set forth in paragraph (f)(2)(i) above, without disclosure limitations or restrictions.

(iii) If contractor action causes limited-rights or restricted-rights data to be published with the copyright notice of 17 U.S.C. 401 or 402 after its delivery to the Government, the Government is relieved of disclosure and use limitations and restrictions regarding such data, and the contractor should advise the Government, request that a copyright notice be placed on the copies of the data delivered to the Government, and acknowledge that the applicable copyright license set forth in paragraph (h)(2) above applies.

(g) *Unauthorized marking of data.* The Government has, in accordance with paragraph (e) of the clause at 1852.227–74, Rights in Data—General, the right to either return to the contractor data containing markings not authorized by paragraphs (g)(2) or (g)(3) of that clause, or to cancel or ignore such markings. However, markings will not be cancelled or ignored without making written inquiry of the contractor and normally affording the contractor at least 30 days to substantiate the propriety of the markings. This 30-day period may be shortened to a period of not less than 5 days from the date of receipt of such inquiry by the contractor if the contracting officer determines, with approval of the Procurement Officer and concurrence of installation Patent Counsel, that there are exigencies justifying a shorter period for the contractor to respond. The contracting officer will also give the contractor notice of any determination made based on any response by the contractor. Any such determination to cancel or ignore the markings shall be a final decision under the Contract Disputes Act. Failure of the contractor to respond to the contracting officer's inquiry within the time afforded may, however, result in Government action to cancel or ignore the markings. The above procedures may be modified in accordance with regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request for data thereunder.

(h) *Omitted or incorrect notices.* (1) Data delivered under a contract containing the clause at 1852.227–74, Rights in Data—General, without a limited rights notice or restricted rights notice, and without a copyright notice, shall be presumed to have been delivered with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data

has not been disclosed without restriction outside the Government, the contractor may within 6 months (or a longer period approved by the contracting officer for good cause shown) request permission of the contracting officer to have omitted limited rights or restricted rights notices, as applicable, placed on qualifying data at the contractor's expense, and the contracting officer may agree to so permit if the contractor (i) identifies the data for which a notice is to be added or corrected, (ii) demonstrates that the omission of the proposed notice was inadvertent, (iii) establishes that use of the proposed notice is authorized, and (iv) acknowledges that the Government has no liability with respect to any disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The contracting officer may also (i) permit correction, at the contractor's expense, of incorrect notices if the contractor identifies the data on which correction of the notice is to be made, and demonstrates that the correct notice is authorized, or (ii) correct any incorrect notices.

(i) *Release, publication, and use of data.* (1) In the clause at 1852.227–74, Rights in Data—General, paragraph (d) provides that contractors normally have the right to use, release to others, reproduce, distribute, or publish data first produced or specifically used in the performance of a contract; however, to the extent the contractor receives or is given access to data that is necessary for the performance of the contract and the data contains restrictive markings, the contractor agrees to treat the data in accordance with such markings unless otherwise specifically authorized in writing by the contracting officer. Additional limitations or restrictions may be placed on data first produced (but not specifically used) in the performance of the contract to the extent set forth in paragraph (i)(2) below.

(2) In accordance with NASA policy and procedures for the distribution of computer software developed by NASA and NASA contractors (NASA Management Instruction 2210.2A, April 24, 1978), a contractor is not to establish claim to copyright, publish, or release to others computer software first produced in the performance of contract without prior written permission of the contracting officer. This limitation is therefore included in paragraph (d)(3) of the clause at 1852.227–74, Rights in Data—General. The contracting officer may delete this paragraph (d)(3) from the clause at the request of the contractor if the contracting officer, with the concurrence of the cognizant technical office, determines that the contract will not require a significant development effort for computer software as defined in NASA Management Instruction 2210.2A.

1827.473–3 Production of special works.

(a) The clause at 1852.227–77, Rights in Data—Special Works, applies to contracts (or may be made applicable to portions thereof) that are primarily for the production or compilation of data (other than limited-rights data or restricted computer software) for the Government's internal use, or when there is a specific need to limit distribution and use of the data and/or obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples are contracts for—

(1) The production of audiovisual works including motion pictures or television recordings with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like;

(2) Histories of the respective agencies, departments, services, or units thereof;

(3) Works pertaining to recruiting, morale, training, or career guidance;

(4) Surveys of Government establishments;

(5) Works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties;

(6) The compilation of reports, studies, surveys, or similar documents that do not involve research, development, or experimental work performed by the contractor;

(7) The collection of data containing personally identifiable information such that the disclosure thereof would violate the right of privacy or publicity of the individual to whom the information relates;

(8) Investigation reports; or

(9) The development, accumulation, or compilation of data (other than that resulting from research, development, or experimental work performed by the contractor), the early release of which could prejudice follow-on acquisition activities.

(b) The contract may specify the purposes and conditions (including time limitations) under which the data may be used, released, or reproduced other than for contract performance. Contracts for the production of audiovisual works, sound recordings, etc. may include limitations in connection with talent releases, music licenses, and the like that are consistent with the purposes for which the works are acquired.

1827.473–4 Acquisition of existing data other than limited-rights data.

(a) *Existing audiovisual and similar works.* The clause at 1852.227–78, Rights in Data—Existing Works, is for use in contracts exclusively for the acquisition (without modification) of existing motion pictures, television recordings, and other audiovisual works; sound recordings; musical, dramatic, and literary works, pantomimes and choreographic works; pictorial, graphic, and sculptural works; and works of a similar nature. The contract may set forth limitations consistent with the purposes for which the works covered by the contract are being acquired. Examples of these limitations are (1) means of exhibition or transmission, (2) time, (3) type of audience, and (4) geographical locations. If the contract requires that works of the type indicated above are to be modified through editing, translation, or addition of subject matter, etc. (rather than purchased in existing form) the clause at 1852.227–77, Rights in Data—Special Works, is to be used. (See 1827.473–3.)

(b) *Separate acquisition of existing computer software.* (1) If the contract is for the separate acquisition of existing computer software, no specific contract clause contained in this subpart need be used. However, the contract must specifically address the Government's rights to use, disclose, and reproduce the software and must contain terms obtaining sufficient rights for the Government to fulfill the need for which the software is being acquired. The restricted rights set forth in 1827.473–2(e) should be used as a guide and are usually the minimum the Government should accept. If the computer software is to be acquired with unlimited rights, the contract must also so state. In addition, the contract must adequately describe the computer programs and/or data bases, the form (tapes, punch cards, disc pack, and the like), and all the necessary documentation pertaining thereto. If the acquisition is by lease or license, the disposition of the computer software (by returning to the vendor or destroying) at the end of the term of the lease or license must be addressed.

(2) If the contract incorporates, makes reference to, or uses a vendor's standard commercial lease, license, or purchase agreement, such agreement shall be reviewed to assure that it is consistent with paragraph (b)(1) above. Caution should be exercised in accepting a vendor's terms and conditions since

they may be directed to commercial sales and may not be appropriate for Government contracts. Any inconsistencies in a vendor's standard commercial agreement shall be addressed in the contract and the contract terms shall take precedence over the vendor's standard commercial agreement.

(3) If a prime contractor under a contract containing the clause at 1852.227–74, Rights in Data—General, with its Alternate III, acquires restricted computer software from a subcontractor (at any tier) as a separate acquisition for delivery to the Government, the contracting officer may approve any additions to or limitations on the restricted rights in the Restricted Rights Notice of paragraph (g)(3) in a collateral agreement incorporated in and made part of the contract. (See also 1827.473–2(e).)

(c) *Other existing works.* (1) Except for existing audiovisual and similar works as discussed in paragraph (a) above, and existing computer software as discussed in paragraph (b) above, no clause contained in this subpart need be included in (i) contracts solely for the acquisition of books, publications, and similar items in the exact form in which such items exist prior to the request for purchase (i.e. the off-the-shelf purchase of such items) unless reproduction rights of such items are to be obtained or (ii) contracts resulting from formal advertising that require only existing data (other than limited-rights data) to be delivered unless reproduction rights for such data are to be obtained. If reproduction rights are to be obtained, such rights must be specifically set forth in the contract.

1827.474 Acquisition of data.

(a) *General.* (1) It is important to recognize and maintain the conceptual distinction between contract terms whose purpose is to identify the data required for delivery to, or made available to, the Government (i.e. data requirements); and those contract terms whose purpose is to define the respective rights and obligations of the Government and the contractor in such data (i.e. data rights). This section relates to data requirements; Section 1827.473 relates to the data rights.

(2) It is the Government's practice to determine, to the extent feasible, its data requirements in time for inclusion in solicitations. The data requirements are subject to revision during contract negotiations. Since the preparation, reformatting, maintenance and updating, cataloging, and storage of data represents an expense to both the Government and the contractor, efforts should be made to keep the contract data requirements to a minimum.

(3) To the extent feasible, all known data requirements, including the time and place for delivery and any limitations and restrictions to be imposed on the contractor in the handling of the data, shall be specified in the contract. In establishing the contract data requirements and in specifying data items to be delivered by a contractor, NASA installations may, consistent with paragraph (a)(2) above, develop their own implementing instructions (including data requirements lists) for listing, specifying, identifying source of, assuring delivery of, and handling any data required to be delivered, first produced, or specifically used in the performance of the contract.

(b) *Additional data requirements.* Recognizing that in some contracting situations, such as experimental, developmental; research, or demonstration contracts, it may not be possible or appropriate to ascertain all the data requirements at the time of contracting, the clause at 1852.227–78, Additional Data Requirements, is provided to enable the subsequent ordering by the Government of additional data first produced or specifically used in the performance of such contracts as the actual requirements become known. Data may be ordered under this clause at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under the contract. The contractor is to be compensated for converting the data into the prescribed form, for reproduction, and for delivery. In order to minimize storage costs for the retention of data, the contractor may be relieved of retention requirements for specified data items by the contracting officer any time during the retention period required by the clause. Any data ordered under the clause will be subject to the Rights in Data—General clause in the contract and data authorized to be withheld under that clause will not be required to be delivered under this Additional Data Requirements clause.

1827.475 Solicitation provisions and contract clauses.

1827.475–1 Rights in data—general.

(a) (1) The contracting officer shall insert the clause at 1852.227–74, Rights in Data—General, in solicitations and contracts if it is contemplated that data will be produced, furnished, or acquired under the contract, unless the contract is—

(i) For the production of special works of the type set forth in 1827.473–3, but the clause at 1852.227–74, Rights in Data—General, shall be included in the contract and made applicable to data other than special works, as appropriate;

(ii) For the separate acquisition of existing works, as described in 1827.473–4;

(iii) To be performed outside the United States, its possessions, and Puerto Rico, in which case the contracting officer may prescribe different clauses (see also 1827.475–6(a) below);

(iv) For architect-engineer services or construction work, in which case the contracting officer may prescribe different clauses (see 1827.475–6(b) below), but the clause at 1852.227–74, Rights in Data—General, may be included in the contract and made applicable to data pertaining to other than architect-engineer services and construction work; or

(v) A Small Business Innovative Research (SBIR) contract, in which case the contracting officer shall prescribe clauses consistent with the requirements of Pub. L. 97–219 (the Small Business Innovation Development Act of 1982) and the Small Business Administration Policy Directive No. 65–01.1 (**Federal Register**, Vol. 48, No. 167, pages 38794–38808). (See also 1827.475–6(c).)

(2) If the contracting officer determines, in accordance with 1827.473–2(b), to adopt the alternate definition of limited-rights data for use in the clause, the clause shall be used with its Alternate I.

(3) If the contracting officer determines it is necessary to obtain the delivery of limited-rights data, the clause shall be used with its Alternate II (see 1827.473–2(b)). The contracting officer shall, when Alternate II is used, assure that the purposes, if any, for which limited-rights data is to be disclosed outside the Government are included in the "Limited Rights Notice" of paragraph (g)(2) of the clause in accordance with 1827.473–2(d)(2). The contract may exclude identified items of data from delivery under paragraph (g)(2) of the clause. Alternate II may be used at the time of contracting or subsequently by amendment if the need to acquire limited-rights data arises during contract performance.

(4) If the contracting officer determines it is necessary to obtain the delivery of restricted computer software, the clause shall be used with its Alternate III (see 1827.473–2(e)). Any greater or lesser rights regarding the use, duplication, or disclosure of restricted computer software than those set forth in the Restricted Rights Notice of paragraph (g)(3) of the clause must be

specified in the contract. The contract may exclude identified items of computer software from delivery under paragraph (g)(3) of the clause. Alternate III may be used at the time of contracting or subsequently by amendment if the need to acquire restricted computer software arises during contract performance.

(b) The contracting officer may modify the clause as specified in 1827.473–2(i)(2).

1827.475–2 Notification of limited-rights data and restricted computer software.

(b) If the contracting officer desires to have an offeror state in response to a solicitation, to the extent feasible, whether limited-rights data or restricted computer software is likely to be used in meeting the data requirements set forth in the solicitation, the contracting officer shall insert the provision at 1852.227–75, Notification of Limited-Rights Data and Restricted Computer Software, in any solicitation containing the clause at 1852.227–74, Rights in Data—General. The contractor's response will provide an aid in determining whether the clause should be used with Alternative II and/or Alternate III. (See 1827.473–2 (d) and (e).)

1827.475–3 Additional data requirements.

(a) The contracting officer shall insert the clause at 1852.227–76, Additional Data Requirements, in solicitations and contracts involving experimental, developmental, research, or demonstration work, except those awarded using small purchase procedures, unless all the requirements for data are believed to be known at the time of contracting and are specified in the contract. (See 1827.474.) This clause may also be used in other contracts when considered appropriate, after consultation with counsel. If the clause at 1852.227–74, Rights in Data—General, is used in the contract with its Alternates II or III, the contracting officer may permit the contractor to identify data the contractor does not wish to deliver, and may specifically exclude in the contract any requirement that such data be delivered under paragraphs (g)(2) or (g)(3) of that clause or ordered for delivery under the Additional Data Requirements clause if such data is not necessary to meet the Government's requirements for data.

(b) The contracting officer may alter the Additional Data Requirements clause by deleting the term "or specifically used" in paragraph (a) thereof if delivery of such data is not necessary to meet the Government's requirements for data.

1827.475–4 Rights in data—special works.

The contracting officer shall insert the clause at 1852.227–77, Rights in Data—Special Works, in solicitations and contracts primarily for the production or compilation of data (other than limited-rights data or restricted computer software) for the Government's internal use, or when there is a specific need to limit distribution and use of the data and/or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples of such contracts are set forth in 1827.473–3. The contract may specify the purpose and conditions (including time limitations) under which the data may be used, released, or reproduced by the contractor for other than contract performance. Contracts for the production of audiovisual works, sound recordings, etc., may include limitations in connection with talent releases, music licenses, and the like that are consistent with the pruposes for which the data is acquired.

1827.475–5 Rights in data—existing works.

(a) The contracting officer shall insert the clause at 1852.227–78, Rights in Data—Existing Works, in solicitations and contracts exclusively for the acquisition, without modification, of existing audiovisual and similar works of the type set forth in 1827.473–(4)(a). The contract may set forth limitations consistent with the purposes for which the work is being acquired. The clause at 1852.227–75, Rights in Data—Special Works, shall be used if existing works are to be modified, as by editing, translation, addition of subject matter, etc.

(b) While no specific clause of this subpart need be included in contracts for the separate acquisition of existing computer software, the contracting officer shall assure that the contract contains terms to obtain sufficient rights for the Government to fulfill the need for which the software is being acquired and is otherwise consistent with 1827.473–(4)(b).

(c) While no specific clause of this subpart need be included in contracts solely for the acquisition of books, publications and similar items in the exact form in which such items exist prior to the request for purchase (i.e., the off-the-shelf purchase of such items, see 1827.473–4(c)), if reproduction rights are to be acquired the contract shall include terms addressing such rights. (See 1827.473–4(c).)

1827.475–6 Additional clauses.

(a) The contracting officer may prescribe as appropriate and in consultation with installation Patent Counsel, clauses consistent with the policy of 1827.472 in contracts to be performed outside the United States, its possessions, and Puerto Rico.

(b) The contracting officer may prescribe, as appropriate and in consultation with installation Patent Counsel, clauses consistent with the policy in 1827.472 in contracts for architect-engineer services and construction work.

(c) The contracting officer shall prescribe, as instructed by the Assistant Administrator for Procurement, clauses consistent with the requirements of Pub. L. 97–219 (the Small Business Administration Development Act of 1982) and the Small Business Administration Policy Directive No. 65 01.1 in Small Business Innovative Research (SBIR) contracts.

PART 1830—COST ACCOUNTING STANDARDS

Subpart 1830.1—General

30. In section 1830.101, the existing text is designated paragraph (a) and paragraph (b) is added to read as follows:

1830.101 Cost accounting standards.

* * * * *

(b) See Appendix O, Cost Accounting Standards, of the NASA Procurement Regulation (41 CFR Ch. 18, Volume III).

PART 1832—CONTRACT FINANCING

Subpart 1832.1—General

31. Section 1832.111–70 is revised to read as follows:

1832.111–70 NASA contract clauses.

(a) The contracting officer shall insert the clause at 1852.232–71, Invoices, in all fixed-price contracts (including letter contracts) and solicitations therefor, except those for construction work, architect-engineer services, or utility services.

(b) The contracting officer shall insert the clause at 1852.232–73, Payments (Utility Services), in negotiated utility service contracts and solicitations therefor.

(c) The contracting officer shall insert the clause at 1852.232–74, Payments (Facilities), in consolidated facilities contracts and solicitations therefor.

(d) The contracting officer shall insert the clause at 1852.232–78, Payment Information, in contracts and substitutions therefor that will result in one or more payments in excess of $25,000.

32. Section 1832.172 is added to read as follows:

1832.172 Information for contract payments.

Under the terms of the clause at 1852.232–78, Payment Information, the contractor is required to furnish information to the contracting officer within 10 days after contract award to facilitate payments. The contracting officer shall transmit the information and any charges thereto submitted by the successful offeror to the appropriate payment office.

Subpart 1832.7—Contract Funding

33. Section 1832.702–70 is amended by revising the introductory text of paragraph (a) and paragraphs (a) (1) and (2) to read as follows:

1832.702–70 NASA policy.

(a) Cost-reimbursement contracts may be incrementally funded only if all the following conditions are met, except that for cost-reimbursement R&D contracts under which no supplies are deliverable, only the conditions in paragraph (a)(3) below applies.

(1) The total value of the contract (including options as defined in FAR Subpart 17.2) is $1,000,000 or more.

(2) The period of performance under the contract is in excess of twelve months or the period of performance overlaps the succeeding fiscal year.

* * * * *

34. Section 1832.705–270 is amended by revising paragraph (a) to read as follows:

1832.705–270 Additional clauses for limitation of cost or funds.

(a) The contracting officer shall insert the clause at 1852.232–77, Limitation of Funds (Fixed-Price Contract), in fixed-price incrementally funded contracts for research and development, and solicitations therefor.

* * * * *

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

35. Section 1835.014 is added to read as follows:

1835.014 Government property and title.

For items having an acquisition cost of more than $5,000, the determination at FAR 35.014(b)(2)(iii) that vesting title in the contactor would not further the objectives of NASA's research program must be made at a level higher than the contracting officer.

PART 1842—CONTRACT ADMINISTRATION

Subpart 1842.7—Indirect Cost Rates

36. Section 1842.705–70 is revised to read as follows:

1842.705–70 Policy.

(a) Since many NASA contractors are under the Department of Defense (DOD) negotiated overhead rate procedure, it is the policy of NASA to participate in joint negotiations with the DOD for those companies where NASA has a major financial interest. The NASA participant will be a representative from the "lead center" as determined in accordance with NMI 5115.1.

(b) Where NASA has been assigned the negotiation authority, settlement of overhead costs will be conducted by the "lead center" as determined in accordance with NMI 5115.1.

PART 1845—GOVERNMENT PROPERTY

Subpart 1845.1—General

37. Sections 1845.104 and 1845.104–70 are revised to read as follows:

1845.104 Review and correction of contractors' property control systems.

(a) For review and correction of contractors' property control systems see Supplement 3, Contract Property Maintenance, of the NASA Procurement Regulation (41 CFR Ch. 18, Volume III).

(b) When review of the contractor's property control system is not delegated to DoD, the NASA contracting officer or property administrator will conduct the review as required in Supplement 3.

(c) The contracting officer shall include in each solicitation under which use of Government property is contemplated a requirement for the offeror to (1) furnish the date of the last review by the Government of its property control and accounting system and describe actions taken to correct any deficiencies found, (2) state that the contractor has reviewed, understands, and can comply with all property management and accounting procedures in the solicitation, FAR Subpart 45.5, and NASA FAR Supplement Subparts 1845.5, 1845.70, and 1845.71, and (3) state whether or not the costs associated with paragraph (c)(2) above are included in its cost proposal.

1845.104–70 Contract property administration by the Government.

Contract property administration by the Government shall comply with Supplement 3.

1845.106–70 [Amended]

38. In section 1845.106–70(a) the citation reading "1845.7103(f)" is revised to read "1845.7103."

39. In paragraph (b)(3) change "Code NIE–8" to read "Code NIE."

Subpart 1845.4—Contractor Use and Rental of Government Property

1845.407 [Amended]

40. In section 1845.407(a)(2) after the word "nomenclature" remove the phrase "production equipment code".

Subpart 1845.5—Management of Government Property in the Possession of Contractors

1845.502 [Amended]

41. Section 1845.502–1 is amended by changing the citation at the end of the sentence to read "(see 1845.7101)" in place of "(see NASA Procurement Notice 84–1 and 1852.245–1018)."

1845.505–670 [Amended]

42. Section 1845.505–670(a) is amended by removing in the first sentence the word "certain" and by revising the cross reference "(see 1852.245–1342)" to read "(see 1845.7102)."

1845.505–14 [Amended]

43. Section 1845.505–14(a) is amended by removing the words "and material" in the first sentence.

Subpart 1845.6—Reporting, Redistribution, and Disposal of Contractor Inventory

1845.606–1 [Amended]

44. Section 1845.606–1 is amended by changing the citation in the first sentence to read "1845.505–6" in place of "1845.506–6."

Subpart 1845.71—Forms Preparation

1845.7101 [Amended]

45. Section 1845.7101 subdivision 5. Exclusion (k), the NFS reference is amended to read "18–52.245–71" in place of "1852.245–21."

46. In section 1845.7102, Section I, Blocks 14 and 25 are revised to read as follows:

1845.7102 Instructions for the preparation of DD Form 1342.

* * * * *

Block 14. Enter the name of the manufacturer of the equipment being reported. Do not use a distributor's or vendor's name. Enter the word "Unknown" when the name of the manufacturer is not known

* * * * *

Block 25. Enter the complete contract number under which the contractor is accountable for the item. This normally will be a facility contract number. Otherwise, the procurement contract number will be entered.

* * * * *

PART 1849—TERMINATION OF CONTRACTS

Subpart 1849.5—Contract Termination Clauses

1849.502 and 1849.503 [Removed]

47. Sections 1849.502 and 1849.503 are removed.

PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Subpart 1851.1—Contractor Use of Government Supply Sources

48. Section 1851.101 is revised to read as follows:

1851.101 Policy.

(a) NASA installations are responsible for establishing internal control over contractor use of GSA and other Federal supply sources.

(b) The policy governing the use of official Government mailing privileges by NASA contractors is in NMI 1450.11, NASA Mail Management Program.

1851.102 [Amended]

49. Section 1851.102(b) is amended by inserting "Supply and Equipment Management Branch" in place of "Supply and Equipment Management Division."

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.212-70 [Amended]

50. Section 1852.212-70 is amended by revising the NFS reference in the first sentence to read "1812.102(a)" in place of "1812.104(a).".

51. Section 1852.212-71 is added to read as follows:

1852.212-71 Reports of Work.

As prescribed at 1812.102(b), insert the following clause:

Reports of Work (April 1984)

(a) *Monthly progress reports.* The Contractor shall submit separate monthly progress reports of all work accomplished during each month of contract performance. Reports shall be in narrative form and brief and informal in content. Monthly reports shall be submitted in —— copies. Monthly reports shall include—

(1) A quantitative description of overall progress.

(2) An indication of any current problems which may impede performance and proposed corrective action.

(3) A discussion of the work to be performed during the next monthly reporting period.

(b) *Quarterly progress reports.* The Contractor shall submit separate quarterly reports of all work accomplished during each three-month period of contract performance. In addition to factual data, these reports shall include a separate analysis section which interprets the results obtained, recommends further action, and relates occurrences to the ultimate objectives of the contract work. Sufficient diagrams, sketches, curves, photographs, and drawings shall be included to convey the intended meaning. Quarterly reports shall be submitted in —— copies.

(c) *Final report.* The Contractor shall submit a final report which documents and summarizes the results of the entire contract work, including recommendations and conclusions based on the experience and results obtained. The final report shall include tables, graphs, diagrams, curves, sketches, photographs, and drawings in sufficient detail to comprehensively explain the results achieved under the contract. The final report shall be submitted in —— copies.

(d) *Submission.* The quantities of reports specified in paragraphs (a) through (c) shall be submitted to the technical monitor of the contract. In addition, a reproducible copy and a printed or reproduced copy shall be sent to NASA Scientific and Technical Information Facility, Attn: Accessioning Department, P.O. Box 8757, Baltimore/Washington International Airport, MD 21240.

52. Section 1852.215-10 is amended by adding paragraph (c) to Alternate I as follows:

1852.215-10 Late submissions, modifications, and withdrawals of proposals.

* * * * *

(c) A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation. However, the Government reserves the right to consider "best and final" offers received after the date indicated for such purpose, but before award is made, should such action be in the best interest of the Government.

53. Section 1852.216-26 is added to read as follows:

1852.216-26 Payments of allowable costs before definitization.

When using the clause at FAR 52.216-26, delete the words "promptly to the contractor when requested as work progresses" from the first sentence of paragraph (c) of the clause and substitute the words "to the Contractor within 30 days after receipt of each proper invoice or voucher."

1852.216-7001 [Amended]

54. Section 1815.216-7001 is amended by changing NFS reference in the first sentence to read "1816.203-4(b)" in place of "1816.203(b)."

1852.216-7003 [Amended]

55. Section 1852.216-7003 is amended by substituting the word "offers" for the word "bids" wherever it appears.

56. Section 1852.217-70 is added to read as follows:

1852.217-70 Property Administration and Reporting.

As prescribed in 1817.7002-4 insert the following clause.

Property Administration and Reporting (April 1984)

All property acquired for, and reimbursed by, NASA or transferred by NASA for use under this NASA-Defense Purchase Request will be controlled and accounted for in accordance with the Military Department's normal procedures. All excess items, however, costing $500 or more and in condition R-2 or better (GSA Condition Codes) will be reported to the NASA originating office for possible reutilization prior to disposition.

1852.223-71 [Amended]

57. The clause in § 1852.223-71 is amended by removing the second sentence of paragraph (a). It is further amended by removing the second sentence of paragraph (b) and substituting the following sentence therefor: "Procedures furnished by the Contracting Officer shall be followed in obtaining radio frequency authorization.

58. Sections 1852.227-11 and 1852.227-70 thru 1852.227-78 are added to read as follows:

1852.227-11 Patent Rights—Retention by the Contractor (Short Form).

When the clause at FAR 52.227-11 is included in a solicitation or contract, it shall be modified as authorized in FAR 27.303(a)(2) by adding the following paragraphs to paragraph (f):

(5) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing subject inventions during that period and certifying that all subject inventions have been disclosed or that there are no such inventions.

(ii) A final report, within 3 months after completion of the contracted work, listing all subject inventions or certifying that there were no such inventions, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(6) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a

patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and no more frequently than annually, a listing of the subcontracts that have been awarded.

(7) The Contractor shall provide, upon request, the filing date, serial number and title, a copy of the patent application (including an English language version if filed in a language other than English), and patent number and issue date for any subject invention for which the Contractor has retained title.

(8) Upon request, the Contractor shall furnish the Government an irrevocable power to inspect and make copies of the patent application file.

1852.227-70 New Technology.

As prescribed in 1827.373(b), insert the following clause:

New Technology (April 1984)

(a) *Definitions.*

"Administrator," as used in this clause, means the Administrator of NASA or duly authorized representative. "Contract," as used in this clause, means any actual or proposed contract, agreement, understanding, or other arrangement, and includes any assignment substitution of subcontract executed or entered into thereunder.

"Made," as used in this clause, means conception or first actual reduction to practice.

"Nonprofit organization," as used in this clause, means a domestic university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

"Practical application," as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

"Reportable item," as used in this clause, means any invention, discovery, improvement, or innovation of the Contractor, whether or not the same is or may be patentable or otherwise protectible under Title 35 of the United States Code, conceived or first actually reduced to practice in the performance of any work under this contract or in the performance of any work that is reimbursable under any clause in this contract providing for reimbursement of costs incurred prior to the effective date of this contract.

"Small business firm," as used in this clause means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.3–8 for small business contractors and in 13 CFR 121.3–12 for small business subcontractors will be used.)

"Subject invention," as used in this clause, means any reportable item which is or may be patentable or otherwise protectible under Title 35 of the United States Code.

(b) *Allocation of principal rights.*

(1) *Presumption of title.*

(i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (43 US.C. 2457(a)) (hereinafter called "the Act"), and the above presumption shall be conclusive unless at the time of reporting the reportable item the Contractor submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the Contractor may nevertheless file the statement described in subdivision (i) above. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Contractor whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(2) *Property rights in subject inventions.* Each subject invention for which the presumption of subdivision (1)(i) above is conclusive, or for which there has been a determination that it was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act, shall be the exclusive property of the United States as represented by the National Aeronautics and Space Administration unless the Administrator waives all or any part of the rights of the United States, as provided in subparagraph (3) below.

(3) *Waiver of rights.*

(i) Section 305(f) of the Act provides for the promulgation of regulations by which the Administrator may waive the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1) or (2) of section 305(a) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, have adopted the Presidential Memorandum on Government Patent Policy of February 18, 1983, as a guide in acting on petitions (requests) for such waiver of rights.

(ii) As provided in 14 CFR Part 1245, Subpart 1, Contractors may petition, either prior to execution of the contract or within 30 days after execution of the contract, for advance waiver of rights to any or all of the inventions that may be made under a contract. If such a petition is not submitted, or if submitted it is denied, the Contractor (or an employee inventor of the Contractor) may petition for waiver of rights to an identified subject invention within 8 months of first disclosure of the invention pursuant to subparagraph (e)(2) below, or within such longer period as may be authorized in accordance with 14 CFR 1245.105.

(c) *Minimum rights reserved by the Government.*

(1) With respect to each subject invention for which a waiver of rights is applicable pursuant to 14 CFR Part 1245, Subpart 1, the Government reserves—

(i) An irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government pursuant to any treaty or agreement with the United States; and

(ii) Such other rights as set forth in 14 CFR 1245.107.

(2) Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a subject invention.

(d) *Minimum rights to the Contractor.*

(1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title, unless the Contractor fails to disclose the subject invention within the times specified in subparagraph (e)(2) below. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 14 CFR Part 1245, Subpart 2, Licensing of NASA Inventions. This license will not be revoked in that field of use or the georgraphical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Contractor will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown by the

Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with 14 CFR 1245.211, any decision concerning the revocation or modification of its license.

(e) *Invention identification, disclosures, and reports.*

(1) The Contractor shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Contractor personnel responsible for the administration of this New Technology clause within 6 months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor will disclose each reportable item to the Contracting Officer within 2 months after the inventor discloses it in writing to Contractor personnel responsible for the administration of this New Technology clause or, if earlier, within 6 months after the Contractor becomes aware that a reportable item has been made, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Contractor. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the reportable item was made and the inventor(s) or innovator(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, on sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any on sale or public use planned by the Contractor for such invention.

(3) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions) and that the procedures required by subparagraph (e)(1) above have been followed.

(ii) A final report, within 3 months after completion of the contracted work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(4) The Contractor agrees, upon written request of the Contracting Officer, to furnish additional technical and other information available to the Contractor as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Contractor agrees, subject to paragraph 27.302(i), of the Federal Acquisition Regulation (FAR), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Examination of records relating to inventions.* (1) The Contracting Officer or any authorized representative shall, until 3 years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintained the procedures required by subparagraph (e)(1) of this clause; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention that the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) *Withholding of payment (this paragraph does not apply to subcontracts).* (1) Any time before final payment under this contract, the Contracting Officer may, in the Government's interest, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if, in the Contracting Officer's opinion, the Contractor fails to—

(i) Establish, maintain, and follow effective procedures for identifying and disclosing reportable items pursuant to subparagraph (e)(1) above;

(ii) Disclose any reportable items pursuant to subparagraph (e)(2) above;

(iii) Deliver acceptable interim reports pursuant to subdivision (e)(3)(i) above; or

(iv) Provide the information regarding subcontracts pursuant to subparagraph (h)(4) below.

(2) Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(3) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of reportable items required by subparagraph (e)(2) above, and an acceptable final report pursuant to subdivision (e)(3)(ii) above.

(4) The Contracting Officer may decrease or increase the sums withheld up to the maximum authorized above. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or the subsequent payment thereof shall not be construed as a waiver of any Government rights.

(h) *Subcontracts.* (1) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall—

(i) Include this clause (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(ii) Include the clause at FAR 52.227–11 (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor—

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) In the case of subcontracts at any tier, the agency, subcontractor, and Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and NASA with respect to those matters covered by this clause.

(4) The Contractor shall promptly notify the Contracting Office in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(5) The subcontractor will retain all rights provided for the Contractor in the clause of subdivision (1)(i) or (1)(ii) above, whichever is included in the subcontract, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(i) *Preference for United States industry.* Unless provided otherwise, no Contractor that receives title to any subject invention and no assignee of any such Contractor shall

grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement may be waived by the Administrator upon a showing by the Contractor or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(End of clause)

1852.227-71 Requests for Waiver of Rights to Inventions.

As prescribed in 1827.373(d), insert the following provision in all solicitations that include the clause at 1852.227-70, New Technology:

Requests for Waiver of Rights to Inventions (April 1984)

(a) In accordance with the NASA Patent Waiver Regulations, 14 CFR Part 1245, Subpart 1, waiver of rights to any or all inventions made or that may be made under a NASA contract or subcontract with other than a small business firm or a domestic nonprofit organization may be requested at different time periods. Advance waiver of rights to any or all inventions that may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected contractor. In addition, waiver of rights to an indentified invention made and reported under a contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator and shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address and telephone number of the counsel; the signature of the petitioner or authorized representative; and the date of signature. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individual identified invention; whether foreign rights are also requested and, if so, the countries, and a citation of the specific section or sections of the regulations under which such rights are requested; and the name, address, and telephone number of the party with whom to communicate when the request is acted upon. Requests for advance waiver of rights should, preferably, be included with the proposal, but in any event in advance of negotiations.

(c) Petitions for advance waiver, prior to contract execution, must be submitted to the Contracting Officer. All other petitions will be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Contracting Officer to the installation Patent Counsel for processing and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Contracting Officer of the Administrator's determination. The Contracting Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, the petitioner will be so notified by the Contracting Officer. All other petitions will be processed by installation Patent Counsel and forwarded to the Board. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver. Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in the Regulations.

(End of provision)

1852.227-72 Designation of New Technology Representative and Patent Representative.

As prescribed in 1827.373(e), insert the following clause:

Designation of New Technology Representative and Patent Representative (April 1984)

(a) For purposes of administration of the clause of this contract entitled "New Technology" or "Patent Rights—Retention by the Contractor (Short Form)", whichever is included, the following named representatives are hereby designated by the Contracting Officer to administer such clause:

Title	Office	Address (including ZIP CODE)
New Technology Representative.	.....	
Patent Representative.	.....	

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring a "New Technology" clause or "Patent Rights—Retention by the Contractor (Short Form)" clause, unless otherwise authorized or directed by the Contracting Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 1827.375-3 of the NASA FAR Supplement.

(End of clause)

1852.227-73 Patent Rights Clause for Subcontracts.

As prescribed in 1827.373(f), insert the following clause in all solicitations and contracts that include the clause at FAR 52.227-11, Patent Rights—Retention by the Contractor (Short Form):

Patent Rights Clause for Subcontracts (April 1984)

The Contractor shall include the clause in the NASA FAR Supplement at 1852.227-70, New Technology, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design, or engineering work to be performed by other than a small business firm or a nonprofit organization.

(End of clause)

1852.227-74 Rights in Data—General.

As prescribed in 1827.475-1(a) (1) and (b), insert the following clause:

Rights in Data—General (April 1984)

(a) *Definitions.*

"Computer software," as used in this clause, means computer programs, computer data bases, and documentation thereof.

"Data," as used in this clause, means recorded information, regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analyses or financial, business, and management information required for contract administration purposes.

"Form, fit, and function data," as used in this clause, means data describing, and sufficient to enable, physical and functional interchangeability; as well as data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements.

"Limited rights," as used in this clause, means the rights of the Government in limited-rights data as set forth in the Limited Rights Notice of subparagraph (g)(2) if included in this clause.

"Limited-rights data," as used in this clause, means data that embodies trade secrets or is commercial or financial and confidential or privileged, but only to the extent that the data pertains to items, components, or processes developed at private expense, including minor modifications thereof.

"Restricted computer software," as used in this clause, means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is published copyrighted computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in the Restricted Rights Notice of subparagraph (g)(3) if included in this clause, or as otherwise may be provided in a collateral

agreement incorporated in and made part of this contract.

"Unlimited rights," as used in this clause, means the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Allocation of rights.* (1) Except as provided in paragraph (c) below regarding copyright, the Government shall have unlimited rights in—

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitutes manuals or instructional and training material for installation, operation, or routine maintenance and repair; and

(iv) All other data delivered under this contract unless provided otherwise for limited-rights data or restricted computer software in accordance with paragraph (g) below.

(2) The Contractor shall have the right to—

(i) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract unless provided otherwise in paragraph (d) below;

(ii) Protect from unauthorized disclosure and use that data which is limited-rights data or restricted computer software to the extent provided in paragraph (g) below;

(iii) Substantiate use of, add, or correct limited-rights or restricted-rights notices and to take other appropriate action, in accordance with paragraphs (e) and (f) below; and

(iv) Establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided in subparagraph (c) (1) below.

(c) *Copyright.* (1) *Data first produced in the performance of this contract.* Unless provided otherwise in subparagraph (d) below, the Contractor may establish claim to copyright subsisting in scientific and technical articles based on or derived from data first produced in the performance of this contract and published in academic, technical and professional journals. The prior, express written permission of the Contracting Officer is required to establish claim to copyright subsisting in all other data first produced in the performance of this contract in accordance with 1827.473–2(f) of the NASA FAR Supplement. If claim to copyright is made, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 to the data when such data is delivered to the Government, and include that notice as well as acknowledgment of Government sponsorship on the data when deposited in the U.S. Copyright Office or published. The Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data that is not first produced in the performance of this contract and that contains the copyright notice of 17 U.S.C. 401 or 402, unless the Contractor identifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagraph (1) above; *provided,* however, that if such data is computer software the Government shall acquire a copyright license as set forth in subparagraph (g)(3) below if included in this contract or as otherwise may be provided in a collateral agreement incorporated in or made part of this contract.

(3) The Government agrees not to remove any copyright notices placed on data pursuant to this paragraph (c), and to include such notices on all reproductions of the data.

(d) *Release, publication, and use of data.* (1) The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except as may be provided otherwise below in this paragraph.

(2) The Contractor agrees that to the extent it receives or is given access to data that is necessary for the performance of this contract and that contains restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

(3) The Contractor agrees not to establish claim to copyright, publish, or release to others computer software first produced in the performance of this contract without prior written permission of the Contracting Officer.

(e) *Unauthorized marking of data.* (1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract is marked with the notices specified in subparagraphs (g)(2) or (g)(3) below and use of such is not authorized by this clause, or if such data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, markings will not be cancelled or ignored unless—

(i) The Contracting Officer makes written inquiry to the Contractor concerning the propriety of the markings, providing the Contractor 30 days (or a shorter period of not less than 5 days from the date of receipt of such inquiry by the Contractor if the Contracting Officer determines, in accordance with 1827.473–2(g) of the NASA-FAR Supplement, that there are exigencies justifying such shorter period) to respond; and

(ii) The Contractor fails to respond within the set period (or a longer time approved by the Contracting Officer for good cause shown), or the Contractor's response fails to substantiate the propriety of the markings.

(2) The Contracting Officer shall consider the Contractor's response, if any, and determine whether the markings shall be cancelled or ignored. The Contracting Officer shall furnish written notice to the Contractor of the determination, which shall be a final decision under the Contract Disputes Act.

(3) The above procedures may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request for data thereunder.

(f) *Omitted or incorrect markings.*

(1) Data delivered to the Government without any notice authorized by paragraph (g) below, and without a copyright notice, shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the disclosure, use, or reproduction of such data. However, to the extent the data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer for good cause shown) after delivery of such data, permission to have notices placed on qualifying data at the Contractor's expense, and the Contracting Officer may agree to do so if the Contractor—

(i) Identifies the data to which the omitted notice is to be applied;

(ii) Demonstrates that the omission of the notice was inadvertent;

(iii) Establishes that the use of the proposed notice is authorized; and

(iv) Acknowledges that the Government has no liability with respect to the disclosure or use of any such data made prior to the addition of the notice or resulting from the omission of the notice.

(2) The Contracting Officer may also (i) permit correction, at the Contractor's expense, of incorrect notices if the Contractor identifies the data on which correction of the notice is to be made and demonstrates that the correct notice is authorized, or (ii) correct any incorrect notices.

(g) *Protection of limited-rights data and restricted computer software.* (1) When data other than that listed in subdivisions (b)(1) (i), (ii), and (iii) above is specified to be delivered under this contract and qualifies as either limited-rights data or restricted computer software the Contractor, if it desires to continue protection of such data, shall withhold such data and not furnish it to the Government under this contract. As a condition to this withholding the Contractor shall identify the data being withheld and furnish form, fit, and function data in lieu thereof.

(2) [Reserved]

(3) [Reserved]

(h) *Subcontracting.* The Contractor has the responsibility to obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government such rights, the Contractor shall promptly bring such refusal to the attention of the Contracting Officer and not proceed with subcontract award without further authorization.

(i) *Relationship to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any

license or other right otherwise granted to the Government.

(End of clause)

Alternate I (APRIL 1984). If a determination is made pursuant to 1827.475–1(a)(2), substitute the following definition for the definition of "Limited-rights data" in paragraph (a) of the clause:

"Limited-rights data," as used in this clause, means data produced at private expense that embodies trade secrets or is commercial or financial and confidential or privileged.

Alternate II (APRIL 1984). As prescribed in 1827.475–1(a)(3), insert the following subparagraph (2) in paragraph (g) of the clause:

(2) Notwithstanding subparagraph (g)(1) above, the contract may identify and specify the delivery of limited-rights data, or the Contracting Officer may require by written request the delivery of limited-rights data that has been withheld or would otherwise be withholdable. Limited-rights data formatted as a computer data base is to be treated as limited-rights data under this subparagraph. If delivery of such data is so required, the Contractor may affix the following "Limited Rights Notice" to the data and the Government will thereafter treat the data, subject to the provisions of paragraphs (e) and (f) above, in accordance with such Notice:

Limited Rights Notice (April 1984)

(a) This data is submitted on—— (date) with limited rights under Government contract No—— (and subcontract——, if appropriate). It may be reproduced and used by the Government with the express limitation that it will not, without permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose this data outside the Government for the following purposes, if any, provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

(1) Use by support service contractors.

(2) [The Contracting Officer may list additional purposes in accordance with 1827.473–2(d) or shall insert "Reserved"].

(b) The restrictions in this Notice shall terminate 7 years from the submittal date specified in this Notice.

(c) This Notice shall be marked on any reproduction of this data, in whole or in part.

[End of notice)

Alternate III (April 1984). As prescribed in 1827.475–1(a)(4), insert the following subparagraph (3) in paragraph (g) of the clause:

(3)(i) Notwithstanding subparagraph (g)(1) above, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be withholdable. Computer data bases comprising limited-rights data are to be treated as limited-rights data. If delivery of such computer software is so required, the Contractor may affix the following "Restricted Rights Notice" to the computer software and the Government will thereafter treat the computer software, subject to paragraphs (e) and (f) above, in accordance with the Notice:

Restricted Rights Notice (April 1984)

(a) This computer software is submitted with restricted rights under Government contract No—— (and subcontract——, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided below or as otherwise expressly stated in the contract.

(b) This computer software may be—

(1) Used or copied for use in or with the computer for which it was acquired, including use at any Government installation to which such computer may be transferred;

(2) Used with a backup computer if the computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating restricted computer software shall be subject to the same restricted rights; and

(5) Disclosed and reproduced for use by support contractors or their subcontractors in accordance with subparagraphs (1) through (4) above, provided the Government makes such disclosure subject to these restricted rights.

(c) Notwithstanding the foregoing, if this computer software is published copyrighted computer software, it is licensed to the Government, without disclosure prohibitions, with the minimum rights set forth in paragraph (b) above.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in the contract.

(e) This Notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the above Notice on restricted computer software, the following short-form Notice may be used in lieu thereof:

Restricted Rights Notice (Short Form) (April 1984)

Use, reproduction, or disclosure is subject to restrictions set forth in contract No—— (and subcontract——, if appropriate).

(End of notice)

1852.227–75 Notification of Limited-Rights Data and Restricted Computer Software.

As prescribed in 1827.475–2, insert the following provision in solicitations that include the clause at 1852.227–74, Rights in Data—General:

Notification of Limited-Rights Data and Restricted Computer Software (April 1984)

(a) This solicitation sets forth the work to be performed if a contract award results, and the Government's known requirements for data (as defined in 1827.471 of the NASA FAR Supplement (NFS)). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 1852.227–76 of the NFS, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data—General clause at 1852.227–74 of the NFS that is to be included in this contract. Under the latter clause a contractor may withhold from delivery data that qualifies as limited-rights data or restricted computer software, and deliver form, fit, and function data in lieu thereof. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited-rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate.

(b) As an aid in determining the Government's need to include any of the aforementioned Alternates in the clause at 1852.227–74, Rights in Data—General, of the NFS, the offeror's response to this solicitation shall, to the extent feasible, either state that none of the data qualifies as limited-rights data or restricted computer software, or identify which of the data qualifies as limited-rights data or restricted computer software. Any identification of limited-rights data or restricted computer software in the offeror's response is not determinative of the status of such data should a contract be awarded to the offeror.

(End of provision)

1852.227–76 Additional Data Requirements.

As prescribed in 1827.475–3, insert the following clause:

Additional Data Requirements (April 1984)

(a) In addition to the data (as defined in the Rights in Data—General clause included in this contract) specified elsewhere in this contract to be delivered, the Contracting Officer may at any time during contract performance or within a period of 3 years after acceptance of all items to be delivered under this contract, order any data first produced or specifically used in the performance of this contract.

(b) The Rights in Data—General clause included in this contract is applicable to all data ordered under this Additional Data Requirements clause. Nothing contained in this clause shall require the contractor to deliver any data the withholding of which is authorized by the Rights in Data—General clause of this contract, or data that is specifically identified in this contract as not subject to this clause.

(c) When data is to be delivered under this clause, the Contractor will be compensated for converting the data into the prescribed form, for reproduction, and for delivery.

(d) The Contracting Officer may release the Contractor from the requirements of this clause for specifically identified data items at any time during the 3-year period set forth in paragraph (a) above.

(End of clause)

1852.227-77 Rights in Data—Special Works.

As prescribed in 1827.475-4, insert the following clause:

Rights in Data—Special Works (April 1984)

(a) *Definitions.*

"Data," as used in this clause, means recorded information regardless of form or the media on which it may be recorded. The term includes computer software. The term does not include information incidental to contract administration, such as contract cost analyses or financial, business, and management information required for contract administration purposes.

"Unlimited rights," as used in this clause, means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Allocation of Rights.* (1) The Government shall have—

(i) Unlimited rights in all data delivered under this contract, and in all data first produced in the performance of this contract, except as provided in paragraph (c) below regarding copyright;

(ii) The right to limit exercise of claim to copyright in data first produced in the performance of this contract, and to obtain assignment of copyright in such data, in accordance with subparagraph (c)(1) below; and

(iii) The right to limit the release and use of certain data in accordance with paragraph (d) below.

(2) The Contractor shall have, to the extent permission is granted in accordance with subparagraph (c)(1) below, the right to establish claim to copyright subsisting in data first produced in the performance of this contract.

(c) *Copyright.* (1) *Data first produced in the performance of this contract.* (i) The Contractor agrees not to assert, establish, or authorize others to assert or establish, any claim to copyright subsisting in any data first produced in the performance of this contract without the prior written permission of the Contracting Officer. If claim to copyright is made, the Contractor shall affix the appropriate copyright notice of 17 U.S.C. 401 or 402 to such data when delivered to the Government, and include that notice as well as acknowledgment of Government sponsorship on the data when published or deposited in the U.S. Copyright Office. The Contractor grants to the Government a paid-up, nonexclusive, irrevocable, worldwide license to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government, for all such data.

(ii) If the Government desires to obtain copyright in data first produced in the performance of this contract and permission has not been granted as set forth in subdivision (i) above, the Contracting Officer may direct the Contractor to establish, or authorize the establishment of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data that is not first produced in the performance of this contract and that contains the copyright notice of 17 U.S.C. 401 of 402, unless the Contractor indentifies such data and grants to the Government, or acquires on its behalf, a license of the same scope as set forth in subparagrph (1) above.

(d) *Release and use restrictions.* Except as otherwise specifically provided for in this contract, the Contractor shall not use for purposes other than the performance of this contract, nor release, reproduce, distribute, or publish any data first produced in the performance of this contract, nor authorize others to do so, without written permission of the Contracting Officer.

(e) *Indemnity.* The Contractor shall indemnify the Government and its officers, agents and employees acting for the Government against any liability, including costs and expenses, incurred as the result of the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

1852.227-78 Rights in Data—Exisiting Works.

As prescribed in 1827.475-5(a), insert the following clause:

Rights in Data—Existing Works (April 1984)

(a) Except as otherwise provided in the contract, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive irrevocable, worldwide license to use, perform, and display, by or on behalf of the Government, for all the material or subject matter called for under this contract or for which this clause is specifically made applicable.

(b) The Contractor shall indemnify the Government and its officers, agents, and employees acting for the Government against any liability, including costs and expenses, incurred as the result of (1) the violation of trade secrets, copyrights, or right of privacy or publicity, arising out of the creation, delivery, publication, or use of any data furnished under this contract; or (2) any libelous or other unlawful matter contained in such data. The provisions of this paragraph do not apply unless the Government provides notice to the Contractor as soon as practicable of any claim or suit, affords the Contractor an opportunity under applicable laws, rules, or regulations to participate in the defense thereof, and obtains the Contractor's consent to the settlement of any suit or claim other than as required by final decree of a court of competent jurisdiction; and do not apply to material furnished to the Contractor by the Government and incorporated in data to which this clause applies.

(End of clause)

1852.228-70 [Amended]

59. In section 1852.228-70, the introductory text is amended by revising the NFS reference to read "1828.370(a)" in place of "1828.370-1(a)."

60. Section 1852.232-1 is amended to read as follows:

1852.232-1 Payments.

When using the clause at FAR 52.232-1 delete the words "upon submission of proper invoices or vouchers" from the first sentence and substitute the words "within 30 days after receipt of proper invoices, as determined under the "Invoices" clause of this contract."

61. In section 1852.232-71, the introductory paragraph is amended by adding after "contracts" the paranthetical phrase "(including letter contracts)" and by revising paragraphs (b) (1) and (2) of the clause to read as follows:

1852.232 Invoice.

(b) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Pub. L. 97-177)—

(1) A proper invoice will be deemed to have been received when it is received by the payment office designated in the contract and acceptance of the supplies delivered or services rendered has occurred;

(2) Payment shall be considered made on the date on which a check for such payment is dated or the date of payment by wire transfer through the Treasury Financial Communication System;

* * * * *

1852.232-73 [Amended]

62. Section 1852.232-73 is amended by revising the NFS reference to read "1832.111-70(b)" in place of "1832.111-70(c)."

1852.232-74 [Amended]

63. Section 1852.232-74 is amended by revising the NFS reference to read "1832.111-70(c)" in place of "1832.111-70(d)."

1852.232-75 [Amended]

64. Section 1852.232-75 is amended in the second sentence of the introductory

paragraph by inserting "solicitations" in place of "publications."

65. Section 1852.232-78 is added to read as follows:

1852.232-78 Payment information.

As prescribed at 1832.111-70(c), insert the following clause in contracts and solicitations therefor that will result in one or more payments in excess of $25,000:

Payment Information (April 1984)

(a) Payments under the contract will be made either by check or by wire transfer through the Treasury Financial Communications System at the option of the Government.

(b) The Contractor shall furnish the following information to the Contracting Officer within ten (10) days of award to facilitate contract payments:

(1) Full name (where practicable), title, telephone number, and complete mailing address of responsible official to whom check payments are to be sent.

(2) The following bank account information required to accomplish wire transfers:

(i) Name of the receiving bank.

(ii) City and State of the receiving bank.

(iii) American Bankers Association (ABA) nine-digit identifier of the receiving bank.

(End of clause)

66. Sections 1852.243-1, 1852.243-2, and 1852.243-3 are added to read as follows:

1852.243-1 Changes—Fixed-Price.

When using the clause at FAR 52.243-1, the period of "30 days" within which any proposal for adjustment must be asserted may be varied not to exceed "60 days."

1852.243-2 Changes—Cost-Reimbursement.

When using the clause at FAR 52.243-2, the period of "30 days" within which any proposal for adjustment must be asserted may be varied not to exceed "60 days."

1852.243-3 Changes—Time-and-Materials or Labor-Hours.

When using the clause at FAR 52.243-3, the period of "30 days" within which any proposal for adjustment must be asserted may be varied not to exceed "60 days."

PART 1853—FORMS

Subpart 1853.2—Prescription of Forms

1853.208-70 [Amended]

67. Section 1853.208-70(b) is amended to substitute "188.002-74(f)" in place of "188.072(f)(1)." Paragraph (c) is amended to substitute "188.002-72(a)" in place of "188.070(a)," and paragraph (d) is amended to substitute "188.002-72(a)" in place of "188.070(b)."

68. Section 1853.245 is amended by revising the introductory text to read as follows:

1853.245 Property (NF 1018, DD 1342, DD1419).

The following forms are prescribed, as specified below, for use in reporting and accounting for Government property:

* * * * *

PART 1853—[AMENDED]

69. Part 1853 is further amended by adding NASA Form 456, NASA Form 566, NASA Form 566(A), NASA Form 1018, NASA Form 1018(C), NASA Form 1098, NASA Form 1098(A), NASA Form 1413, NASA Form 1432, NASA Form 1434, NASA Form 1434(A), and by revising NASA Form 1356.

Note.—NASA forms do not appear in the Code of Federal Regulations.

BILLING CODE 7501-01-M

NFSD 84-1 (April 1, 1984) **18-53.303-456**

FORMS

NASA National Aeronautics and Space Administration — Notice of Contract Costs Suspended and/or Disapproved		PAGE 1 OF PAGES
TO (Name and address of Contractor)	CONTRACT NO.	VOUCHER NO.
	NOTICE NO.	DATE OF NOTICE

(a) This notice is issued pursuant to the authority of the FAR Subpart 42.803. It constitutes advice of costs suspended and/or disapproved incident to the audit of the above referenced voucher. Description of items and reasons for action are shown below.

(b) Suspended costs, as referred to herein, are costs which, for the reasons shown below, appear questionable but on which final determination has not been made.

(c) Disapproved costs, as referred to herein, are costs which, for the reasons shown below, have been determined by the undersigned to be unallowable.

(d) If the Contractor disagrees with the costs (suspended and/or disapproved) deducted from current payments, the Contractor may
(1) Submit a written request to the cognizant Contracting Officer to consider whether the unreimbursed costs should be paid and to discuss the findings with the Contractor,
(2) File a claim under the "Disputes" clause which the Contracting Officer will process under Part 33 of the Federal Acquisition Regulation (FAR) Part 18.33 of the NASA FAR Supplement, or,
(3) Do both of the above.

	DATE	ADDRESS	SIGNATURE
GOVERNMENT AUDITOR			
CONTRACTING OFFICER			

CONTRACTOR'S ACKNOWLEDGMENT OF RECEIPT *(The Contractor or his authorized representative shall acknowledge receipt of this notice to the Contracting Officer. One copy of the acknowledged notice will be submitted to the cognizant Government auditor.)*

DATE OF RECEIPT	TYPED NAME AND TITLE OF AUTHORIZED OFFICIAL	SIGNATURE

ITEM NO.	DESCRIPTION OF ITEMS AND REASONS FOR ACTION*	AMOUNT OF COSTS	
		SUSPENDED	DISAPPROVED

* *Continue description on reverse or attach ordinary sheets of paper, if necessary.*

NASA FORM 456 OCT 83 PREVIOUS EDITIONS ARE OBSOLETE.

NASA/FAR SUPPLEMENT

18-53.303-566 (April 1, 1984) NFSD 84-1

FORMS

NASA National Aeronautics and Space Administration

Application for Authorization of Radio Frequency Assignment

NOTE. – For user compliance with NMI 5104.2, as revised. See Instructions on reverse before completion.

1. INSTALLATION/CODE			2. DATE OF PREPARATION
3. PROJECT		4. DATE AND LENGTH OF TIME REQUIRED	5. HRS. OF OPERATION *(Cont., frequent, infrequent)*

6. PURPOSE OF ASSIGNMENT AND METHOD OF OPERATION

TRANSMITTER DATA

7. NOMENCLATURE AND MANUFACTURER				8. LOCATION *(e.g., SPCE, state, city)*		
9. TYPE MODULATION OF TRANSMITTED CARRIER AND FULL DESCRIPTION OF CARRIER SIGNAL OPERATIONAL CHARACTERISTICS *(Also, as applicable, indicate type data, data rate, phase or amplitude deviation of carrier by each subcarrier, composite modulation index, and whether encryption is used. Continue on separate sheets, if necessary)*						
10. COORDINATES		11. ELEVATION ABOVE MSL		12. FREQ. OR BAND REQUIRED		13. TUNING RANGE
14. EMISSION BANDWIDTH OF TRANSMITTED SIGNAL				15. POWER		
a. –3dB	b. –20dB	c. –40dB	d. –60dB	a. CARRIER	b. MEAN	c. PEAK
16. FILTER USED ☐ a. LOW PASS ☐ b. HIGH PASS ☐ c. BAND PASS ☐ d. NONE			17. FREQ. CONTROL METHOD	18. SPURIOUS EMISSION LEVEL *(Referenced to carrier [dBc])*		

19. FREQUENCY TOLERANCE	20. HARMONIC LEVEL *(dBc)*			21. ANTENNA				
	a. 2ND	b. 3RD	c. 4TH	a. TYPE	b. POLARIZATION	c. GAIN *(dB)*	d. BEAM WIDTH *(Degrees)*	
							(1) Az	(2) El

RECEIVER DATA *(i.e., receiver which will receive the above transmitted data)*

22. NOMENCLATURE AND MANUFACTURER				23. LOCATION *(e.g., SPCE, state, city)*		
24. COORDINATES		25. ELEVATION ABOVE MSL		26. TUNING RANGE		27. FREQUENCY STABILITY
28. RF SELECTIVITY			29. SENSITIVITY *(dBm)*	30. SYSTEM NOISE TEMPERATURE *(Spaceborne and earth stations)*		
a. –3dB	b. –20dB	c. –60dB				
30. IF FREQUENCY		31. ANTENNA				
a. 1ST	2ND	a. TYPE	b. POLARIZATION	c. GAIN *(dB)*	d. BEAMWIDTH *(Degrees)*	
					(1) Az	(2) El

APPROVAL

32. TYPED NAME	33. SIGNATURE

NASA FORM 566 OCT 83 PREVIOUS EDITION IS OBSOLETE.

NFSD 84-1 (April 1, 1984) 18-53.303-566-(A)

FORMS

INSTRUCTIONS

General: Applications for radio frequency assignments should be forwarded to NASA Headquarters, Office of Tracking and Data Systems, Code TS, no later than 90 days prior to implementation of frequencies. This criteria applies to those applications that conform to the National Table of Allocations. Applications for "out of band" assignments should be submitted with the maximum practicable lead time. If an item is not applicable, indicate by "N/A."

1. Installation/Code.-Self-explanatory.

2. Date of Preparation.-Self-explanatory.

3. Project.-The project that requires the specified frequency; e.g., STS or LANDSAT. If frequency usage is not associated with a specific project, then list cognizant division, branch or other organizational entity.

4. Date and Length of Time Required.-Self-explanatory; however, if frequency assignment is required in near future for design of system that will not be operational until future, explain in item 9 on the other side of this form.

5. Hours of Operation.-Self-explanatory.

6. Purpose of Assignment and Method of Operation.-Explain planned use and operational methodology.

7. Nomenclature and Manufacturer.-Manufacturer's model number, or Government designation, as appropriate. If equipment is experimental or prototype of new design, so indicate; e.g., Custom design.

8. Location.-If a terrestrial station, give geographical location; e.g., "Clear Lake, Texas." If a spacecraft, indicate SPCE/GEOS, SPCE/NONGEOS or SPCE/DEEPSPCE, STS.

9. Type Modulation of Transmitted Carrier and Full Description of Carrier Signal Operational Characteristics.-Self-explanatory; however, for RADAR, indicate the following pulse characteristics; e.g., pulse rate, width, rise time, fall time and compression ratio.

10. Coordinates.-Show geographical coordinates in degrees, minutes and seconds for terrestrial stations. If a mobile station, show operating radius in miles. For aircraft, indicate area of operation. For space stations, indicate type of orbit (synchronous or non-synchronous). If synchronous, show longitude of orbit position; if non-synchronous, show inclination, apogee and perigee.

11. Elevation Above MSL.-If a terrestrial station, give elevation in feet above mean sea level. If synchronous, give apogee and perigee in nautical miles. If an aircraft, indicate planned operating altitudes in feet.

12. Frequency or Band Required.-Self-explanatory.

13. Tuning Range.-Frequency band through which transmitter has tuning capability.

14. Emission Bandwidth of Transmitted Signal.-For pulse systems, show pulse width (PW) pulse rise time and pulse repetition rate (PRR) in item 9 on the other side of this form.

15. Power.-Self-explanatory; however, show power at the transmitter output terminals. Power may be shown in watts, kilowatts or megawatts, as appropriate. Indicate milliwatts as a fraction of watts; e.g., -0.25 watts for 250 million watts. Show power applied to antenna input in item 9 on the other side of this form to reflect approximate losses.

16. Filter Used.-Self-explanatory.

17. Frequency Control Method.-Method of frequency control; e.g., "Crystal," "M.O."

18. Spurious Emission Level.-Self-explanatory.

19. Frequency Tolerance.-Stability of transmitter, in percent of carrier frequency, after "warmup" in normal operating condition.

20. Harmonic Level.-Self-explanatory.

21. Antenna.-Self-explanatory.

22. through 31.-Self-explanatory; however, for item 29, note receiver threshold sensitivity in -dBm. If more than one receiver, include additional data under item 9 on the face of this form or on separate sheets.

32. and 33.-Must be completed and signed. If frequency is for a NASA space project, then the Project Manager's name and signature are necessary; for other usages, the supervisory personnel of the organizational entity shown in item 1 on the other side of this form.

18-53.303-1018 (April 1, 1984) NFSD 84-1

FORMS

NASA National Aeronautics and Space Administration

Report of Government-Owned/Contractor-Held Property
(All amounts rounded to even dollars)

Form Approved
OMB No. 2700-0017

TO *(Enter installation name and organization code)*	FROM: *(Enter full name and address of contractor)*
VIA *(Enter name and address of property administrator)*	

GENERAL INSTRUCTIONS

1. This combined Government property/space hardware report provides NASA with financial data on Government-furnished or contractor-acquired property in which title is vested with the Government.
2. A separate report is required to be submitted annually for each contract or grant by all NASA contractors/grantees when the Government Property Clause and The Financial Reporting of Government-Owned/Contractor-Held Property Clause are included in the terms of the agreement.
3. NASA prime contractors are responsible for including this reporting requirement in all first tier subcontracts where Government-owned property is to be furnished or acquired under the terms of the subcontract.
4. Four copies of this report are due in the office of the cognizant property administrator not later than July 31 for the Reporting Year ending June 30. Negative reports are required when appropriate.
5. The property administrator shall sign and forward three copies to the cognizant contracting officer, or his designee, within ten (10) workdays after receipt.
6. The contracting officer, or his designee, shall forward one copy to the cognizant Financial Management office, and one copy to the Chief, Supply and Equipment Management Branch, NASA Headquarters (Code NIE-8), Washington, DC 20546.
7. Additional forms may be obtained from the cognizant property administrator.
8. Detailed instructions may be found on page 4 of this form.

1. DATE SUBMITTED	2. REPORTING PERIOD	3. CONTRACT NO. *(Complete contract symbol and number)*	4. CONTRACT VALUE

5. REPORT STATUS *(Check one)*
☐ a. INITIAL ☐ b. INTERIM ☐ c. NEGATIVE ☐ d. FINAL

PROPERTY *(Type/Account)*	BALANCE BEGINNING OF PERIOD a.	ADDITIONS			DISPOSALS e.	BALANCE END OF PERIOD f.
		GOVERNMENT-FURNISHED b.	CONTRACTOR-ACQUIRED R&D c.	CONTRACTOR-ACQUIRED C OF F d.		
6. LAND						
7. BUILDINGS						
8. OTHER STRUCTURES AND FACILITIES						
9. LEASEHOLD IMPROVEMENTS						
10. PLANT EQUIPMENT						
11. SPECIAL TOOLING						
12. SPECIAL TEST EQUIPMENT						
13. TOTAL *(Items 6 through 12)*						
14. MATERIALS						
15. SPACE HARDWARE						

CERTIFICATION

I CERTIFY THAT THIS ANALYSIS WAS PREPARED IN ACCORDANCE WITH NASA REPORTING REQUIREMENTS FROM RECORDS MAINTAINED IN ACCORDANCE WITH THE FEDERAL ACQUISITION REGULATION (FAR), SUBPART 45.5 AND SUBPART 18-45.5 OF THE NASA FAR SUPPLEMENT.

16. AUTH. CONTRACT REPRESENTATIVE *(Signature)*	DATE	17. GOV'T PROPERTY ADMINISTRATOR REVIEW *(Signature)*	DATE

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NFSD 84-1 (April 1, 1984) 18-53.303-1018-(C)

FORMS

REPORTING INSTRUCTIONS

GENERAL.–Contractors shall report all NASA-owned property, materials and, when so directed, space hardware received, acquired and/or disposed of during the reporting period. More detailed instructions are contained in subpart 18-45.71 of the NASA FAR Supplement.

Where materials are accountable under more than one contract "with a single NASA installation," that installation may be requested to authorize one report covering materials for all such contracts. However, separate records of materials shall be maintained for all such contracts.

Space Hardware is required to be reported only by those contractors specifically directed by NASA management through the contracting officer (CO). The specific Space Hardware to be reported is identified in the Annual List of Selected Items of Space Hardware issued by the Director, Financial Management Division, NASA Headquarters, Washington, DC 20546. Details are reported in Schedule II and summarized on page 1, item 15.

Item 1, Date Submitted.–Enter date submitted to the property administrator.

Item 2, Reporting Period.–Enter the period being reported *(e.g., (7/1/82 - 6/30/83).*

Item 3, Contract No.–Enter the complete contract symbol and number under which the Government property and/or space hardware is accountable.

Item 4, Contract Value.–Enter the total estimated cost and fee *(or target fee where appropriate)* of all work to be performed under the contract as formally amended to the date of the report.

Item 5, Report Status.–Place an "x" in the appropriate box to indicate the status of this report.

Property (Type/Account).–Enter in the appropriate columns *(a through f)* amounts for each type of property *(items 6 through 12, and 14)* as defined in the Federal Acquisition Regulation (FAR), Subpart 45.5 and Subpart 18-45.5 of the NASA FAR Supplement. Item 15, Space Hardware, shall not be reported unless specifically directed by the cognizant contracting officer *(Subsection 18-45.505-14 of the NASA FAR Supplement).*

Column a, Balance Beginning of Period.–The amounts reported will agree with the amounts reported in column f, Balance End of Period, of the preceding report, except if this is an initial report.

Column b, Additions, Government - Furnished.–Amounts reported shall be the values designated by the Government for Government - Furnished Property (GFP) received during the reporting period. Receipts for GFP shall be detailed in Schedule I for each type/account except Materials and Space Hardware. For incomplete data on transfer documents, refer to Subpart 18-45.71 of the NASA FAR Supplement.

Government property administrators should be contacted for assistance in obtaining prices for those items on the list. If unable to obtain prices, the contracting officer should be immediately notified.

Columns c and d, Additions, Contractor - Acquired.–Amounts shall be reported under the appropriate funding classification *(Research and Development - R&D or Construction of Facilities - C of F).* On multi-funded contracts, the NASA installation shall identify the appropriate funding classification for the contractor. Include all Government-owned property acquired during the reporting period.

Column e, Disposals.–Report book costs of all disposals, including net adjustments for inventory differences write-offs, sales, donations, and abandonments. Transfers of GFP shall be detailed in Schedule I, Analysis of Government-Furnished Additions and Contractor Disposals, for each type/account *(except Materials and Space Hardware)* showing the total amount transferred to each NASA installation and the total to other Federal agencies. Detailed lists, including shipping document references, shall be provided as required by NASA field installations.

Column f, Balance End of Period.–Report the total of columns a, b, c and d, minus e. These balances shall be maintained pursuant to Federal Acquisition Regulation (FAR), Subpart 45.5 and Subpart 18-45.5 of the NASA FAR Supplement.

Schedule I, Analysis of Government - Furnished Additions and Contractor Disposals.–A detailed analysis of the amounts reported as Government-Furnished Additions *(column b)* and Contractor Disposals *(column e)* is required for each property classification *(items 6 through 12)* by NASA installations and in total for all other Federal agencies. The total amounts reported in item 13 for columns b and e should equal the amounts reported in Government-Furnished Additions and Contractor Disposals, respectively.

Schedule II, Space Hardware Reportable Items.–This schedule shall be submitted only upon the direction of the contracting officer. Once so directed, the contractor shall continue to submit this schedule annually until termination of the contract or notification from the contracting officer that the reportable item(s) has been deleted from the Annual List of Selected Items of Space Hardware.

Description.–Space Hardware shall be itemized in three categories as follows:

- Completed Space Hardware Systems and Subsystems.–Includes the cost *(actual or estimated)* of such items as aircraft, engines, space vehicles, satellites, spacecraft, and rockets including components provided for prototypes, mock-ups, fit checks, or for such other reasons as may be specified in the contract *(NPR, Appendices B/C, 311, Attachment 3, paragraph 1(i)(i)).*

- Completed Components and Spare Parts.–Includes the cost *(actual or estimated)* of deliverable spare parts and components employed as spare parts to be used for the purposes of emergency, replacement, repair, or modification subsequent to the fabrication of Space Hardware. Do not include components utilized by the contractor which are not deliverable as spares and which are included as work in process *(NPR, Appendices B/C, 311, Attachment 3, paragraph 1(i)(ii)).*

- Work in Process.–Includes the actual or estimated fabrication costs as of the date of the report of undelivered Space Hardware and such associated systems, subsystems, spare parts, and components which are provided or acquired and charged to work in process pending incorporation into an end item. Also include progress payments to firm fixed-price subcontractors for undelivered items *(NPR Appendices B/C, 311, Attachment 3, paragraph 1 (i)(iii)).*

Quantity.–Enter the total units on hand as of the end of the reporting period, including both Government-furnished and contractor-acquired, for each line item listed under completed Space Hardware only *(excluding systems and subsystems).*

Cost (Net).–Enter the cost of each classification of Government-furnished or contractor-acquired Space Hardware *(whether fabricated or purchased)* applicable to each category of Space Hardware. Unpriced transfer documents received for GFP be handled in accordance with instructions above relating to Additions, Government-furnished.

18-53.303-1098 (April 1, 1984) NFSD 84-1

FORMS

NASA National Aeronautics and Space Administration

Checklist for Contract Award File Content

Place document in file, separated by numbered tabs. If document is required, indicate in the "IN FILE" column.

DOCUMENT	IN FILE	DOCUMENT	IN FILE
PRE-SOLICITATION		20.	
1. PROCUREMENT REQUEST *(Including Statement of Work)*		21.	
2. EVALUATION CRITERIA/PLAN		22.	
3. WAIVER OF SEB NHB 5103.6A, FOREWARD		23.	
4. SAFETY AND HEALTH		24.	
5. RELIABILITY AND QUALITY ASSURANCE		SOLICITATION	
6. SECURITY REQUIREMENTS NASA FORM 446, DD FORMS 254 AND 441		25. LEGAL/INSTALLATION REVIEW	
7. SET-ASIDE CONSIDERATION/DETERMINATION		26. SYNOPSIS/EXCEPTION	
8. JUSTIFICATION NONCOMPETITIVE PROCUREMENT/. UNSOLICITED PROPOSAL ACCEPTANCE		27. IFB/RFP *(Incl. Amendments)*	
9. EVIDENCE OF ADPE ACQUISITION APPROVAL NHB 2410.1		28. NO BID/NO PROPOSAL CORRESPONDENCE	
10. GSA DELEGATED PROCUREMENT AUTHORITY *(ADPE)*		29. PRE-BID/PRE-PROPOSAL CONFERENCE NOTES	
11. PROCUREMENT PLAN		30. ABSTRACT OF BIDS/LIST OF PROPOSALS	
12. LIST OF GOVT.-FURNISHED PROPERTY		31. ADMINISTRATIVE DETERMINATIONS - LATE BIDS/ PROPOSALS; MISTAKES	
13. NOTICE OF INTENT TO AWARD A SERVICE CONTRACT (SF 98) WAGE DETERMINATION		32.	
14. D&F AUTHORITY TO NEGOTIATE IOUSC2304(a) ( )		33.	
15. D&F: METHOD OF CONTRACTING		34.	
16. D&F: AUTHORIZATION FOR ADVANCE PAYMENTS		35.	
17. INITIAL SOURCE LIST DEBARRED LIST CHECKED		EVALUATION AND SELECTION	
18. ADDITIONS TO SOURCE LIST *(write-Ins)* REQUESTS DENIED; DEBARRED CHECKED		36. UNSUCCESSFUL OFFERS *(Incl. Representations and Certifications)*	
19. DETERMINATION OF NON-AVAILABILITY *(Buy American)*		37. SUCCESSFUL PROPOSAL *(Incl. Representations and Certifications)*	

IFB/RFP NO		CONTRACTOR NAME
CONTRACT NO		MODIFICATION NO.
CONTRACT SPECIALIST		CONTRACT VALUE
CODE	TELEPHONE	CONTRACT TYPE

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CFR TITLE 48 CHAPTER 18

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FORMS

DOCUMENT	IN FILE	DOCUMENT	IN FILE
38. TECHNICAL EVALUATION		65. CERTIFICATE OF CURRENT COST OR PRICING DATA/WAIVER	
39. PRICING SUPPORT/WAIVER		66.	
40. COMPETITIVE RANGE DETERMINATION		67.	
41. PRE AWARD SURVEY		68.	
42. DETERMINATION OF NONRESPONSIBILITY		69.	
43. CERTIFICATE OF COMPETENCY GRANTED/DENIED		70.	
44. RECORD OF DISCUSSION/SEB FINDINGS (NHB 5103.6, CHAPTER 5)		REVIEW AND APPROVAL	
45. SOURCE SELECTION STATEMENT (SEB/NON-SEB)		71. INSTALLATION PROCUREMENT REVIEW AND RESOLUTION BY CONTRACTING OFFICER	
46. NOTICE OF UNSUCCESSFUL OFFERORS		72. INSTALLATION LEGAL REVIEW AND RESOLUTION BY CONTRACTING OFFICER	
47. DEBRIEFINGS		73. APPROVAL OF LETTER CONTRACT	
48. PROTESTS		74. CONTRACT APPROVAL *(Installation/Headquarters)*	
49. DETERMINATION OF DISCLOSURE STATEMENT ADEQUACY (CAS)		75.	
50. EO COMPLIANCE REVIEW AND CLEARANCE		76.	
51.		77.	
52.		AWARD DOCUMENTS	
53.		78. DRAFT PRESS RELEASE	
54.		79. POST AWARD SYNOPSIS	
55.		80. CONTRACT	
56.		81. INDIVIDUAL PROCUREMENT ACTION REPORT, NASA FORM 507	
NEGOTIATIONS		82. C.A.S.E. REPORT ON UNIVERSITY PROJECTS, NASA FORM 1356	
57. PRENEGOTIATION POSITION APPROVAL *(Include any Incentive Arrangement)*		83.	
58. CONTRACTOR REQUEST FOR FACILITIES AND NASA AUTHORIZATION		84.	
59. SCREENING OF FACILITY/PROPERTY REQUIREMENTS		85.	
60. AUTHORITY TO USE GOVEPNMENT PROPERTY		86.	
61. MAKE OR BUY DECISION		87.	
62. PLAN FOR NEW TECHNOLOGY REPORTING		88.	
63. DEVIATIONS		89.	
64. MEMORANDUM OF NEGOTIATIONS		90.	

GPO 804-803

NASA/FAR SUPPLEMENT

18-53.303-1356 (April 1, 1984) NFSD 84-1

FORMS

NASA National Aeronautics and Space Administration

C.A.S.E. Report on College and University Projects

PART I—TECHNICAL DATA *(To be completed by procurement request initiators)*

Procurement request initiators are required to complete part I and to include this form with their procurement requests (PR's) for certain obligations to educational institutions. Forms need not be submitted with all PR's, for details, see the brief instructions on the back of this page.

PLEASE TYPE OR PRINT LEGIBLY. ATTACH COMPLETED FORM TO PROCUREMENT REQUEST.

1. UNIVERSITY NAME, CITY AND STATE	3. PRINCIPAL INVESTIGATOR *(Two initials and surname)*
	4. SECOND PRINCIPAL INVESTIGATOR *(If any, two initials and surname)*
2. PROPOSAL IDENTIFICATION *(If any)*	5. THIRD PRINCIPAL INVESTIGATOR *(If any, two initials and surname)*

6. PRIMARY NASA TECHNICAL OFFICER *(Two initials and surname)*	7. INSTALLATION NAME *	8. MAIL CODE *(HQ only)*
9. ALT. NASA TECHNICAL OFFICER *(If any, two initials and surname)*	10. INSTALLATION NAME	11. MAIL CODE *(HQ only)*

12. WILL THIS PROJECT BE CONDUCTED IN OR BY A MEDICAL SCHOOL? ☐ YES ☐ NO

13. MAIN OBJECTIVE OF WORK *(Circle one code)*

R&D ▶	11 BASIC RESEARCH	12 APPLIED RESEARCH	13 DEVELOPMENT
OTHER ▶	06 OTHER ACTIVITIES RELATED TO SCIENCE AND ENGINEERING	03 R&D PLANT AND EQUIPMENT	02 TRAINING GRANT *(NGT prefix only)*

14. FIELD OF SCIENCE OR ENGINEERING *(Circle the one code number which represents the most appropriate field. See instructions on reverse)*

PHYSICAL SCIENCES
11 ASTRONOMY
12 CHEMISTRY
13 PHYSICS
19 PHYSICAL SCIENCES, NEC*

MATH/COMPUTERS
21 MATHEMATICS
22 COMPUTER SCIENCES
29 MATH/COMPUTERS, NEC*

ENGINEERING
41 AERONAUTICAL
42 ASTRONAUTICAL
43 CHEMICAL
44 CIVIL
45 ELECTRICAL
46 MECHANICAL
47 METALLURGY AND MATERIALS
49 ENGINEERING, NEC*

LIFE SCIENCES
51 BIOLOGICAL SCIENCES
54 ENVIRONMENTAL BIOLOGY
55 AGRIC. SCIENCES
56 MEDICAL SCIENCES
59 LIFE SCIENCES, NEC*

SOCIAL SCIENCES
71 ANTHROPOLOGY
72 ECONOMICS
73 HISTORY
74 LINGUISTICS
75 POLITICAL SCIENCE
76 SOCIOLOGY
79 SOCIAL SCIENCE, NEC*

ENVIRONMENTAL SCIENCE
31 ATMOSPHERIC SCIENCES
32 GEOLOGICAL SCIENCES
33 OCEANOGRAPHY
39 ENVIRONMENTAL SCIENCES, NEC*

PSYCHOLOGY
61 BIOLOGICAL
62 SOCIAL ASPECTS
69 PSYCHOLOGY, NEC*

OTHER SCIENCES**
99 ALL DISCIPLINE(S)

*Not Elsewhere Classified (For interdisciplinary projects and others not listed by discipline name).
**For interdisciplinary projects which cannot be classified within any of the preceding main fields.

PART II—PROCUREMENT DATA *(To be completed by procurement office. See instructions on last page)*

15. AGREEMENT NO. *(Including prefixed letters)*	16. MODIFICATION NO.	17. AMOUNT OBLIGATED	18. COST SHARING PERCENTAGE
1 2 3 4 5 6 7 8 9 10			

19. TYPE OF ACTION BEING REPORTED *(Circle one code number)*

1 NEW AWARD *(New agreement number assigned)*
2 ADDITIONAL FUNDS, SAME DURATION *(Excludes incremental funding)*
3 ADDITIONAL FUNDS AND TIME *(Excludes incremental funding)*
4 NO COST TIME EXTENSION
5 CHANGE IN PRINCIPAL INVESTIGATOR OR TECHNICAL OFFICER
6 INCREMENTAL FUNDING *(Applies only to contracts conforming to PR 7.204-53)*

20. TITLE OR BRIEF DESCRIPTION OF TECHNICAL PURPOSE OF AGREEMENT *(Required only for new awards)*

21. PROPOSAL TYPE *(Circle one)* *(See Instruction 7.16)*		22. START *(This action)*			23. END *(Completion)*			24. GOV'T SIGNATURE		
UNSOLICITED	SOLICITED	MO. a.	DAY b.	YR. c.	MO. a.	DAY b.	YR. c.	MO. a.	DAY b.	YR. c.
UC—Spec. Announcement UN—No Announcement UX—Other	SA—Ann. of Opportunity SR—RFP/RFQ SU—Advertised SX—Other									

25. SPECIAL DATA	26. VALIDATION BY RESPONSIBLE INDIVIDUAL				27. AD HOC DATA					
	NAME AND INSTALLATION *(Type or print)*	MO. a.	DAY b.	YR. c.	a	b	c	d	e	f
					g	h				

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(LIFT HERE: PART I INSTRUCTIONS ON BACK OF THIS PAGE) 1. ORIGINAL

18-53.303-1413 (April 1, 1984) NFSD 84-1

FORMS

NASA National Aeronautics and Space Administration

Termination Docket Checklist

NOTE --Form must be stapled to inside of docket file cover and be fully executed and completed within 30 days of closing.

CONTRACTOR'S NAME AND ADDRESS	DOCKET NO.
	CONTRACT NO.
	PURCHASE ORDER NO.

TYPE SETTLEMENT	TYPE CONTRACT	TYPE TERMINATION
☐COST ☐NO COST	☐FP ☐FPI ☐CPF ☐CPIF ☐LETTER	☐TOTAL ☐PARTIAL

TAB NO.	DESCRIPTION	IN FILE (Check or enter n/a)
1	TERMINATION AUTHORITY AND ASSOCIATED PAPERS FROM THE INITIATING AUTHORITY	
2	INITIAL ELECTRICALLY-TRANSMITTED NOTICE OF TERMINATION TO THE CONTRACTOR AND AMENDMENTS, IF ANY	
3	FORMAL NOTICE *(Confirming Letter notice)* AND AMENDMENTS, IF ANY	
4	CONTRACT TERMINATION STATUS REPORTS, FROM NO. 1 THROUGH FINAL REPORT	
5	CONTRACT OR PURCHASE ORDER, INCLUDING SUPPLEMENTS OR AMENDMENTS AFFECTING THE TERMINATION, OR CROSS-REFERENCE SHEET INDICATING ITS LOCATION	
6	ASSIGNMENTS OF TERMINATION DOCKETS	
7	DELEGATIONS BY CONTRACTING OFFICER TO REPRESENTATIVES AND ANY REVOCATIONS THEREOF	
8	MEMORANDUM OF INITIAL CONFERENCE OR ANY OTHER CONFERENCE	
9	NO-COST LETTER FROM CONTRACTOR	
10	MISCELLANEOUS PAPERS, DOCUMENTS, RECORDS OF OTHER CONFERENCES, MEMORANDUMS, ETC., CONCERNING SETTLEMENT	
11	PRIME CONTRACTOR'S SETTLEMENT PROPOSAL *(Standard Forms 1435, 1436, 1437, 1438, or other document if settlement is limited to adjustment of fee and Contractor elects to voucher out costs)*	
12	PARTIAL PAYMENT APPLICATIONS, VOUCHERS, AGREEMENTS & OTHER PAPERS PERTAINING TO INTERIM FINANCING	
13	ACCOUNTING REVIEW OF PROPOSAL OF PRIME CONTRACTOR	
14	LIST AND DISPOSITION OF SUBCONTRACTORS' CLAIMS IF NOT INCLUDED IN SETTLEMENT MEMORANDUM; DOCUMENTS SUPPORTING SUBCONTRACT SETTLEMENTS	
15	FINAL REPORTS BY TECHNICAL PERSONNEL *(Project engineer, cost analysts, inspectors, etc.)*	
16	DOCUMENTS PERTAINING TO COUNTERCLAIMS, SET-OFFS, APPEALS, LITIGATIONS, ETC	
17	CLOSING REPORTS OF SUBCONTRACTORS' INVENTORY DISPOSITION WHERE APPROVAL OF GOVERNMENT PERSONNEL IS REQUIRED	
18	CLOSING REPORT(S) FOR DISPOSITION OF PRIME CONTRACTOR INVENTORY *(See prime plant clearance officer's file for complete documentation)*	
19	SETTLEMENT MEMORANDUM, WHICH COMPLETELY EXPLAINS SETTLEMENT	
20	LIST OF EXCLUDED ITEMS *(Documents should explain why items excluded from settlement)*	
21	RECOMMENDATIONS, DECISIONS, APPROVAL OR DISAPPROVAL BY THE INSTALLATION SETTLEMENT REVIEW BOARD	
22	APPROVAL, DISAPPROVAL, OR RECOMMENDATION BY HEADQUARTERS NASA SETTLEMENT REVIEW BOARD, IF SETTLEMENT IS OVER $500,000	
23	RECORDS OF SETTLEMENT BY DETERMINATION	
24	SUPPLEMENTAL SETTLEMENT AGREEMENT OR AMENDMENT *(Final)*	
25	NOTICE TO AND/OR CONCURRENCE OF ASSIGNEES, GUARANTORS, AND SURETIES	
26	COPY OF VOUCHER ON WHICH FINAL PAYMENT TO CONTRACTOR WAS MADE	

CERTIFICATION OF TERMINATION CONTRACTING OFFICER

I CERTIFY THAT I HAVE EXAMINED THE FILE TO WHICH THIS TERMINATION DOCKET CHECKLIST PERTAINS; THAT THE RECORDS ARE PRESENT IN THE FILES AS INDICATED ON THE CHECKLIST; AND THAT THE FILE CONSTITUTES A RECORD WHICH WILL ADEQUATELY SUPPORT THE ACTIONS TAKEN IN THE CASE, UNDER APPLICABLE DIRECTIVES. PLANT CLEARANCE RECORDS ARE MAINTAINED BY THE PLANT CLEARANCE OFFICER NAMED BELOW IN CONNECTION WITH THIS DOCKET IN ACCORDANCE WITH THE PROVISIONS OF FAR SUBPART 45.6 AND NASA FAR SUPPLEMENT 18.45.6

NAME OF PLANT CLEARANCE OFFICER	SIGNATURE OF TERMINATION CONTRACTING OFFICER	DATE

CERTIFICATE OF EXAMINER *(Signature of examiner must be that of a person exercising supervisory control over the Terminating Contracting Officer)*

I CERTIFY THAT I HAVE EXAMINED THE FILE TO WHICH THIS CLOSED TERMINATION DOCKET CHECKLIST PERTAINS AND THAT I CONSIDER IT A COMPLETE AND ADEQUATE RECORD OF THE CASE

SIGNATURE OF EXAMINER	DATE

NASA FORM 1413 OCT 83 PREVIOUS EDITION IS OBSOLETE

CFR TITLE 48 CHAPTER 18

NFSD 84-1 (April 1, 1984) 18-53.303-1432

FORMS

NASA Letter of Contract Administration Delegation, Termination	1 NASA CONTROL NO.	2 ADMINISTRATIVE OFFICE CONTROL NO
3. TO:	4. FROM:	
5. CONTRACTOR	6. CONTRACT NO. AND DATE	7. FACE VALUE
	8. CONTRACT TYPE	9. ORIGINAL COMPLETION DATE

10. CONTRACT END ITEM OR SERVICE *(Describe briefly)*

11. This contract was ☐ completely terminated; ☐ partially terminated by Notice of Termination, dated _____

12. You are hereby delegated the termination function(s) marked below

a. ☐ Hold initial conference; obtain, review and analyze prime contractor and subcontractor termination settlement proposals.

b. ☐ Conduct termination proceedings, including negotiation of the settlement agreement but not including execution of the settlement agreement;

c. ☐ Property and Plant Clearance.

13. The Notice of Termination letter; NASA Form 1412, Termination Authority; and special instructions, if any, are attached hereto.

14. Reporting Requirements:

a. A copy of the initial conference memorandum shall be submitted within 10 work days after the post termination conference.

b. Periodic termination status reports shall be submitted through final termination settlement.

c. Financial report of Government-owned, contractor-held property (NASA Form 1018) shall be submitted in accordance with the contract, and shall continue until all property has been disposed of and final termination settlement is accomplished. An information copy of this report shall be furnished per item 15, below

d. The Final Settlement Memorandum shall be submitted, along with the Final Settlement Agreement *(If item 12b, above, is delegated)*.

15. All reports and other correspondence pertinent to this termination should be addressed to:

_____ _____ _____
(Name) *(Mail Code)* *(Phone No.)*

16. Please indicate your acceptance of this delegation by completing items 20, 21 and 22, below, and return one copy within 5 days of receipt.

17. TYPED NAME OF CONTRACTING OFFICER	18. SIGNATURE OF CONTRACTING OFFICER	19. DATE SIGNED

*For use by the Contract Administration Office receiving this delegation.

THE ABOVE DELEGATION IS HEREBY ACCEPTED

20. TYPED NAME OF CONTRACTING OFFICER	21. SIGNATURE OF CONTRACTING OFFICER	22. DATE SIGNED

NASA FORM 1432 OCT 83 PREVIOUS EDITION IS OBSOLETE

NASA/FAR SUPPLEMENT

18-53.303-1434

NASA National Aeronautics and Space Administration

Letter of Request for Pricing-Audit-Technical Evaluation Services

1. NASA CONTROL NO	2 RECEIVING OFFICE CONTROL NO

3 TO

4. FROM

5 PRIME CONTRACTOR OR SUBCONTRACTOR NAME AND ADDRESS	6. CONTRACT NO	7 PROPOSAL, RFP OR MODIFICATION REFERENCE, IF NOT ENCLOSED *(See item 12)*
	8. CONTRACT TYPE	9 DATE REQUIRED

10 NASA CONTACT FOR THIS REQUEST *(Name, Office Code and Phone)*

11 SERVICES REQUESTED *(See item 2 of instructions)*

- ☐ a PROVIDE COST ANALYSIS, INCLUDING AUDIT, TOGETHER WITH A COVER MEMO SUMMARIZING ALL PERTINENT FACTORS CONSIDERED NECESSARY FOR NEGOTIATING.
- ☐ b PROVIDE RATES AND FACTORS DATA, INCLUDING LATEST AVAILABLE ACTUALS.
- ☐ c PROVIDE INCURRED HOURS/COSTS.
- ☐ d PROVIDE AUDIT ONLY
- ☐ e. PROVIDE COMMENTS ON ANY PROPOSAL ELEMENTS CONSIDERED TO BE INADEQUATELY SUPPORTED BY PRICE AND COSTING DATA *(PI. 87-653).*
- ☐ f PROVIDE TECHNICAL EVALUATION
- ☐ g. PROVIDE VERBAL REPORT BY REQUIRED DATE *(Item 9, above).*
- ☐ h. PROVIDE STATEMENT THAT CAS DISCLOSURE STATEMENT IS ADEQUATE
- ☐ i. OTHER *(Specify here and on continuation sheets if necessary)*

12 ENCLOSURES *(Check and identify)*

☐ a. RFP _____ ☐ b. TECHNICAL PROPOSAL _____

☐ c. COST PROPOSAL _____ ☐ d. OTHER _____

13. INFORMATION COPIES SENT TO *(Organization and location)*

14. ATTENTION RECEIVING OFFICE. – Please acknowledge below and return one copy to the requesting office within 5 work days. If required date in item 9 above cannot be met, please contact the individual named in item 10.

15 TYPED NAME OF REQUESTOR	16. SIGNATURE OF REQUESTOR	17. DATE SIGNED

THE ABOVE REQUEST FOR SERVICES IS HEREBY ACKNOWLEDGED

18. DATE SERVICES WILL BE FURNISHED	19. CONTACT FOR THIS REQUEST *(Name and phone)*	20. REFER INQUIRIES TO THE FOLLOWING CONTROL NO

21. TYPED NAME	22. SIGNATURE	2.1 DATE SIGNED

NASA FORM 1434 OCT 83 PREVIOUS EDITIONS ARE OBSOLETE.

18-53.303-1434-(A)

INSTRUCTIONS

1. The purpose of this form is to standardize requests for specific one-time services or information from contract administration and audit offices. It should be used in conjunction with any contract whether or not the contract has been delegated for contract administration or audit, and for services required on procurements that are in the pre-award phase. This form shall *not* be used to request pre-award surveys in lieu of Standard Forms 1403 through 1408, nor to delegate contract administration or audit functions covered by NASA Forms 1430, 1430A, 1432 and 1433.

2. When completing item 11, the services desired *should be clearly marked and/or described in continuation sheets* to preclude servicing organizations from furnishing expensive services over and above those actually needed. Continuation sheets should also be used in conjunction with item 11 to provide sufficient background information to assist the servicing organization in furnishing the quality of service desired, such as the criticality of the work to be performed, importance of the delivery schedule, the caliber of the contractor personnel desired, etc.

3. Distribution of the form should include at least the following but may be adjusted to satisfy NASA contracting officers or servicing organizations:

   a. Original and 1 copy to the servicing organization.

   b. Information copy to the cognizant auditor if service is requested of a contract administration officer, or an information copy to the contract administration office concerned if service is requested of the cognizant auditor.

   c. Information copies to cognizant DCAA on-site Procurement Liaison Auditors, if applicable.

4. The requirement for use of this form does not preclude the use of oral and TWX requests when there is need for expedited service; however, such requests should furnish most of the information contained on the form and should request written acknowledgement to include the data shown in items 18 through 23. Care should be taken when using TWX requests to assure that appropriate distribution is made. Oral requests should be confirmed by use of this form.

[FR Doc. 84-12759 Filed 5-15-84; 8:45 am]
BILLING CODE 7501-01-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 30519-89]

Shrimp Fishery of the Gulf of Mexico; Texas Closure Adjustment

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

ACTION: Notice of Texas closure adjustment.

SUMMARY: NOAA adjusts the beginning date of the Texas closure from June 1, 1984 to May 16, 1984 for closure of the fishery conservation zone off Texas to trawl fishing. In addition, NOAA adjusts the ending date from July 15 to July 14, 1984. This closure applies for all species of shrimp except royal red shrimp beyond the 100-fathom depth contour. The action is prescribed by existing regulations, and its intended effect is to allow harvest of brown shrimp at optimal commercial size.

EFFECTIVE DATES: Closure is effective from 30 minutes after sunset on May 16, 1984 to 30 minutes after sunset on July 14, 1984. Public notice has been issued at least 72 hours prior to closure as required under 50 CFR 658.24(b) (3) and (4).

FOR FURTHER INFORMATION CONTACT: Edward E. Burgess, National Marine Fisheries Service, Southeast Regional Office, Fishery Operations Branch, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone number: 813-893-3723.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico provides for adjustments to the closing and opening dates for the seasonal closure of the fishery conservation zone off Texas. Implementing rules at 50 CFR 658.24 describe the Texas closure and specify that these adjustments be made by the Regional Director under criteria set out in that section.

Available information and estimates indicate that an early closure is warranted and desirable. Biological data collected by the Texas Parks and Wildlife Department on the size of shrimp indicate an earlier-than-usual movement of brown shrimp from the bays into the Gulf. The regulations state that the closure data must be based on a prediction of when the average size of brown shrimp leaving the bays to enter the Gulf will be 80 to 90mm, on the strength of outgoing tides at that time, and on other ecological data relevant at this time that includes periods of larger-than-average tidal duration, which this year occur May 3–8, 1984; May 16–22, 1984; May 30–June 5, 1984; and June 12–19, 1984. It is predicted that the average size of shrimp entering the Gulf of Mexico will be 90mm on or about May 18, 1984. Based on this information, the Regional Director has determined that the customary closure dates of June 1 to July 15 will be changed to May 16 to July 14. The State of Texas will close its waters during these same days.

All trawling is prohibited betwen May 16 to July 14, 1984, in the area described in § 658.24(a), except that vessels may trawl for royal red shrimp beyond the 100-fathom depth contour. These vessels need no special permit or letter of authorization.

Other Matters

This action is taken under the authority of 50 CFR 658.24, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 658

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: May 11, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-13189 Filed 5-11-84; 4:41 pm]

BILLING CODE 3510-22-M

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50 CFR Part 674

[Docket No. 30812-162]

High Seas Salmon Fishery Off Alaska; Delay in Season Opening Date

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

ACTION: Final notice of delay in season opening date.

SUMMARY: The Secretary of Commerce will delay the opening date of the commercial fishery for chinook salmon in the fishery conservation zone (FCZ) off southeast Alaska from May 15 to June 5, 1984. This delay is necessary to reduce the overall fishing effort on chinook salmon, thereby controlling the directed harvest as well as mitigating the effects of hooking mortality on incidentally-caught chinook that would occur during a coho-only season. This action is intended to conserve chinook salmon stocks that contribute to the Alaska, Oregon, and Washington chinook salmon fisheries.

EFFECTIVE DATE: This notice is effective 12:01 a.m. Alaska Daylight Time (ADT), May 15, 1984, delaying the opening of the 1984 fishing season for chinook salmon until 12:01 a.m. ADT, June 5, 1984. It was filed for public inspection with the Office of the **Federal Register** on May 11, 1984.

ADDRESS: The data upon which this notice is based are available for public inspection during business hours (8:00 a.m. to 4:30 p.m. ADT weekdays) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: James R. Wilson (Regional Economist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP), which governs this fishery in the FCZ, provides for inseason adjustments by field order of season and area openings and closures. The FMP was developed by the North Pacific Fishery Management Council (Council) and implemented under the Magnuson Fishery Conservation and Management Act. The rules implementing the FMP at 50 CFR 674.23 (a) and (b) specify that these orders will be issued by the Secretary of Commerce under criteria set out in those rules.

The rationale for this delay in season opening date was discussed in a notice that was published in the **Federal Register** on May 1, 1984 (49 FR 18581). Public comments were invited until May 8, 1984. No comments were received.

The season delay will become effective upon filing this notice for public inspection with the Office of the Federal Register and the change in opening date is publicized for 48 hours through Alaska Department of Fish and Game procedures under § 674.23(b)(2). The commercial fishery for chinook salmon will open Jun 5, 1984 at 12:01 a.m. ADT.

Other Matters

This action is taken under the authority of regulations specified at § 674.23, and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 674

Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: May 11, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-13178 Filed 5-11-84; 4:42 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 96
Wednesday, May 16, 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

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Tobacco Adjustment Act of 1983 (Title II of Pub. L. 98–180) ("the Act") approved November 29, 1983, requires the inspection for grade and quality of all tobacco offered for importation into the United States except cigar and oriental tobacco which must be certified by the importer as to kind and type and, in the case of cigar tobacco, that such tobacco will be used solely in the manufacture of cigars. The Act also requires that the Secretary establish grade and quality standards for the inspection of imported tobacco and fix and collect fees from the importers to cover, as nearly as practicable, the costs of such services. It is proposed that the regulations governing the inspection and grading of domestically grown tobacco be amended to provide for the inspection of imported tobacco and to establish fees to cover the inspection services. Regulations governing the certification of imported cigar and oriental tobacco will be proposed at a later date.

DATE: Comments are due on or before May 31, 1984.

ADDRESS: Send comments to the Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture, Room 502 Annex Building, Washington, D.C. 20250. Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Lionel Edwards, Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447–2567.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to amend the regulations governing the inspection and grading of domestically produced tobacco (7 CFR Part 29 *et seq.*) to provide for the inspection by the Department of imported tobacco and to fix and collect fees for the inspection services. These fees and charges would, as nearly as practicable, cover the cost of such services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The authority for these regulations is contained in the Tobacco Adjustment Act of 1983 (Title II of Pub. L. 98–180) ("the Act") and the Tobacco Inspection Act (48 Stat. 731; 7 U.S.C. 511 *et seq.*). The proposed amendments are designed to accomplish the statutory requirements of inspection of imported tobacco in a manner, insofar as practicable, that does not place an undue burden on the Federal inspection service or impede the expeditious movement of the commodity in commerce. The data collected on volume, grade, and quality of the tobacco inspected will be compiled, summarized, and published on a quarterly basis. This information will be periodically compared with statistics released by other government agencies to insure that all imported tobacco is inspected as required by the Act. Official standards for the inspection and grading of imported tobacco were approved in a separate rulemaking procedure (49 FR 16755).

The Department has investigated the importation to tobacco into the United States prior to publishing these proposed rules. Most imported tobacco arrives in this country be vessel, typically in 40-foot containers which carry 90–99 packages weighing approximately 500 pounds each. Generally, these containers are transferred to a rail or truck carrier and transported to an inland port of entry where the tobacco is unloaded for warehousing, manipulation, or manufacturing. Most imported tobacco is initially stored in bonded warehouses. Shipments are identified by invoices and packing lists which give detailed accountings of the tobacco, including country of origin, weight, and company grade.

It is proposed that all tobacco offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, oriental and cigar tobacco, shall be inspected. Tobacco would be inspected at the point of entry as it is unpacked from a container, or otherwise unloaded from a carrier, for warehousing, manipulation, or manufacturing using a selective sampling technique. The importer would be issued an inspection certificate showing, among other things, the type, U.S. Standard Grade, date of inspection, country of origin, and net weight in pounds.

The fee for inspection of imported tobacco would initially be set at $.0035 per pound. This fee was determined after a thorough review of the procedures to be used, the anticipated volume of inspection, and the number of staff-hours necessary to provide the inspection service. Since this is a new program, the costs actually incurred would be closely monitored during the start-up phase. Based on this review, adjustments would be made in the fee as necessary.

Regulations pertaining to the inspection of imported tobacco pursuant to Section 213(a)(1) are being proposed at this time in order to expedite the information collection purposes of the statute as it pertains to the vast majority of imported tobacco. Regulations pertaining to the certification of cigar and oriental tobacco pursuant to Section 213(a)(2) will be proposed at a later date.

These proposed rules have been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and have been determined to be "nonmajor" because they do not meet any of the criteria established for major rules under the Executive Order. Initial review of the regulations contained in 7 CFR Part 29, for need, currentness, clarity, and effectiveness has been completed. During the start-up phase of this operation, the Department will closely monitor the procedures established in the final rule to insure that any problems which may arise are promptly addressed.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling

Paperwork Burdens on the Public, which implements the Paperwork Reduction Act of 1980, Pub. L. 96–511, the information collection requirements contained in this proposed rule have been submitted to OMB for review as prescribed in § 1320.13 Clearance of Collection of Information Requirements in Proposed Rules under Section 3504(h) of the Paperwork Reduction Act. Comments covering the information collection requirements contained in this proposed rule may be addressed to: The Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer, AMS, USDA, Washington, D.C. 20503; Telephone: 202–395–7313.

Additionally, in conformance with the provisions of Public Law 96–354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business of this proposed rule. A number of firms which are affected by these proposed regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will have no significant economic impact upon all entities, small or large, and will not substantially affect the normal movement of the commodity in the market place.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that an emergency situation exists which warrants less than a 30-day comment period on this proposal. There is a need to implement and test the procedures prior to the beginning of the flue-cured marketing season when inspectors and supervisors will be occupied in the inspection and grading of domestically produced tobacco. Therefore, a 15-day comment period is provided for this proposal.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file the same with the Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, United States Department of Agricultural, Washington, D.C. 20250 not later than May 31, 1984.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Tobacco.

PART 29—[AMENDED]

For the reasons set out in the preamble, the Department proposes that the regulations contained in 7 CFR Part 29, be amended as follows:

1. The authority citation for Part 29 reads as follows:

Authority: Title II of Pub. L. 98–180, 49 Stat. 731; 7 U.S.C. *et seq.*

2. After § 29.133, the following sections are added:

§ 29.400 Inspection of imported tobacco.

All tobacco offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, oriental and cigar tobacco, shall be inspected for grade and quality. Tobacco subject to inspection shall be inspected at the point of entry.

§ 29.401 Definitions.

As used in §§ 29.400–29.500, the words and phrases hereinafter defined shall have the following meanings:

(a) *Importation.* Arriving within the territorial limits of the United States with the intent to unload.

(b) *Importer.* The owner of the tobacco at the time of importation or the owner's successor in interest if the tobacco is sold prior to the completion of the requirements of §§ 29.400–29.500.

(c) *Inspection Certificate.* An official written representation of a lot of tobacco made by an inspector and issued to an importer.

(d) *Invoice.* A writing on behalf of the importer that is used in commercial transactions of tobacco for selling, purchasing, shipping, or consigning.

(e) *Lot.* A unit of shipment of tobacco encompassed by a single invoice.

(f) *Package.* A hogshead, carton, case, bale, or other securely enclosed parcel or bundle.

(g) *Packing List.* A document itemizing each package covered by a single invoice listing, among other things, the king of tobacco in each package, the net weight, and the marks and numbers identifying each package.

(h) *Point of Entry.* The place at the port of entry or foreign trade zone where tobacco is unloaded from a carrier or unpacked from a container for the purpose or warehousing, manipulations, or manufacturing.

(i) *Port of Entry.* Any place designated by Executive Order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a customs officer is authorized to accept entries of merchandise, to collect duties, and to enforce the various provisions of the Customs and Navigation laws. The term "port of entry" incorporates the geographical area under the jurisdiction of the port director when such port is one other than a district headquarters port.

(j) *Tobacco.* Tobacco between the time it is cured and stripped from the stalk or primed and cured, in whole leaf or unmanufactured form, and the time it is utilized in product manufacturing. Conditioning, sweating, stemming, and threshing are not considered manufacturing.

(k) *Transshipped Tobacco.* Tabacco that arrives within the territorial limits of the United States for the purpose of continuous transportation without being unloaded for warehousing, manipulation, manufacturing, to a destination outside the territorial limits of the United States.

(l) *Unload.* To remove from carrier at the port of entry or at a foreign trade zone.

§ 29.402 Advance notice.

The importer shall notify, orally or in writing, the Raleigh Regional Office, USDA, AMS, Tobacco Division, P.O. Box 27846, Raleigh, North Carolina, 27611, or the Lexington Regional Office, USDA, AMS, Tabacco Division, 333 Waller Avenue, Lexington, Kentucky, 40504, of the date and location that tobacco subject to inspection under Section 29.400 will be unloaded for warehousing, manipulation, or manufacturing. This notice shall be received at the Regional office at least five working days prior to unloading the tobacco for warehousing, manipulation, or manufacturing.

§ 29.403 Accessibility to tobacco.

All tobacco subject to inspection under § 29.400 shall be made accesible by the importer for examination in a manner prescribed by the inspector. This includes providing proper lighting, removal of package coverings, and such other provisions as the inspector may deem necessary for inspection.

§ 29.404 Inspection.

The inspector shall review each lot of tobacco through a process of selective sampling in sufficient detail to allow an accurate determination of the types and grades contained in each lot.

§ 29.405 Inspection by submitted samples.

The Director, in lieu of onsite inspection, may approve submission by the importer of samples where time, geographical distance, or availability of inspectors prevent a timely on site inspection, or where tobacco is classified as a "temporary importation under bond" as defined in 19 CFR 10.31 *et seq.* The importer shall certify that sampling was conducted in accordance

with procedures approved by the Director. All tobacco inspected by submitted sample is subject to spot-checking at the discretion of the Director. Submitted samples shall be disposed of in a manner approved by the Director unless return of the sample is requested by the importer at the time of submission. Samples will only be returned at the importer's expense.

§ 29.406 Import inspection certificate.

An import inspection certificate shall consist of a certificate issued by the Tobacco Division in a form approved by Director. A certificate shall be issued to the importer as soon as practicable following the completion of inspection. A separate certificate shall be issued for each lot tobacco. In case of a lost or destroyed certificate, a duplicate may be issued under the same number, date, and name by an authorized supervising official. Duplicate certificates shall be plainly marked "Duplicate" above the signature of the supervising official who issued it.

§ 29.407 Disposition of import inspection certificate.

The inspector shall provide the importer with the original portion of the certificate and forward the first copy to the Director and the second copy to the appropriate Regional office. The importer shall retain the original inspection certificate until the lot inspected has been manufactured into products or exported from the United States. At that time, the original inspection certificate shall be sent to the Director.

§ 29.500 Fees and charges for inspection of imported tobacco.

The fee for inspection of imported tobacco is $0.0035 per pound, and shall be paid by the importer. This inspection fee applies to all tobacco imported into the United States except as provided in § 29.400. Fees for services rendered shall be remitted by check or draft in accordance with a statement issued by the Director, and shall be made payable to "Agricultural Marketing Service".

Date: May 14, 1984.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-13312 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 953

Irish Potatoes Grown in the Southeastern States; Proposed Amendment No. 1 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would relax requirements on fresh market shipments of potatoes grown in designated counties of Virginia and North Carolina by exempting all potato varieties except round whites. The amendment should promote orderly marketing of potatoes by relaxing requirements on such varieties used for experimental purposes.

DATE: Comments due by May 29, 1984.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S., U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kurt J. Kimmel, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 475-3929.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act.

Information collection requirements contained in this regulation (7 CFR Part 953) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMP # 0581-0084.

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

Marketing Agreement No. 104 and Order No. 953, both as amended, regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

This proposed amendment is based upon a unanimous recommendation made by the committee at its public meeting in Norfolk, Virginia, on April 19, 1984.

The proposal would exempt all potato varieties except round whites from requirements imposed under the order. The amendment is needed to provide flexibility for handlers of non-round white potatoes. Because such potatoes are grown in small quantities in the production area and shipped to markets on an experimental basis, requirements intended for round white potatoes would be inappropriate. Further, because growing and marketing of these potatoes from this production area are still experimental, shippers have not yet determined the size and quality standards that should be set. Until this becomes an established, significant operation the handling requirements should not apply to such shipment. This proposal should enable the Southeastern potato industry to better compete with other potato producing areas in the U.S. by ensuring the use of potatoes acceptable to buyers.

The amendment is proposed to be effective June 5, 1984, and continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary.

List of Subjects in 7 CFR Part 953

Marketing agreements and orders, Potatoes, Virginia, North Carolina.

PART 953—[AMENDED]

The amendment is as follows:

In § 953.322 the introductory text, paragraph (a), (b), (c) and (d) introductory text are revised to read as follows:

§ 953.322 Handling regulation.

During the period beginning June 5 and ending July 31 each season, no person shall ship any lot of potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d) or (e) of this section.

(a) *Minimum grade and size requirements.* All round white potatoes must be U.S. No. 2 or better grade, 1½ inches (38.1 mm) minimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e), no handler shall ship any round white potatoes unless an appropriate inspection certificate covering them has been issued by the Federal-State Inspection Service and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as hereinafter defined, livestock feed or charity or to shipments of round red, long white or Russet

variety potatoes. However, the handler or any potatoes shipped for such special purposes shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler making shipments of round white potatoes for canning, freezing, "other processing," livestock feed or charity, or making shipments of round red, long white or Russet variety potates in accordance with paragraph (c) of this section shall:

* * * * *

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

Dated: May 8, 1984.

Thomas R. Clark,

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

[FR Doc. 84–12974 Filed 5–15–84; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 330 and 346

Clarification and Definition of Deposit Insurance Coverage; Foreign Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing changes to amend its International Banking Act regulations in regard to the asset pledge and asset maintenance requirements. The FDIC is also proposing to add a section to its regulations to address concentrations of transfer risk. It is proposed that the asset pledge be modified in regard to the amount required and, correspondingly, in regard to the elimination of the allowance of credit for any other pledge-like transaction to a State or the Comptroller of the Currency. There would be no asset maintenance rule *per se;* rather, there would be a miminum capital equivalency ledger account evidencing funding of the branch by the parent bank. In regard to both the asset pledge and the capital equivalency ledger account, certificates of deposit would be included only if there is a valid waiver of offset agreement. The FDIC is also proposing to add regulatory limitations for concentrations of transfer risk to any one country by an insured branch. A change would also be made to indicate that deposits in the insured branch which are to the credit of an affiliated entity are not insured, and the definition of affiliate would be revised. The other proposed changes are primarily housekeeping in nature.

DATES: Comments must be received on or before July 2, 1984.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, or delivered to room 6108 at the same address between 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Hugh W. Conway, Review Examiner, Division of Bank Supervision, or Edward T. Lutz, Assistant Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, at (202) 389–4345 or 389–4512, respectively.

SUPPLEMENTARY INFORMATION: FDIC's rule which implements the deposit insurance provisions of the International Banking Act of 1978 became effective on July 9, 1979 and was subsequently amended in September 1979. The FDIC has determined that changes in the asset pledge provision and the asset maintenance rule, as well as the inclusion of requirements addressing concentrations of transfer risk, are warranted to clarify FDIC policy on the subject, to protect the deposit insurance fund, and to promote equality between all insured entities. The amendments would not have a substantial effect on competition in general but would in the main promote competitive equality between insured State and Federal branches and between insured branches and other insured institutions. Changes related to the changes being proposed in Part 346 of the FDIC rules and regulations are also being proposed in Part 330.

Comment is solicited on all proposed changes. The Board of Directors has determined that the comment period should be 45 days instead of 60 because of the protracted consideration of changes to Part 346 and the ensuing need to issue a final regulation in a timely fashion.

Asset Pledge

The current asset pledge rule, at 12 CFR 346.19, requires that a foreign bank must pledge assets equal to 10 percent of the insured branch's average liabilities for the last 30 days of the most recent calendar quarter, with an allowance for a credit of up to five percent for assets required to be pledged to the State or the Comptroller of the Currency. It is proposed that this rule be changed to require a five percent pledge to the FDIC, with no credit for any pledge required by the State or the Comptroller. The FDIC believes that it has clear authority under section 7 of the International Banking Act, 12 U.S.C. 1815(c)(2), to require an asset pledge in order to protect the deposit insurance fund. Since it is not only administratively difficult to monitor the pledges required by different licensing authorities, but also, more importantly, since the pledges required by these licensing authorities may not inure to the benefit of the FDIC to the same extent as the pledge of assets required under § 346.19, the FDIC has determined that a pledge of assets of five percent should be required of all insured branches. In determining average liabilities for the purposes of this computation, the FDIC proposes to allow the exclusion of liabilities to all affiliates, not just liabilities to wholly owned subsidiaries as in the present rule. This change is being made in line with the decision described below not to insure the deposits of any affiliate of the parent bank. Changes are proposed at § 346.19(b) (1) and (2) to accommodate the new requirements. Two substantive changes are proposed at § 346.19(d)(1). The first would require that a certificate of deposit may be included in the pledge only if a valid waiver of offset has been executed by the issuer. The purpose of the proposed change is to protect the deposit insurance fund by precluding the offsetting of deposits of the branch against claims against the foreign bank or the insured branch. The change is considered desirable to provide an additional measure of protection to the FDIC if liquidation of the insured branch becomes necessary. Comment on this proposed change is specifically requested. The second change is intended to state that the FDIC will not accept assets issued by any affiliated institutions or institutions from the same country as the foreign bank. The change would reflect the difficulty or possible inability to collect on claims against a related organization domiciled in a foreign bank's home country.

Other changes pertinent to the asset pledge are proposed, primarily for the purpose of clarification. The clarification at 12 CFR 346.19(b)(3) would show that FDIC may require a foreign bank to pledge additional assets or to compute its pledge on a daily basis. At § 346.19(c), an amendment to clarify that the FDIC may revoke previous approval for the selection of a particular institution as depository and that an affiliate may not act as depository is proposed. Section 346.19(e)(2)(ii) would make the regulation consistent with the model pledge agreement in requiring that the depository furnish quarterly reports of assets pledged. Section 346.19(e)(2)(iii)

would require that the foreign bank submit quarterly reports of assets pledged; the present regulation requires such reports only if assets are substituted or additional assets are pledged. Since the FDIC has routinely been requesting such quarterly reports in order to monitor compliance, the change is intended to formalize existing practice. The detailed report required by the foreign bank when assets are substituted, as it currently appears in § 346.19(e)(5)(i), is being deleted. Section 346.19(e)(2)(i) would clarify that the report required when the pledge is established would be made to the regional director. It is proposed that § 346.19(e)(3) be amended to clarify that pledged assets may be held in book entry form. Section 346.19(f) is to be removed and redesignated as § 346.19(b)(4).

A change is also proposed at § 346.19(g). The proposed change would revoke the provision allowing for a surety bond in lieu of pledging assets. The FDIC has determined that use of a surety bond is not feasible to protect the deposit insurance fund. Since the FDIC cannot approve a surety bond and fulfill its responsibilities, it is proposed that the surety bond option be eliminated in the regulation. A corresponding change would be made at § 346.19(b)(3).

Capital Equivalency Ledger Account

The FDIC proposes that instead of having an asset maintenance rule, it will require that each insured branch maintain a capital equivalency ledger account, and § 346.20 would be revised to accommodate this requirement. FDIC's current rule requires that insured branches maintain assets equal to liabilities on an average daily basis for a weekly period. Under the proposal, a branch would have to maintain a minimum capital equivalency ledger account equivalent to five percent of the total liabilities of the branch, and the funds for this account would have to be supplied by the parent bank. The minimum requirement shall apply to sound, well-managed insured branches; those evidencing financial or managerial problems will be required to maintain a larger capital equivalency ledger account (just as insured banks must do with their capital ratios).

The proposed five percent minimum corresponds to the five percent minimum adjusted equity capital required by FDIC Board of Directors policy for insured State nonmember banks and other financial institutions involved in transactions requiring FDIC approval. The Board's capital policy is currently under review, and it is likely that changes in the minimum acceptable level of equity will be made. changes in the general policy on equity capital for banks will be incorporated into the final rule dealing with insured branches. Comment is specifically requested on this point.

Similarly to the asset maintenance rule, the amount which constitutes the required five percent for purposes of the capital equivalency ledger account would be reduced by the following items: the net balance of funds due from the head office or any other branch, agency, or office of the foreign bank or from any affiliate of the foreign bank (to ensure that the funds remain in the branch and are not lent back to the parent or its affiliates); by 50 percent of any asset classified "Doubtful" and 100 percent of any asset classified "Loss" in the most recent examination report (to ensure that good quality assets are maintained—corresponds to the charging off by domestic banks of poor quality loans); by the amount of any deposit of the branch in a bank unless the bank has executed a valid waiver of offset agreement (as discussed above, to protect the deposit insurance fund in the event of a liquidation); by the amount of any asset not supported by sufficient credit information or evidence of title, as determined at the most recent examination (to allow adequate appraisal of asset quality and to protect the branch's interest in assets attributable to that branch, respectively); and by five percent of the branch's exposure to any one foreign country if that exposure is in excess of 50 percent of the total amount in the Capital Equivalency Ledger Account (as discussed later, to promote the avoidance of concentrations of credit in country exposure).

The requirement for the capital equivalency ledger account would be similar to the current requirements for the asset maintenance rule. Both the asset maintenance rule and the capital equivalency ledger account rule are intended to ensure that the branch maintains good quality assets to cover third party liabilities. The new capital equivalency ledger account is intended, in addition, to provide a buffer for depositors against losses by requiring such assets to exceed third party liabilities. Also, under the asset maintenance rule, with its focus on assets, the intent of the rule was not always apparent. The intent of the capital equivalency ledger account rule is to focus on providing a proxy capital base and thereby impose a minimum equity capital requirement on insured branches comparable to that required for domestic insured banks. The proposed rule therefore will have the collateral benefit of fostering competition equally between insured branches and insured banks.

The capital equivalency ledger account rule would also provide uniformity between insured branches. The capital equivalency ledger account would be similar to the capital equivalency deposit (and corresponding ledger account) required by the Comptroller of the Currency for Federal branches. For insured Federal branches, the proposed rule would ease administrative burden by increasing the similarity of the Federal agencies' requirements. Moreover, a number of states have either dropped or are not enforcing their asset maintenance rules, so that many insured State-licensed branches are complying with asset maintenance rules only for the purpose of meeting FDIC requirements. The capital equivalency ledger account would allow similar requirements between and among insured State and Federal branches. Unlike the asset maintenance rule, the proposal does not consider compliance with any other requirement imposed by a licensing authority to fulfill the branch's responsibility under the proposal. All insured branches must maintain the capital equivalency ledger account.

As part of the capital equivalency ledger account rule, as in the asset maintenance rule, it is proposed that certificates of deposit held by the branch would have to be deducted when the branch has not obtained a waiver of offset from the issuing bank. As with proposed § 346.19(d)(1), comment on the requirement of a waiver of offset agreement is specifically requested.

Concentrations of Transfer Risk.

The FDIC proposes to add a section, 12 CFR 346.23, dealing with country exposure for insured branches. The FDIC strongly believes that the best means of moderating the risk associated with country exposure is to diversify the risk and avoid large concentrations to any one country. Such is particularly the case since the ability to predict untoward events in any country has proven to be extremely difficult. For some time, the FDIC has, as a policy matter, imposed a condition to approval of deposit insurance for insured branches which limits exposure to any one country to 25 percent of the branch's assets. This condition has been considered necessary since a number of prospective insured branches have indicated an intention to conduct a large amount of lending business with entities abroad, largely those domiciled in the

branch's home country. The FDIC has perceived a possibility of substantial risk to the deposit insurance fund from such activities and has sought to control the risk by means of the limitation. The 25 percent limit has been considered to have shortcomings, however. The amount has been considered too large in relation to what would be tolerated in an insured domestic bank with its own capital—the limit is roughly equivalent to 500 percent of capital in a sound, well-managed bank with a five percent capital ratio.

In the proposed rule, the limit for country exposure is intended to signify a level which exposes the branch to undue risk created partly by the failure of the branch adequately to diversify its assets. The proposed rule limits the concentrations of transfer risk to any one country to 10 percent of the branch's assets. In the context of a domestic bank, the 10 percent of branch assets limit translates into a limit equivalent to 200 percent of equity capital, assuming a five percent equity capital ratio. Most U.S. banks maintain exposures to most countries well below that threshold. While a 10 percent limitation is being proposed, it is expected that most exposures will be kept well below that level. In cases where there are pronounced credit weaknesses due to credit risk or general transfer risk difficulties, it is anticipated that exposure levels will be maintained well below the 10 percent maximum.

The Corporation intends to encourage insured branches to moderate exposure in such circumstances through whatever supervisory means are deemed appropriate. Consistent with that objective, the capital equivalency ledger account will be reduced by five percent of all exposure to any one country in excess of 50 percent of the amount of the capital equivalency ledger account. Effectively, the insured branch is being required to provide additional amounts of capital to carry large exposures of transfer risk. This requirement is consistent with the increasing level of potential risk exposure endemic to a failure adequately to diversify a portfolio of assets.

The types of assets which are subject to the concentration of transfer risk limitation are specified in the Country Exposure Report Forms (FFIEC No. 009), and individual insured branches should be guided by the instructions to those forms. Excluded for purposes of this limitation are the following: Assets guaranteed by a party outside the country of the principal obligor; assets collateralized by assets held outside the country of the obligor; commitments; and, for banks with overseas branches, local currency obligations to the extent they are matched by local currency liabilities. More detailed information is given in the Instructions to the Country Exposure Report Forms.

The proposed regulation does not include grandfather provisions in regard to the proposed limits of concentration. The FDIC specifically invites comments on whether grandfather provisions should be adopted; and if so, how they should be structured. For instance, if there should be a grandfather provision, should there be a blanket one-year exemption for insured branches affected by the rule or should there be a staggered period based on the level of concentration?

Miscellaneous

In addition to technical changes being proposed throughout the regulations, miscellaneous substantive changes are also being proposed. A change is being proposed at 12 CFR 330.1(d)(3) to specify that deposits in an insured branch which are to the credit of the head office, another branch, an agency, an office, or an affiliate of the foreign bank shall not be insured. The effect of the change would be to eliminate insurance of deposits to the credit of all affiliates, not just to wholly owned subsidiaries of the foreign bank as in the current regulation. This change would be made pursuant to FDIC's authority in 12 U.S.C. 1813(m). The FDIC believes the change to be appropriate to protect the deposit insurance fund; affiliates of the foreign bank are closely related to the bank and restricting the insurance coverage granted to such affiliates is clearly warranted.

The definition of the term "affiliate" at 12 CFR 346.1(o) would also be revised. The proposed definition expands on the current definition, primarily to include companies controlled by the company which controls the foreign bank. It is believed that this expansion is necessary because the risks to the deposit insurance fund are quite frequently as great from sister corporations as from either the parent holding company or the parent's subsidiary because the relationships of the various entities to the insured branch are in substance the same.

In accordance with the Regulatory Flexibility Act, the Board of Directors hereby certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Presently, there are 20 foreign banks which have insured branches, and they are worldwide institutions with assets ranging from approximately $1 to $50 billion. The requirements of 5 U.S.C. 603 and 604 that initial and final regulatory flexibility analyses be made thus do not apply to this proposal since the proposed rule does not impose an added economic burden on small entities.

Pursuant to FDIC's statement of policy on the drafting of regulations, it has been determined that a cost-benefit analysis, including a small bank impact statement, is not required.

In addtion, the proposed amendment involves changes to an existing reporting system approved by the Office of Management and Budget (OMB No. 3064–0010, Quarterly Report of Pledged Assets). The proposal has been submitted to the Office of Management and Budget for review pursuant to section 3504(h) of the Paperwork Reduction Act. Comments on the subject should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Federal Deposit Insurance Corporation.

List of Subjects

12 CFR Part 330

Bank deposit insurance, Banks, banking.

12 CFR Part 346

Bank deposit insurance, Foreign banks, banking, Reporting and record keeping requirements.

For reasons set out in the preamble, the Board of Directors proposes to amend Parts 330 and 346 of chapter III of title 12 of the *Code of Federal Regulations* as set forth below.

PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

1. The authority for Part 330 reads as follows:

Authority: Secs. 3, 7, 9, 11, 12, 64 Stat. 873, 881, sec. 303, 80 Stat. 1056; 12 U.S.C. 1813, 1817, 1819, 1821, 1822.

2. By revising 12 CFR 330.1(d)(3) to read as follows:

§ 330.1 General principles applicable in determining insurance of deposit accounts.

* * * * *

(d) * * *

(3) Deposits to the credit of any head office and any other branch, agency, office, or affiliate, as defined in § 346.1(o), of the foreign bank shall not be insured.

* * * * *

PART 346—FOREIGN BANKS

1. The authority citation for Part 346 reads as follows:

Authority: Secs. 5, 6, 13, Pub. L. 95–369, 92 Stat. 613, 614, 624 (12 U.S.C. 3103, 3104, 3108); Secs. 5, 7, 9, 10, Pub. L. 797, 64 Stat. 876, 877, 881, 882 (12 U.S.C. 1815, 1817, 1819, 1820).

2. In 12 CFR 346.1, paragraph (o) is revised to read as follows:

§ 346.1 Definitions.

* * * * *

(o) "Affiliate" means any company that controls a foreign bank, any other company that is controlled by the company which controls the foreign bank, and any company controlled by the foreign bank. The term "company" means a corporation, partnership, business trust, association, or similar organization. A company shall be deemed to "control" another company if the company directly or indirectly owns, controls, or has the power to vote 50 percent or more of any class of voting securities of the other company or it controls in any manner the election of a majority of the directors or trustees of the other company.

3. By revising 12 CFR 346.19 to read as follows:

§ 346.19 Pledge of assets.

(a) *Purpose.* A foreign bank that has an insured branch shall pledge assets for the benefit of the FDIC or its designee(s). Whenever the FDIC is obligated under section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) to pay the insured deposits of an insured branch, the assets pledged under this section shall become the property of the FDIC to be used to the extent necessary to protect the deposit insurance fund.

(b) *Amount of assets to be pledged.* (1) A foreign bank shall pledge assets equal to five percent of the average of the insured branch's liabilities for the last 30 days of the most recent calendar quarter. This average shall be computed by using the sum of the close of business figures for the 30 calendar days ending with and including the last date of the calendar quarter divided by 30.[5] In determining its average liabilities, the branch may exclude liabilities to other offices, agencies, branches, and affiliates of the foreign bank. Adjustments to the amount pledged shall be made within two business days after the last date of the calendar quarter.

(2) The initial five percent deposit for a newly established insured branch shall be based on the branch's projection of liabilities at the end of the first year of its operation.

(3) The FDIC may require a foreign bank to pledge additional assets or to compute its pledge on a daily basis whenever the FDIC determines that the foreign bank's or any branch's condition is such that the assets pledged under § 346.19(b) (1) and (2) will not adequately protect the deposit insurance fund.

(4) Each insured branch shall separately comply with the requirements of this section. A foreign bank which has more than one insured branch in a State may treat all its insured branches in the same State as one entity and shall designate one branch to be responsible for compliance with this section.

(c) *Depository.* In carrying out the requirements of this section, a foreign bank shall deposit pledged assets for safekeeping at any depository which is located in any State. A foreign bank must receive FDIC's consent for the selection of the depository, and such consent may be revoked whenever the depository does not fulfill any one of its obligations under the agreement. Consent will not be granted for a depository which is an affiliate of the foreign bank.

(d) *Assets that may be pledged.* Subject to the right of the FDIC to require substitution, a foreign bank may pledge any of the following kinds of assets:

(1) Certificates of deposit that are payable in the United States and that are issued by any State bank, national bank, or branch of a foreign bank which has executed a valid waiver of offset agreement; *Provided,* that the maturity of any certificate is not greater than one year; and *Provided further,* that the issuer of the certificate of deposit is not an affiliate of the pledging bank or from the same country as the pledging bank's domicile.

(2) Interest bearing bonds, notes, debentures, or other direct obligations of or obligations fully guaranteed as to principal and interest by the United States or any agency or instrumentality thereof;

(3) Commercial paper that is rated P–1 or its equivalent by a nationally recognized rating service; *Provided,* that any conflict in a rating shall be resolved in favor of the lower rating;

(4) Banker's acceptances that are payable in the United States and that are issued by any State bank, national bank, or branch of a foreign bank; *Provided,* that the maturity of any acceptance is not greater than 180 days; and *Provided further,* that the issuer of the acceptance is not an affiliate of the pledging bank or from the same country as the pledging bank's domicile.

(5) Obligations of a State, county, or municipality or any agency, instrumentality, or political subdivision of the foregoing or any obligation guaranteed by a State, county, or municipality; *Provided,* that such obligations are not in default as to principal or interest;

(6) Obligations of the Asian Development Bank, Inter-American Development Bank, and the International Bank for Reconstruction and Development; or

(7) Any asset determined by the FDIC to be acceptable.

(e) *Deposit agreement.* A foreign bank shall not deposit any pledged asset required under § 346.19(c) unless accompanied by such documentation necessary to facilitate transfer of title and a deposit agreement acceptable to the FDIC has been executed. The agreement, in addition to other terms not inconsistent with this paragraph (e), shall give effect to the following terms:

(1) *Assets to be held for safekeeping.* The depository shall hold any asset deposited by the foreign bank pursuant to the deposit agreement for safekeeping as a special deposit free of any lien, charge, right of set-off, credit or preference in connection with any claim of the depository against the foreign bank.

(2) *Reporting Requirements.* (i) When the foreign bank first deposits assets, the depository shall provide the appropriate director and the foreign bank with a receipt which identifies the deposit of assets as having been made pursuant to the agreement under this section. The receipt shall specify, with respect to each asset or issue, the complete title, interest rate, series, serial number (if any), face value, maturity date, and call date. The foreign bank shall certify to the appropriate regional director and the depository the lower of principal amount or market value for each asset and the aggregate of those values for all assets.

(ii) The depository shall furnish the appropriate regional director with a quarterly report of the assets on deposit as of two business days after the last date of each calendar quarter. The report shall be furnished to the regional director within ten calendar days after the last date of the quarter. The report shall specify, with respect to each asset or issue, the complete title, interest rate, series, serial number (if any), face value, maturity date, and call date. If there has been no substitution of assets during the above reporting period in the assets on deposit, the depository may report to the

[5] The close of business Saturday should be used for Saturday and Sunday. If the branch is closed on Saturday, the closing figure for Friday should be used for Friday, Saturday, and Sunday.

regional director that there is no change; it need not report the detailed information regarding each asset or issue as required above.

(iii) The foreign bank shall furnish the appropriate regional director with a quarterly report of the assets on deposit as of two business days after the last date of each calendar quarter. The report shall be furnished to the regional director within ten calendar days after the last date of the quarter. The report shall specify, with respect to each asset or issue, the complete title, interest rate, series, serial number (if any), face value, maturity date, and call date. If there has been no substitution of assets during the above reporting period in the assets on deposit, the foreign bank may report that fact; it need not report the detailed information regarding each asset or issue as required in the preceding sentence. The foreign bank shall certify to the regional director the value for each asset and the aggregate value for all assets. The foreign bank shall also report to the regional director the average of the branch's liabilities for the last 30 days of the calendar quarter.

(3) *Examination of assets.* The depository shall hold any asset deposited by the foreign bank separate from all other assets. Assets may be held in book-entry form but must at all times be segregated on the records of the depository and clearly identified as assets subject to the agreement. The depository shall permit representatives of the foreign bank or the FDIC to examine the deposited assets.

(4) *List of pledged assets.* The depository shall furnish at the FDIC's request a written list of currently pledged assets. The list shall set forth information as requested by the FDIC.

(5) *Release of assets upon substitution of other assets.* (i) Except as otherwise provided, the depository shall release assets to the foreign bank whenever the foreign bank, at the time of the release, deposits with the depository other assets of the aggregate value not less than the aggregate value of the assets released. The foreign bank shall certify to the depository at the time of the release that the aggregate value of the assets deposited is not less than the aggregate value of the assets released. The aggregate value of any asset deposited or released shall be based on the lower of principal amount or market value.

(ii) Upon written notice by the FDIC to the depository and the foreign bank, a depository shall release assets without the consent of the FDIC only in accordance with the provisions of this subparagraph (5)(ii). The foreign bank shall, at the time of any release by the depository, deposit with the depository other assets of an aggregate value not less than the aggregate value of the assets released. The aggregate value of any assets deposited or released shall be based on the lower of principal amount or market value. The foreign bank shall certify to the depository that, after giving effect to the exchange, the aggregate value of all assets remaining on deposit is at least equal to the amount required to be pledged under § 346.19(b). The certificate shall specify as to each asset released and each asset pledged: (A) The complete title; (B) the interest rate, series, serial number (if any), face value, maturity date, call date, the lower of cost or market value of each asset; and (C) the aggregate amount, based on cost or market value, whichever is lower, of pledged assets. Upon receipt of the certificate and a statement by the foreign bank that a copy of the certificate is concurrently being furnished to the FDIC, the depository shall release assets.

(iii) The FDIC may suspend or terminate the right to exchange assets by written notice to the bank and the depository.

(6) *Release upon order of the FDIC.* The depository shall release to the foreign bank any pledged asset upon the written order of the FDIC. The depository shall release only the assets specified in the order. The release of such assets may be made without pledging other assets, unless otherwise provided in the order.

(7) *Release to the FDIC.* Whenever the FDIC is obligated under section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) to pay insured deposits of an insured branch, the depository shall release to the FDIC any pledged asset upon the written certification of the FDIC that the FDIC has become so obligated. Upon receipt of certification and release of all pledged assets, the depository shall be discharged from further obligation under the deposit agreement.

(8) *Interest earned on assets.* The foreign bank may receive any interest earned upon the pledged assets unless the depository receives an order by the FDIC prohibiting the receipt of interest.

(9) *Expenses of agreement.* The FDIC shall not be required to pay for any services under the agreement.

(10) *Termination of agreement.* The deposit agreement may be terminated by the foreign bank or the depository upon at least 60 days written notice to the other party. No termination shall be effective until (i) another depository has been designated by the foreign bank and approved by the FDIC; (ii) a deposit agreement acceptable to the FDIC has been agreed upon by the bank and the new depository; and (iii) the depository has released to the newly designated depository assets on deposit in accordance with the bank's written instructions, as approved by the FDIC.

(11) *Waiver of terms.* The FDIC may by written order relieve the foreign bank or the depository from compliance with any term or condition of the agreement.

4. By revising 12 CFR 346.20 to read as follows:

§ 346.20 Capital equivalency ledger account.

(a) The branch shall maintain a capital equivalency ledger account which is at a minimum equivalent to five percent of the total liabilities of the branch and which represents funds supplied by the parent bank. The Board of Directors may require that the account be maintained at a higher level if the financial condition of the branch warrants such action.

(b) The amount which is equivalent to the required five percent must be reduced by the following items:

(1) Any net balance of funds due from the head office and from any other branch, agency, or office of the foreign bank or from any affiliate of the foreign bank;

(2) 50 percent or more of any asset classified "Doubtful" and 100 percent of any asset classified "Loss" in the most recent examination report prepared by the appropriate State or Federal authority;

(3) Any deposit of the branch in a bank unless the bank has executed a valid waiver of offset agreement;

(4) Any asset not supported by sufficient credit information [6] to allow a review of the asset's credit quality, as determined at the most recent examination;

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[6] Whether an asset has sufficient credit information will be a function of the size of the borrower and the location within the foreign bank of the responsibility for authorizing and monitoring extensions of credit to the borrower. For large, well known companies, when credit responsibility is located in an office of the foreign bank outside the insured branch, the branch must have adequate documentation to show that the asset is of good quality and is being adequately supervised by the bank. In such cases, copies of periodic memoranda that include an analysis of the borrower's recent financial statements and a report on recent developments in the borrower's operations and borrowing relationships with the bank constitute sufficient information. For other borrowers, periodic memoranda must be supplemented by copies of recent financial statements, recent correspondence concerning the borrower's financial condition and repayment history, credit terms and collateral, data on any guarantors, and, where necessary, the status of any corrective measures being employed.

(5) Any assets in the branch's actual possession unless the branch holds title to such asset and the branch maintains records sufficient to enable independent verification of the branch's ownership of the asset, as determined at the most recent examination; and

(6) Five percent of exposure to any one foreign country where that exposure is in excess of 50 percent of the amount in the capital equivalency ledger account.

5. By adding new section 12 CFR 346.23 to read as follows:

§ 346.23 Country exposure.

Insured branches of foreign banks will be expected to diversify their country exposure. Exposure to borrowers in any one country is limited to 10 percent of the branch's assets. In determining exposure, insured branches should be guided by the Instructions to the Country Exposure Report Forms (FFIEC No. 009).

By order of the Board of Directors.

May 7, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-13176 Filed 5-15-84; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 84-227]

Limitations on Direct Investment by Insured Institutions

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposing to amend its regulations concerning the operations of insitutions the accounts of which are insured by the FSLIC ("insured institutions") to limit the aggregate of insured institution investment in real estate, service corporations, and equity securities (collectively "direct investments"). The Board also proposes to impose qualitative and quantitative restrictions on investment by insured institutions in most equity securities. The proposed regulations are intended to allow insured institutions the flexibility to exercise their investment powers, as authorized by applicable federal or state law, while preventing unsafe and unsound practices that otherwise would expose the institutions and the Insurance Fund to an unacceptable level of risk.

DATE: Comments must be received by July 16, 1984.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION, PLEASE CONTACT: Steven A. Rosenberg, Attorney, Office of General Counsel, (202) 377-7054.

SUPPLEMENTARY INFORMATION: During the past few years, changes in federal and state legislation have provided new investment powers to thrift institutions whose accounts are insured by the FSLIC. Included among these new investment powers is the authority to invest in equity securities, *e.g.*, corporate stock, and in real estate for the purpose of development and other purposes. *See e.g.*, the savings and loan laws of Texas, California, and Florida. The Board believes that prudent exercise of these new direct investment powers may allow thrift institutions to reduce their exposure to certain froms of financial risk, *e.g.*, the interest-rate risk associated with asset/liability maturity mismatch. Nonetheless, as discussed below, the Board is concerned that unfettered exercise of these non-traditional investment powers is likely to expose insured institutions and the Corporation to a degree of risk inconsistent with the federal program of account insurance established under Title IV of the National Housing Act.[1] The Board also is concerned that some insured institutions may exercise new asset powers to such an extent that they would fail to fulfill their obligations to provide economical home financing.

Accordingly, the Board is proposing two changes to its Insurance Regulations. The first would set a ceiling on the aggregate amount of direct investments an insured institution may make, but would permit an institution to make additional investments, as authorized by applicable law, following approval by the Principal Supervisory Agent. The second proposed regulation would set various safety and soundness standards concerning insured institution investment in equity securities such as corporate stock.

A. Statutory Authority

Section 407 of the NHA (12 U.S.C. 1730) authorizes the Corporation to make rules and regulations defining practices it deems unsafe and unsound. *See Independent Bankers Association of America* v. *Heimann*, 613 F. 2d 1164 (D.C. Cir. 1979), *cert. denied*, 449 U.S. 823 (1980) (parallel statutory authority of the Comptroller of the Currency). In 1966, then Board Chairman John E. Horne explained to the Congress that "[g]enerally speaking, an 'unsafe or unsound practice' embraces any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the possible consequences of which, if continued, would be abnormal risk of loss or damage to an institution, its shareholders, or the agencies administering the insurance funds." Memorandum on Unsafe or Unsound Practices submitted by John E. Horne to Hon. Wright Patman on Sept. 26, 1966, *quoted in Gulf Federal Savings and Loan Association of Jefferson Parish* v. *Federal Home Loan Bank Board*, 651 F. 2d 259 (5th Cir. 1981), *cert denied*, 102 S. Ct. 3509 (1982). As explained below, absent reasonable limitations, direct investments by insured institutions expose insured institutions, their shareholders, and the Corproation to a level of risk inconsistent with the federal program of account insurance established under Title IV of the National Housing Act. Accordingly, the Board is authorized to promulgate the proposed regulatory limitations.

B. Risks Associated With Direct Investments

Established microeconomic theory recognizes three general categories of risk: (1) Financial risk, (2) business risk, and (3) liquidity risk. Associated with the investment portfolio of any business enterprise, including a thrift institution, are various degrees of these three types of risk. Liquidity risk already is the subject of the Board's regulations for members of the Federal Home Loan Bank System (12 CFR Part 523), and therefore the proposed regulations are intended primarily to address financial and business risk.

The Board's use of the term "risk" is in its economic sense, that is to say the Board is concerned with the economic uncertainty associated with an insured institution's investment portfolio. Historically the investment portfolio of thrifts was limited to private long-term debt obligations secured by first liens on

[1] See the Board's comments in connection with its promulgation of regulations concerning the insurance of *de novo* institutions, Board Resolution Nos. 83-608 and 83-653, published respectively at 48 FR 51270 and 48 FR 54320.

real estate (mortgage loans), government debt obligations, and the stock of quasi-governmental housing finance agencies, *e.g.*, stock of Federal Home Loan Banks and of the Federal National Mortgage Association. Generally, a portfolio of such investments presented little business risk, *e.g.*, credit risk, as there is little uncertainty associated with the cash flows derived from such investments.[2] By contrast, there may be a substantial amount of business risk associated with real estate development ventures, as demonstrated by the losses associated with the development of the I–30 corridor in Dallas, Texas, and there is potentially a substantial degree of uncertainty associated with investment in certain types of equity securities; this is particularly the case where such investment is not diversified.

Federal deregulation of the thrift industry permits thrifts to reduce their exposure to interest-rate risk by making short-term and/or variable-rate secured loans.[3] Moreover, although Congress has not authorized federally chartered associations to invest in equity securities, as mentioned above some state legislatures have authorized state-chartered thrifts to make such investments. The Board is of the opinion that a wide spectrum of business and financial risk if associated with the opportunity to make direct investments. Because the Corporation provides deposit insurance to the thrift industry, it is necessary for the Board to take regulatory action in order to preserve the financial integrity of the Corporation and of the housing-finance industry whose deposits it insures. If the Corporation were a private insurance company it would adjust the premiums of the businesses it insures to reflect the risks it insures. Because the current statutory and regulatory framework fails to authorize the Corporation to so adjust the insurance premiums, it is necessary for the Board to impose regulatory limitations to reduce the risks undertaken by insured institutions. This proposal is not intended, however, to eliminate the Board's ability to assess additional insurance premiums on institutions engaging in equity investments, if the Congress grants to the FSLIC such authority. It continues to be the Board's desire and commitment to seek such legislation in order for the FSLIC to be better able to absorb additional risks presented by institutions seeking to engage in non-traditional activities and in non-traditional levels of equity investment.

[2] However, the mismatch of maturities of an institution's portfolio of long-term assets and short-term liabilities does expose it to substantial interest-rate risk, a form of financial risk.

[3] The Board wishes to point out that in the absence of prudent underwriting, the making of adjustable-rate mortgage loans may expose an institution to unacceptable levels of credit risk.

C. Discussion of Proposed Regulatory Provisions

1. *Aggregate Limitation on Direct Investments.* Proposed § 563.9–8 would set a ceiling on an institution's aggregate investment in real estate, service corporations, and equity securities; this ceiling is an amount equal to the greater of ten percent of an institution's assets or twice its net worth. The Board believes that this is a reasonable method for limiting the Corporation's exposure to uncertainties while at the same time providing for minimal interference with the prerogative of the States to provide for the powers of state-chartered institutions. Additionally, this approach encourages institutions to increase their net worth. It should be noted that the Home Owners' Loan Act does not authorize federal associations to directly engage in real estate development or to invest in the stock of for-profit corporations, and it limits the service corporation investment authority of federal associations to a maximum of three percent of their assets.

To further minimize interference with the rights of the sovereign States, the proposed investment-limitation regulation would permit an institution to invest greater amounts in direct investments upon receiving approval from the Principal Supervisory Agent, where he finds, *inter alia*, that the proposed investment is not likely to increase either the institution's risk of default or the financial exposure of the Corporation. It is the intention of the Board that Principal Supervisory Agents will approve applications in appropriate cases. In approving an application for exception from the general limitations, the Principal Supervisory Agent would be authorized to impose written conditions to ensure that the institution complies with the standards for approval. It should be noted that section 407 of the National Housing Act provides that the Corporation may maintain enforcement proceedings based upon violation of written conditions imposed by a Principal Supervisory Agent, who is an agent of the Corporation.

The proposed regulation sets forth a definition of the phrase "investment in real estate." It is the Board's intention that each institution should determine whether a particular investment constitutes an equity interest in real estate in accordance with generally accepted accounting principles (or regulatory accounting principles if applicable). Additionally, with respect to the review of an institution's financial statements, the institution's independent auditors would have a responsibility to determine whether certain investments characterized by the institution as debt investments are in substance equity investments. The Board notes that the Accounting Standards Executive Committee of the American Institute of Certified Public Accountants has published a notice to practititioners that sets forth certain characteristics for an auditor to consider in evaluating the institution's determination. *See Journal of Accountancy* 51 (Nov. 1983). With respect to stock-form institutions, the Board expects that the liability provisions under federal securities laws would serve as an additional check on questionable applications of the appropriate accounting standards.

2. *Standards for Investment in Equity Securities.* The Board is proposing the promulgation of § 563.9–9 in order to establish federal safety and soundness standards concerning investment by insured institutions in equity securities. Also, the Board believes that the federal deposit insurance program that enables the industry to attract substantial amounts of funds through debt offerings, *i.e.*, deposits, should not be used to provide funds to be used for speculation in the equity securities markets. This concern of the Board is an additional basis for the Board's proposal to prohibit investment in equity securities other than stocks and to proscribe the acquisition of controlling interests in corporations.

If promulgated, § 563.9–9 would limit investment to common or preferred stock listed on the New York and American Stock Exchanges; however, it also provides the opportunity for the Director of the Office of Examinations to permit investment in stocks traded elsewhere. The Board believes that such a limitation is reasonable in that the listing requirements of those exchanges are likely to screen out many high-risk stocks and ensure that there is a market for the stocks. An exception to this general rule is that limited investment in the stock of small business investment companies ("SBIC's") would not be proscribed; this exception is provided so as not to frustrate the federal programs designed to foster the development of SBIC's.

It is well-recognized that prudent investment requires diversification of risk. The Board therefore proposes to imposes the dollar amount of the loans-to-one-borrower investment limitation to the aggregate of an institution's debt and

equity investment in any one borrower/issuer. Additionally, the proposed regulation would prohibit an insured institution from investing in more than five percent of the outstanding equity securities of any one issuer, unless the institution received the prior written approval of the Corporation. The proposed rule also would limit the ability of an insured institution to invest in the common stock of savings and loan associations and non-diversified savings-and-loan holding companies.

D. Additional Discussion and Request for Comments

1. Supervisory Cases. Both of the proposed regulations establish special rules for insured institutions that fail to satisfy the regulatory net-worth requirement set forth at 12 CFR 563.13(b). Proposed § 563.9–8 would prohibit such institutions from making any direct investments without the prior written approval of the Principal Supervisory Agent. In those instances where the Principal Supervisory Agent has provided, the necessary written approval to a supervisory institution, § 563.9–9 would prohibit the institution from investing in stocks without the prior written approval of the Corporation; however, investment in certain diversified mutual funds would be permissible.

2. Non-Supervisory Cases With Marginal Net Worth. An institution that satisfies the regulatory-net-worth requirement but lacks net worth at least equal to a "special-purpose" networth requirement, which is approximately three percent of an institution's liabilities, would be permitted to make direct investments in an aggregate amount equal to twice its regulatory net worth as defined at § 561.13 unless additional investment were approved by the Principal Supervisory Agent.

3. The Role of State Supervisiors. As discussed above, proposed § 563.9–8 would authorize a Principal Supervisory Agent to permit an institution to make direct investments in amounts exceeding the applicable limitation. The proposed rule would require a state-chartered institution seeking an exception to send a copy of its application to its State Supervisor, and it also provides that the Principal Supervisory Agent, prior to making his determination, would be required to give due consideration to any written views and recommendations that the appropriate State Supervisor has submitted to such Principal Supervisory Agent. It is the Board's expectation that the Principal Supervisory Agent would disuss the State Supervisor's comments in his written determination granting or denying the application.

4. Saving Clause. The proposed rule that would impose a limitation on the aggregate of an institution's direct investments sets forth a "saving clause." It provides that an institution exceeding its limitation as of May 10, 1984, (the date of this proposal) ordinarily would not be required to divest itself of any of its direct investments; however, such an institution would not be allowed to make any additional direct investments until after the aggreagate of its direct investments were less than the applicable limitation. Selection of the proposal date was deemed appropriate by the Board in order to avoid investment activity during the public comment period that would be inconsistent with the purposes of the proposed rule.

5. State Law. The Board is aware that the following states permit state-chartered institutions to invest in both real estate and equity securities: Arizona, California, Florida, Texas, and Ohio. The Board would be particularly interested in receiving comment letters providing information on current or proposed investment authority of state-chartered institutions in each of the fifty states, Puerto Rico, and other places where insured institutions are located.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The proposed rule would apply to all institutions the depository accounts of which are insured by the FSLIC without regard to the size of the institution.

3. *Impact of the proposed rules on small institutions.* The proposed rule would protect the financial integrity of all insured institutions without regard to their asset size.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* The investment limitations imposed by the proposed regulation are tied to the net worth of insured institutions. Alternatively, the Board could have imposed fixed dollar-amount limitations or prohibited the subject investments. The Board is of the opinion that such alternatives would have been more restrictive to small institutions.

List of Subjects in 12 CFR Part 563

Savings and loan associations, Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 563, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—REGULATIONS OF THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Add new §§ 563.9–8 and 563.9–9 as follows:

§ 563.9–8 Aggregate limitations concerning investment in real estate, service corporations, and certain equity securities.

(a) *General.* Any insured institution, to the extent it has legal authority to do so, may invest in real estate, service corporations (as defined in § 561.26 of this subchapter), and equity securities qualifying for investment under § 563.9–9 of this Part (collectively "direct investments"), only in compliance with the provisions of this section.

(b) *Aggregate investment limitations.* (1) With respect to an institution that is not subject to the limitations of paragraphs (b)(2) or (b)(3) of this section, the aggregate of the institution's investment in direct investments shall not exceed the greater of: (i) Ten percent of the institution's assets, or (ii) twice the institution's regulatory net worth (as defined in § 561.13 of this subchapter).

(2) An institution that fails to satisfy the regulatory-net-worth requirement of § 563.13(b) of this part shall not invest in direct investments except as approved by the Principal Supervisory Agent.

(3) With respect to an institution that satisfies the regulatory net-worth requirement of § 563.13 of this part but fails to satisfy the "special purpose" net-worth requirement set forth in paragraph (f)(3) of this section, the aggregate of the institution's investment in direct investments shall not exceed twice the institution's regulatory net worth (as defined in § 561.13 of this subchapter) calculated as of the end of the immediately preceding calendar month.

(c) *Exception.* (1) An insured institution seeking to invest more than the amount permitted by paragraph (b) of this section in direct investments, whether for a specific investment or for

an increased level of investment, shall file an application for exception with its Principal Supervisory Agent and, if it is state-chartered, shall send a copy of the application to its State Supervisor.

(2) The Principal Supervisory Agent shall approve or disapprove, in writing, such application in accordance with the standards set forth in paragraph (d) of this section, giving due consideration to any written views and recommendations submitted by the appropriate State Supervisor.

(3) The application shall set forth the following:

(i) The total amount, in dollars and as a percentage of the applicant's assets, that the insured institution seeks to invest in real estate, service corporations, and equity securities;

(ii) An identification of the applicant's applicable investment limitation as determined in accordance with paragraph (b) of this section, including, as of the end of the preceding calendar month, the applicant's (*a*) total assets, (*b*) regulatory net worth, (*c*) regulatory-net-worth requirement under § 563.13(b) of this Part, and (*d*) "special purpose" net-worth requirement set forth at paragraph (f)(3) of this section;

(iii) A description of the applicant's outstanding direct investments;

(iv) A business plan describing the proposed investment and its anticipated financial impact on the applicant; and

(v) Such other information as may be requested, in writing, by the Principal Supervisory Agent.

(4) An adverse determination made by the Principal Supervisory Agent may be challenged by filing, within 30 days of the determination, a petition for reconsideration with the Corporation. The institution shall file its petition with the Office of the Secretary to the Board, and shall send a copy to the Principal Supervisory Agent.

(d) *Standards for approval.* (1) The Principal Supervisory Agent shall approve an application submitted under this section if he finds the following:

(i) The overall policies, condition, and operation of the applicant do not afford a basis for supervisory objection;

(ii) The proposed investment or level of investment is not likely to increase either the applicant's risk of default or the financial exposure of the Corporation; and

(iii) The applicant's policies are consistent with economical home financing.

(2) The Principal Supervisory Agent in approving an application may impose written conditions to ensure that the standards set forth in paragraph (d)(1) of this section will be satisfied.

(e) *Saving clause.* The requirements of this section shall not prohibit an institution whose aggregate investment on May 10, 1984, in direct investments exceeds the applicable limitation set forth in paragraph (b) of this section from maintaining such investments in which it had already invested as of that date; however, the institution shall not make any additional direct investments until its aggregate investment is less than the applicable limitation. In addition, an institution is not required to reduce any investment because of a subsequent change in its assets or regulatory net worth, but additional investments may not be made until the institution is in compliance with the applicable limitation.

(f) *Definitions.* When used in this section—

(1) "Policies consistent with economical home financing" are evidenced where the insured institution meets the requirements of a "qualified institution" as set forth in § 584.2–2(b) of this chapter.

(2) Investment in "real estate" means the direct or indirect ownership of an equity interest in real property as determined in accordance with generally accepted accounting principles (or the Corporation's accounting regulations if applicable), exclusive of (i) real property to be used primarily by the institution for offices or other related facilities, and (ii) real property acquired in foreclosure, by deed in lieu of foreclosure, or on which a contract purchaser has defaulted and the contract has been cancelled.

(3) The "special purpose" net-worth requirement is an amount at least equal to three percent of "all liabilities", which for the purposes of this section means (i) total assets (net of loans in process, specific reserves, and deferred credits other than deferred taxes) minus (ii) net worth as defined at § 561.13 of this subchapter.

§ 563.9–9 Investment in equity securities.

(a) *General.* Any insured institution, to the extent it has legal authority to do so, may invest in equity securities subject to the limitations set forth in this section. The Corporation reserves the right to waive, in appropriate circumstances, the limitations set forth in this section.

(b) *Stock investments.* (1) The equity securities in which an institution may invest shall be limited to (i) common preferred stock, listed on the New York Stock Exchange, American Stock Exchange, or such other national securities exchange or quotation service as the Corporation may determine, (ii) equity securities issued by any diversified open-end management investment company that is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to equity securities, and (iii) stock of any small business investment company ("SBIC") formed pursuant to § 301(d) of the Small Business Investment Act, provided that the institution's outstanding aggregate investment in such SBICs does not exceed one percent of the institution's assets;

(2) The Director of the Office of Examinations and Supervision is authorized to determine whether insured institutions may be permitted to invest in stocks (i) listed on exchanges other than the New York or American Stock Exchanges or (ii) listed for quotation on a national quotation service as set forth in paragraph (b)(1) of this section. Such determination shall become effective upon publication in the **Federal Register**.

(c) *Diversification.* The sum of (1) the aggregate of all investments by an institution and its service corporation affiliates (as defined in § 561.27 of this subchapter) in the equity securities of any one issuer, (2) the aggregate of all their investments in the outstanding loans (other than commercial loans within the meaning of § 563.9–3(a)(3) of this part) of the issuer, and (3) subject to the limitations set forth in § 563.9–3(b)(2) of this part, the aggregate of all their investments in the outstanding commercial loans of the issuer, shall at no time exceed the amount that could be lent to such issuer under the aggregate loans-to-one-borrower limitation set forth at § 563.9–3(b)(1) of this part.

(d) *Quantitative limitations.* No insured institution shall at any time, directly or indirectly, or through or in concert with one or more other persons, or through one or more subsidiaries, be the beneficial owner of, control, or hold with power to vote more than five percent of the outstanding equity securities of any one issuer.

(e) *Savings and loan stock.* No insured institution shall at any time, directly or indirectly, or through or in concert with one or more other persons, or through one or more subsidiaries, be the beneficial owner of, control, or hold with power to vote common stock issued by (1) any insured institution or (2) a non-diversified savings and loan holding company, unless the amount of such stock so owned, controlled or held by the investing institution is such that the investing institution is deemed to be

a savings and loan holding company within the meaning of § 583.11 of this chapter.

(f) *Supervisory cases.* No insured institution, at any time that it fails to satisfy the regulatory-net-worth requirement (set forth at § 563.13(b) of this part), shall invest in equity securities other than those described in paragraph (b)(1)(ii) of this section.

(g) *Definitions.* When used in this section—

(1) The term "equity security" means any stock, treasury stock, certificate of interest or participation in any profit-sharing agreement, collateral trust certificate, pre-organization certificate, or subscription, transferable share, investment contract, or voting-trust certificate; or, in general, any interest or instrument commonly known as an equity security; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe or puchase, any of the foregoing; or any debt security convertible, with or without consideration, into such a security; *but does not include* (i) stock issued by a Federal Home Loan Bank, the Federal National Mortage Association, or a corporation authorized to be created pursuant to Title IX of the Housing and Urban Development Act of 1968, (ii) equity securities issued by any open-end management investment company that is registered under the Investment Company Act of 1940 and the portfolio of which is subject to the restrictions set forth at section 5(c)(1)(Q) of the Home Owners' Loan Act, and (iii) equity securities issued by a service corporation (as defined in § 561.26 of this subchapter).

(2) The term "issuer" has the same meanings as that set forth in section 3(a)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(8)).

(3) The term "non-diversified savings and loan holding company" means a "savings and loan holding company" within the meaning of § 583.11 of this chapter that is not a "diversified savings and loan holding company" within the meaning of § 583.13 of this chapter.

(Sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); 1947 Reorg. Plan No. 3, 12 FR 4981, 3 CFR 1071 (1943–48 Comp.))

Dated: May 10, 1984.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84–13153 Filed 5–15–84; 8:45 am]

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DEPARTMENT OF COMMERCE

National Bureau of Standards

15 CFR Parts 7, 7a, 7b, and 7c

[Docket No. 40105–4005]

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Proposed revision of procedures.

SUMMARY: The National Bureau of Standards proposes to revise the National Voluntary Laboratory Accreditation Program procedures (15 CFR Parts 7a, 7b, and 7c) by consolidating Parts 7a, 7b, and 7c into one Part 7. This action is intended to simplify the procedures for administering the program and to update accreditation criteria in light of recent work of national and international standards bodies.

DATE: Comments must be received by July 16, 1984.

ADDRESS: Comments on the proposed revision should be mailed to the Director, Office of Product Standards Policy, NBS, TECH B154, Washington, D.C. 20234.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, 301–921–3431.

SUPPLEMENTARY INFORMATION:

Background

The procedures for the National Voluntary Laboratory Accreditation Program (NVLAP) were first published in the **Federal Register** on February 25, 1976 (41 FR 8163–8168). Since then, the NVLAP procedures have been amended four times: On March 9, 1979, to institute optional procedures for use by federal agencies (designated Part 7b—44 FR 12982–12990); on April 25, 1979, to institute optional procedures for use by qualified private sector organizations (designated Part 7c—44 FR 24274–24282); on April 21, 1980, to permit inclusion of additional relevant standards and test methods in a laboratory accreditation program (LAP) established under NVLAP procedures (45 FR 26993–26994); and on July 17, 1981, to add accreditation criteria to the NVLAP procedures and to replace separate criteria committees with one NVLAP advisory committee (46 FR 37029–37040).

The NVLAP procedures are set out under Parts 7a, 7b, and 7c, title 15 of the Code of Federal Regulations. Department Organization Order, DOO 30–2A, effective May 14, 1982, transfers operational responsibility for NVLAP to the National Bureau of Standards (NBS).

There are four major reasons for revising the NVLAP procedures. First, the steps involved in establishing a laboratory accreditation program (LAP) and operating NVLAP need to be streamlined to increase efficiency and to reduce costs. Budget constraints make this streamlining imperative. Second, large portions of Parts 7a, 7b, and 7c are repetitious. Consolidating the comparable sections of each Part into one section will reduce the total amount of text and make the NVLAP procedures easier to read and follow. Third, the current accreditation criteria need to be updated in light of the recent developments by national and international standards bodies, particularly as reflected in the International Organization for Standardization (ISO) document, ISO Guide 25 (revised), "General Requirements for the Technical Competence of Testing Laboratories," and the developing revision to ASTM E548, "Criteria for the Evaluation of Testing and Inspection Agencies." Fourth, since interaction with national laboratory accreditation systems of other countries is becoming increasingly important in fostering international trade, reciprocal recognition of accredited laboratories requires similar criteria and procedures.

The following paragraphs summarize the key changes embodied in the proposed revision and the reasons for each change.

Format of Procedures

Instead of three separate repetitive Parts, the proposed revision is divided into four distinct subparts. Subpart A covers general information including the purpose, description, and goal of NVLAP, establishment and functions of a National Laboratory Accreditation Advisory Committee, and user information and reports. Subpart B addresses the steps involved in establishing a LAP from the initial request to terminating a LAP. Subpart C covers the process of accrediting an applicant laboratory, including the steps for applying, assessing, and evaluating laboratories, as well as the types of accreditation actions that can be taken. Subpart D includes the conditions and criteria for accreditation.

Description and Goal of NVLAP

Section 7.2 replaces §§ 7a.2, 7b.2, and 7c.2 which need to be simplified and clarified. Emphasis is somewhat altered and a new paragraph has been added to ensure that NVLAP will be compatible

with and accepted by foreign national systems for laboratory accreditation.

User Information and Reports

Section 7.6 replaces §§ 7a.17, 7b.17, and 7c.17 and simplifies the text. An annual report containing a directory of accredited laboratories would be published. Publication of quarterly reports and monthly reporting of accreditation actions in the **Federal Register** would be replaced by periodic supplements to the directory of accredited laboratories. The intent is to replace **Federal Register** notices with more cost-effective alternatives.

Requesting a LAP

Section 7.11 replaces and simplifies portions of §§ 7a.4, 7b.4, and 7c.4. The intent is to address, under sone section, the required contents of a LAP request. Notification of the receipt of a LAP request would be published in the **Federal Register** with instructions for obtaining a copy of the request letter and submitting comments on the need for a LAP.

LAP Development Decision

Section 7.12 replaces portions of §§ 7a.4, 7a.5, 7b.4, 7b.5, 7b.4, and 7c.5. The intent is to simplify the finding of need process. **Federal Register** notices of final findings of need or withdrawals of any preliminary findings of need would be eliminated. The requestor and other interested persons would be notified of the decision on development of a LAP.

Request from a Government Agency or Private Sector Organization

Section 7.13 replaces and simplifies portions of § 7b.4 for federal agency requests and also provides for state and local government requests. § 7.14 replaces and simplifies § 7c.4 for private sector organization requests. The intent is to reduce redundancy in the test and to simplify requirements.

Development of Technical Requirements

Section 7.15 replaces and simplifies portions of §§ 7a.4, 7a.5, and 7a.6. The process of establishing technical requirements for accreditation specifically related to the LAP would be through one or more informal public workshops or other suitable means if a workshop is not necessary.

Applying for Accreditation

Section 7.21 replaces and simplifies paragraphs (a), (b), and (c) of §§ 7a.11, 7b.11, and 7c.11. A paragraph is added to address the considerations involved in accepting an application from a foreign-based laboratory.

Assessing and Evaluating a Laboratory

Section 7.22 replaces §§ 7a.11(d), 7b.11(d), and 7c.11(d). The proposed revision shortens some of the text. Text is added to state that the applicant laboratory is responsible for completing the requirements of the assessment and evaluation and that NBS is responsible for notifying the laboratory in writing of the action(s) the laboratory needs to take to meet its responsibilities. A 45-day limit is placed on NBS to complete an evaluation report after a laboratory meets its responsibilities. Provisions are added for the case when an accredited laboratory fails to complete the requirements for renewal of its accreditation.

Granting and Renewing Accreditations

Section 7.23 replaces §§ 7a.11(e), 7b.11(e), and 7c.11(e). The proposed revision provides for renewing accreditation and establishes a 30-day limit for NBS to notify the laboratory about renewal procedures.

Denying, Suspending, Revoking, and Terminating Accreditation

Section 7.24 replaces §§ 7a.11(f), 7b.11(f), 7c.11(f), and paragraphs (a), (b), (c), and (d) of §§ 7a.13, 7b.13, and 7c.13. This section includes a provision for suspension of accreditation to allow for discretion in resolving a laboratory's temporary deficiencies. The suspension action allows the laboratory time to correct these deficiencies without the penalty of revocation, but prevents the laboratory from endorsing its test reports with the NVLAP logo in such cases.

Complaints about Accredited Laboratories

Section 7.25 is added to ensure that all written complaints about NVLAP-accredited laboratories will be investigated.

Application of Accreditation Conditions and Criteria

Section 7.31 simplifies the text of § 7a.19. It summarizes the major responsibilities of applicant laboratories to comply with conditions, criteria, and technical requirements for accreditation.

Conditions for Accreditation

Section 7.32 replaces several sections. Section 7.32(a) replaces §§ 7a.8(c), 7b.8(b), 7c.8(c) and the note which appears at the need of those sections, §§ 7a.12, 7b.12, and 7c.12, and 7a.22 of the general criteria dealing with ethical and business practices. The proposed revision includes the conditions that are now required in announcements of the formal establishment of LAPs. The term "responsibilities," in addition to "conditions," is used to reflect more accurately the intent of those provisions. One responsibilities of the laboratory not explicitly stated in the current NVLAP procedures has been added (i.e., participation in proficiency testing, as required). In addition, statements have been added to clarify an accredited laboratory's responsibility in representing its accredited status. Provisions of § 7a.22 of the general criteria dealing with ethical and business practices have been retained as conditions for accreditation since those criteria are not truly criteria against which a judgment can be made but rather conditions which are imposed as a requisite for accreditation.

Section 7.32(c) replaces portions of § 7a.20 of the general criteria dealing with organizational structure since those criteria are not truly criteria against which a judgment can be made, but rather information which identifies and characterizes a laboratory. New provisions are proposed to require the identification of an authorized representative of the laboratory who shall represent the laboratory in all matters relating to its accreditation and the identification of laboratory staff to serve as approved signatories of NVLAP-endorsed test reports. These new provisions provide for more efficient communication with the laboratory and allow more effective control of a laboratory's accreditation if it loses key staff members.

Criteria for Accreditation

Section 7.33 rearranges the general and specific criteria of §§ 7a.20, 7a.24, 7a.26, 7a.28, 7a.30, and portions of § 7a.22. The distinction between "general criteria" and "specific criteria" has been eliminated since both are general or generic in nature. Paragraphs within the criteria regarding the requirements for information disclosure and the methods of evaluation have been deleted since these requirements and methods are not accreditation criteria. New provisions are proposed to addess the requirements of approved signatories. An attempt has been made to simplify the text by following, where appropriate, ISO Guide 25 (revised), "General Requirements for the Technical Competence of Testing Laboratories."

Request for Comments

Persons interested in commenting on this proposed revision to the NVLAP procedures contained in 15 CFR Part 7a, 7b, and 7c are requested to submit their comments by July 16, 1984, to the

Director, Office of Product Standards Policy, NBS, TECH, B154, Washington, DC 20234.

All written comments furnished in response to this notice will become part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Main Commerce Building, Room 6628, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230.

Classification

The NVLAP procedures are rules set out under title 15 of the Code of Federal Regulations (CFR) for administering this voluntary program. These procedures have been included in the CFR so that all affected parties have a widely distributed public source for how the program operates and for determinng laboratory accreditation requirements. Users of accredited laboratories may then know the requirements that the laboratories have met in demonstrating competence.

This document is not a major rule requiring a regulatory impact analysis under Executive Order 12291. It does not have a significant economic effect on a substantial number of small entities requiring a flexibility analysis under the Regulatory Flexibility Act. It is not a major federal action requiring an environmental assessment or environmental impact statement under the National Environmental Policy Act. The information collection requirements contained in the NVLAP procedures have been approved by the Office of Management and Budget under the Paperwork Reduction Act and have been assigned OMB control number 0652–003.

List of Subjects in 15 CFR Parts 7, 7a, 7b, and 7c

Accreditation, Laboratories, Testing.

Dated: May 9, 1984.

Raymond G. Kammer,

Deputy Director, National Bureau of Standards.

For the reasons set out in the preamble, Parts 7a, 7b, and 7c of Title 15 of the Code of Federal Regulations are proposed to be redesignated Part 7 and to be revised as follows:

PART 7—NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM PROCEDURES

Subpart A—General Information

Sec.

Subpart B—Establishing a LAP

Subpart C—Accrediting a Laboratory

Subpart D—Conditions and Criteria for Accreditation

Authority: Sec. 2, 31 Stat 1449, as amended (15 U.S.C. 272); Reorg. Plan No. 3 of 1946, Part VI.

Subpart A—General Information

§ 7.1 Purpose.

The purpose of Part 7 is to set out procedures under the National Voluntary Laboratory Accreditation Program (NVLAP) will function.

§ 7.2 Description and goal of NVLAP.

(a) NVLAP is a system for examining the professional and technical operations of testing laboratories and accrediting those laboratories found competent to perform specific tests or types of tests. Competence is defined as the ability of laboratory to meet the NVLAP conditions (§ 7.32) and to conform to the criteria (§ 7.33) as tailored and interpreted for the test methods, types of test methods, products, services, or standards for which the laboratory seeks accreditation.

(b) The goal of NVLAP is to provide a voluntary system which:

(1) Provides national recognition for competent laboratories;

(2) Provides laboratory management with a quality assurance check of the performance of their laboratories; and

(3) Identifies competent laboratories for use by regulatory agencies, purchasing authorities, and product certification systems.

(c) NVLAP is comprised of a series of laboratory accreditation programs (LAPs) which are established on the basis of requests and demonstrated need. The specific test methods, types of test methods, products, services, or standards to be included in a LAP must be requested. The Director of the National Bureau of Standards (NBS) does not unilaterally propose or decide the scope of a LAP. Communication with other laboratory accreditation systems is fostered to encourage development of common criteria and approaches to accreditation and to promote the domestic, foreign, and international acceptance of test data produced by the accredited laboratories.

(d) NVLAP is carried out to be compatible with and recognized by domestic, foreign, and international systems for laboratory accreditation so as to enhance the universal acceptance of test data produced by NVLAP-accredited laboratories.

§ 7.3 Layout of procedures.

Subpart A describes considerations which relate in general to all aspects of NVLAP. Subpart B describes how new LAPs are requested, developed and announced, and now LAPs are terminated. Subpart C describes procedures for accrediting laboratories. Subpart D presents the conditions and criteria for NVLAP accreditation.

§ 7.4 Definitions.

Accreditation criteria means a set of requirements used by an accrediting body which a laboratory must meet to be accredited.

Advisory Committee means the National Laboratory Accreditation Advisory Committee.

Director means the Director of NBS or designee.

Laboratory accreditation is a formal recognition that a testing laboratory is competent to carry out specific tests or types of tests.

Laboratory assessment means the on-site examination of a testing laboratory to evaluate its compliance with specified criteria.

LAP means a laboratory accreditation program established and administered under NVLAP.

NBS means the National Bureau of Standards.

NVLAP means the National Voluntary Laboratory Accreditation Program.

OPSP means the NBS Office of Product Standards Policy..

Person means associations, companies, corporations, educational institutions, firms, government agencies at the federal, state and local level, partnerships, and societies—as well as divisions thereof—and individuals.

Private sector organization means any permanent group of persons, or standing group thereof, and ad hoc group which is part of a permanent organization, or a group which otherwise meets in its own right provided that the group is of nongovernmental character.

Product means a type or category of manufactured goods, constructions, installations, and natural and processed materials, or those associated services whose characterization, classification, or functional performance is specified by standards or test methods.

Proficiency testing means methods of checking laboratory testing performance by means of interlaboratory tests.

Testing laboratory is a laboratory which measures, examines, tests, calibrates or otherwise determines the characteristics or performance of products.

Traceability of the accuracy of measuring instruments is a documented chain of comparison connecting the accuracy of a measuring instrument to other measuring instruments of higher accuracy and ultimately to a primary standard.

§ 7.5 Establishment and functions of a National Laboratory Accreditation Advisory Committee.

(a) The Director shall establish a National Laboratory Accreditation Advisory Committee (Advisory Committee) and appoint its chairperson and members following the filing of a charter setting forth the purpose and nature of the committee.

(b) The composition of the Advisory Committee will be approximately as follows:

(1) One-third from federal, state and local governments;

(2) One-third from testing laboratories (independent, corporate, and academic); and

(3) One-third from users of testing laboratories, academia, consultants, and consumers.

(c) The Advisory Committee will be governed by the Federal Advisory Committee Act (5 U.S.C. App. I). Persons selected to serve on the Advisory Committee may be paid travel expenses and per diem.

(d) The Advisory Committee shall function solely in an advisory capacity with functions to include the following:

(1) Assessing the future and continuing rule of NVLAP and laboratory accreditation in terms of the changing requirements of industry and commerce;

(2) Informing NVLAP managers of the technical requirements of testing laboratories and the industry those laboratories serve;

(3) Advising on the necessity and implementation of proposed amendments to the criteria referenced in § 7.33;

(4) Evaluating the interaction of other laboratory accreditation systems with NVLAP; and

(5) Reviewing and giving recommendations on the development of international accreditation activities and assessing the impact of such activities on NVLAP.

(e) The Advisory Committee shall meet periodically as called upon by the Director or may be consulted through periodic mailings from the Director.

§ 7.6 User information and reports.

(a) The Director shall prepare and publish an annual report containing a directory of all accredited laboratories.

(b) The Director shall periodically prepare supplements to the directory of accredited laboratories covering new accreditation actions taken, including initial accreditations, renewals, suspensions, terminations, and revocations.

§ 7.7 Support function.

The Director shall make provisions for administrative and technical support and staff services as may be needed to operate NVLAP.

§§ 7.8–7.9 [Reserved]

§ 7.10 OMB control number.

The information collection requirements contained in the NVLAP procedures have been approved by the Office of Management and Budget under the Paperwork Reduction Act and have been assigned OMB control number 0652–003.

Subpart B—Establishing a LAP

§ 7.11 Requesting a LAP.

(a) Any person may request the Director to establish a LAP.

(b) Each request must be in writing and must include:

(1) The scope of the LAP in terms of products or testing services proposed for inclusion;

(2) Specific identification of the applicable standards and test methods including appropriate designations, and the organizations or standards writing bodies having responsibility for them;

(3) A statement of the need for the LAP including:

(i) The technical and economic reasons for its desirability; and

(ii) The number of laboratories that may seek accreditation; and

(4) A statement of the extent to which the requestor is willing to support any necessary developmental aspects of the LAP with funding and personnel.

(c) The Director may request clarification of the information required by paragraph (b) of this section.

(d) Before determining the need for a LAP, the Director shall publish a **Federal Register** notice of the receipt of a LAP request. The notice will indicate how to obtain a copy of the request and will state that anyone may submit comments on the need for a LAP to the Director within 60 days of the date of notice.

§ 7.12 LAP development decision.

(a) The Director shall establish all LAPs on the basis of need. Government agencies and private sector organizations may establish the need by using §§ 7.13 and 7.14.

(b) After receipt of the request, the Director shall analyze it to determine if a need exists for the requested LAP. In making this determination, the Director shall consider the following:

(1) The needs and scope of the LAP initially requested;

(2) The needs and scope of the user population;

(3) The nature and content of other relevant public and private sector laboratory accreditation programs;

(4) Compatibility with the criteria referenced in Section 7.33;

(5) The importance of the requested LAP to commerce, consumer well-being, or the public health and safety;

(6) The economic and technical feasibility of accrediting testing laboratories for the test methods, types of test methods, products, services, or standards requested; and

(7) Recommendations from written comments for altering the scope of the requested LAP by adding or deleting test methods, types of test methods, products, services, or standards.

(c) If the Director decides that a need has been demonstrated, and if resources are available to develop a LAP, the Director shall notify interested persons of the decision to proceed with development of a LAP.

(d) If the Director concludes that there is a need for a LAP but there are no resources for development, the Director shall notify the requestor and other interested persons of the decision not to proceed until resources become available.

(e) If the Director decides that a need for a LAP has not been demonstrated,

the Director shall notify the requestor and other interested persons of the decision and the reasons not to proceed with development of a LAP.

§ 7.13 Request from a government agency.

(a) Any federal, state or local agency responsible for regulatory or public service programs established under statue or code, which has determined a need to accredit testing laboratories within the context of its programs, may request the Director to establish a LAP.

(b) Each request must be in writing and must include the information required in § 7.11(b) and:

(1) A description of the procedures followed or a citation of the specific authority used to determine the need for a LAP; and

(2) For state and local government agencies, a statement of why the LAP should be of national scope.

(c) The Director may request clarification of the information required by paragraph (b) of this section.

(d) Before deciding to proceed with development of a LAP, the Director shall publish a **Federal Register** notice of the receipt of a LAP request. The notice will indicate how to obtain a copy of the request and will state that anyone may submit comments on the need for a LAP to the requesting government agency within 60 days of the date of the notice.

(e) The Director shall notify interested persons of the decision to proceed or not to proceed with development of a LAP.

§ 7.14 Request from a private sector organization.

(a) Any private sector organization which has determined a need to accredit testing laboratories for specific products or testing services, may request the Director to establish a LAP if it uses procedures meeting the following conditions:

(1) Public notice of meetings and other activities including requests for LAPs is provided in a timely fashion and is distributed to reach the attention of interested persons;

(2) Meetings are open and participation in activities is available to interested persons;

(3) Decisions reached by the private sector organization in the development of a request for a LAP represent substantial agreement of the interested persons;

(4) Prompt consideration is given to the expressed views and concerns of interested persons;

(5) Adequate and impartial mechanisms for handling substantive and procedural complaints and appeals are in place; and

(6) Appropriate records of all meetings are maintained and the official procedures used by the private sector organization to make a formal request for a LAP are made available upon request to any interested person.

(b) Each request must be in writing and must include the information required in § 7.11(b) and a description of the way in which the organization has met the conditions specified in paragraph (a) of this section.

(c) The Director may request clarification of the information required by paragraph (b) of this section.

(d) Before deciding to proceed with development of a LAP, the Director shall publish a **Federal Register** notice of the receipt of a LAP request. The notice will indicate how to obtain a copy of the request and will state that anyone may submit comments on the need for a LAP to the requesting private sector organization within 60 days of the date of the notice.

(e) The Director shall notify interested persons of the decision to proceed or not to proceed with development of a LAP.

§ 7.15 Development of technical requirements.

(a) Technical requirements for accreditation are specific for each LAP. The requirements tailor the criteria referenced in § 7.33 to the test methods, types of test methods, products, services, or standards covered by the LAP.

(b) The Director shall develop the technical requirements based on expert advice. This advice may be obtained through one or more informal public workshops or other suitable means.

(c) The Director shall make every reasonable effort to ensure that the affected testing community within the scope of the LAP is informed of any planned workshop. Summary minutes of each workshop will be prepared. A copy of the minutes will be made available for inspection and copying at the NBS Records Inspection Facility.

§ 7.16 Coordination with federal agencies.

As a means of assuring effective and meaningful cooperation, input, and participation by those federal agencies that may have an interest in and may be affected by established LAPs, the Director shall communicate and consult with appropriate officials within those agencies.

§ 7.17 Announcing the establishment of a LAP.

(a) When the Director has completed the development of the technical requirement of the LAP and established a schedule of fees for accreditation, a **Federal Register** notice announcing the establishment of the LAP will be published.

(b) The notice will contain the following:

(1) The scope of the LAP in terms of products or testing services and the associated standards, test methods, or types of test methods for which accreditation is available;

(2) The fees that will be charged for accreditation;

(3) Instructions for applying for accreditation; and

(4) A brief summary of the accreditation process including any requirements for proficiency testing, on-site assessment, and questionnaires.

(c) The Director shall establish fees in amounts that will enable the LAP to be self-sufficient. The Director shall revise the fees when necessary to maintain self-sufficiency.

§ 7.18 Adding to an established LAP.

Written requests will be considered from any person wishing to add specific standards, test methods, or types of test methods to an established or developing LAP. The Director may choose to make them available for accreditation under a LAP when:

(1) The additional standards, test methods, or types of test methods requested are directly relevant to the LAP;

(2) It is feasible and practical to accredit testing laboratories for the additional standards, test methods, or types of test methods; and

(3) It is likely that laboratories will seek accreditation for the additional standards, test methods, or types of test methods.

§ 7.19 Termination of a LAP.

(a) The Director may terminate a LAP when the Director determines that a need no longer exists to accredit testing laboratories for the products or testing services covered under the scope of the LAP. In the event, a notice will be published in the **Federal Register** setting forth the basis for the Director's determination.

(b) The notice published under pragraph (a) of this section will provide at least a 60-day period for submitting written comments on the Director's proposal to terminate the LAP. All written comments will be made available for public inspection and copying in the NBS Records Inspection Facility.

(c) After the comment period, the Director shall determine if public support exists for the continuation of the LAP. If public comments support the

continuation of the LAP, the Director shall publish a **Federal Register** notice announcing the continuation of the LAP. If public support does not exist for continuation, the LAP will be terminated effective 90 days after the date of the Director's published notice of intent to terminate the LAP.

(d) If the LAP is terminated, the Director shall no longer grant or renew accreditations following the effective date of termination. Accreditations previously granted will remain effective until their expiration date unless terminated voluntarily by the laboratory or revoked by the Director.

§ 7.20 [Reserved]

Subpart C—Accrediting a Laboratory

7.21 Applying for accreditation.

(a) Any laboratory may request an application for accreditation in any established LAPs in accordance with instructions provided in notices announcing the formal establishment of LAPs.

(b) Upon receipt of a laboratory's application, the Director shall:

(1) Acknowledge receipt of the application;

(2) Request further information, if necessary;

(3) Confirm payment of fees; and

(4) Specify the next step(s) in the accreditation process.

(c) In accepting an application from a foreign-based laboratory, the Director shall take into consideration the policy of the host government regarding the acceptance of test data from laboratories accredited by NVLAP or other foreign accreditation systems.

§ 7.22 Assessing and evaluating a laboratory.

(a) The NBS Office of Product Standards Policy (OPSP) shall be responsible for the on-site assessment and evaluation of applicant laboratories.

(b) Information used to evaluate a laboratory's compliance with the conditions for accreditation set out in § 7.32, the criteria for accreditation set out in § 7.33, and the technical requirements established for each LAP may include:

(1) On-site assessment reports;

(2) Laboratory responses to identified deficiencies; and

(3) Laboratory performance on proficiency tests.

(c) OPSP shall arrange by contract or shall itself assess and evaluate applicant laboratories in accordance with the requirements for assessment and evaluation provided by the Director.

(d) OPSP shall ensure that the personnel used to assess and evaluate the laboratories possess appropriate professional and technical qualifications.

(e) OPSP or its contractors shall use on-site assessors and evaluators in such a way as to minimize potential conflicts of interest.

(f) OPSP shall inform the laboratory of any action(s) that the laboratory must take to complete the requirements for assessment and evaluation.

(g) OPSP shall forward an evaluation report to the Director within 45 days of a laboratory's successful completion of the requirements for assessment and evalulation.

§ 7.23 Granting and renewing accreditation.

(a) The Director, after reviewing an evaluation report, shall grant or renew, suspend, or propose to deny or revoke accreditation of an applicant laboratory, no later than 30 days following the date of submittal of the report. If accreditation action is not taken within this time limit, the Director shall notify the laboratory stating the reasons for the delay.

(b) If accreditation is granted or renewed, the Director shall:

(1) Provide a certificate of accreditation to the laboratory;

(2) Identify the scope and terms of the laboratory's accreditation;

(3) Provide guidance on referencing the laboratory's accredited status, and the use of the NVLAP logo by the laboratory and its clients, as needed; and

(4) Remind the laboratory that accreditation does not relieve it from complying with applicable federal, state, and local laws and regulations.

(c) The Director shall notify an accredited laboratory at least 30 days before its accreditation expires advising of the action(s) the laboratory must to take to renew its accreditation.

(d) If an accredited laboratory fails to complete the assessment and evaluation process for renewal before its accreditation expires, the Director shall notify the laboratory stating that its accreditation has expired and reiterating the action(s) the laboratory must take to renew its accreditation.

§ 7.24 Denying, suspending, revoking, and terminating accreditation.

(a) If the Director proposes to deny or revoke accreditation of a laboratory, the Director shall inform the laboratory of the reasons for the proposed denial and the procedure for appealing such a decision.

(b) The laboratory will have 30 days from the date of receipt of the Director's proposed denial letter to request a hearing under the provisions of 5 U.S.C. 556. If the laboratory requests a hearing, the proposed denial will be stayed pending the outcome of the hearing held under provisions of 5 U.S.C. 556. The Director's proposed denial will become final through the issuance of a written decision to the laboratory in the event that the laboratory does not appeal the proposed denial within that 30-day period.

(c) If the Director finds that an accredited laboratory has violated the terms of its accreditation or the provisions of these procedures, the Director may, after consultation with the laboratory suspend the laboratory's accreditation, or advise of the Director's intent to revoke its accreditation. If accreditation is suspended, the Director's notification of that action shall state the reasons for and conditions of the suspension and shall specify the action(s) the laboratory must take to have its accreditation reinstated. Conditions of suspension will include, but are not limited to, prohibiting the laboratory from using the NVLAP logo on its test reports during the suspension period. If the Director proposes revocation, the procedures set out in paragraphs (a) and (b) of this section will be followed. The Director's determination whether to suspend or to propose revocation of a laboratory's accreditation will depend on the nature of the violation(s) of the terms of its accreditation.

(d) A laboratory may at any time terminate its participation and responsibilities as an accredited laboratory by advising the Director in writing of its desire to do so. The Director shall terminate the laboratory's accreditation and shall notify the laboratory stating that its accreditation has been terminated in response to its request.

(e) A laboratory may at any time withdraw its application for accreditation by advising the Director in writing of its desire to do so.

(f) A laboratory whose accreditation has been denied, revoked, terminated, or expired, or which has withdrawn its application before being accredited, may reapply and be accredited if the laboratory:

(1) Completes the assessment and evaluation process; and

(2) Meets the conditions and criteria for accreditation that are set out in Subpart D;

§ 7.25 Complaints about accredited laboratories.

The Director shall investigate, as appropriate, any complaints about

NVLAP-accredited laboratories received in writing.

§§ 7.26—7.30 [Reserved]

Subpart D—Conditions and Criteria for Accreditation

§ 7.31 Application of accreditation conditions and criteria.

(a) To become accredited and maintain accreditation, a laboratory must meet the conditions for accreditation set out in § 7.32 and the criteria set out in § 7.33 as tailored for specific LAPs.

(b) The conditions leading to accreditation include acceptance of the responsibilities of an accredited laboratory and requirements for information disclosure.

(c) The criteria are tailored and interpreted for the test methods, types of test methods, products, services or standards of the relevant LAP. These tailored criteria are the technical requirements for accreditation developed through the procedures of § 7.15.

(d) In applying the conditions, criteria, and technical requirements for accreditation, the Director shall not:

(1) Prohibit accreditation solely on the basis of a laboratory's affiliation or nonaffiliation with manufacturing, distributing, or vending organizations, or because the laboratory is a foreign firm;

(2) Develop, modify, or promulgate test methods, standards, or comparable administrative rules; or

(3) Ask for or accept confidential business data, trade secrets, or other proprietary information.

§ 7.32 Conditions for accreditation.

(a) To become accredited and maintain accreditation, a laboratory shall agree in writing to:

(1) Be assessed and evaluated initially and on a periodic basis;

(2) Demonstrate, on request, that it is able to perform the tests representative of those for which it is seeking accreditation;

(3) Pay all relevant fees;

(4) Participate in proficiency testing as required.

(5) Be capable of performing the tests for which it is accredited according to the latest version of the test method within one year after its publication or within another time limit specified by the Director;

(6) Limit the representation of the scope of its accreditation to only those tests or services for which accreditation is granted;

(7) Limit its test work or services to those areas where competence and capacity are available;

(8) Limit advertising of its accredited status to letterheads, brochures, test reports, and professional, technical, trade, or other laboratory services publications, and use the NVLAP logo under guidance provided by the Director;

(9) Inform its clients that the laboratory's accreditation or any of its test reports in no way constitutes or implies product approval or endorsement by NBS;

(10) Maintain records of all actions taken in response to testing complaints for a minimum of one year;

(11) Maintain an independent decisional relationship between itself and its clients, affiliates, or other organizations so that the laboratory's capacity to render test reports objectively and without bias is not adversely affected;

(12) Report to the Director within 30 days any major changes involving the location, ownership, authorized representative, approved signatories, or facilities of the laboratory; and

(13) Return to the Director the certificate of accreditation for possible revision or other action should it:

(i) Be requested to do so by the Director;

(ii) Voluntarily terminate its accredited status; or

(iii) Become unable to conform to any of these conditions or the applicable criteria of Section 7.33 and related technical requirements.

(b) To become accredited and maintain accreditation, a laboratory shall supply, upon request, the following information:

(1) legal name and full address;

(2) Ownership and management structure of the laboratory;

(3) Organization chart defining relationships that are relevant to performing testing covered in the accreditation request;

(4) General description of the laboratory, including its facilities and scope of operation;

(5) Name and telephone number of the authorized representative of the laboratory;

(6) Name(s), telephone number(s), and qualifications of laboratory staff nominated to serve as approved signatories of NVLAP-endorsed test reports; and

(7) Other information as may be needed for the specific LAP(s) in which accreditation is sought.

§ 7.33 Criteria for accreditation.

(a) *Quality System.* (1) The laboratory shall operate under an internal quality control program appropriate to the type, range, and volume of work performed. The quality control program must be designed to ensure the required degree of accuracy and precision of the laboratory's work and should include key elements of document control, sample control, data validation, and corrective action. The quality control program must be documented in a manual or equivalent (e.g., operations notebook) which is available for use by laboratory staff. A person(s) must be identified by title as having responsibility for maintaining the quality control manual.

(2) The quality control manual must include as appropriate:

(i) The laboratory's quality control policies including procedures for corrective action for detected test discrepancies;

(ii) Quality control responsibilities for each function of the laboratory;

(iii) Specific quality control practices and procedures for each test, type of test, or other specifically delineated function performed;

(iv) Specific procedures for retesting, control charts, reference materials, and interlaboratory tests; and

(v) Procedures for dealing with testing complaints.

(3) The laboratory shall periodically review the quality control system by or on behalf of management to ensure it's continued effectiveness. These reviews must be recorded with details of any corrective action taken.

(b) *Staff.* (1) The laboratory shall:

(i) Be staffed by individuals having the necessary education, training, technical knowledge and experience for their assigned functions and

(ii) Have a job description for each professional, scientific, supervisory and technical position, including the necessary education, training, technical knowledge, and experience.

(2) The laboratory shall document the test methods each stff member has been assigned to perform.

(3) The laboratory shall have a description of its training program for ensuring that new or untrained staff are able to perform tests properly and uniformly to the requisite degree of precision and accuracy.

(4) The laboratory shall be organized:

(i) So that staff members are not subjected to undue pressure or inducement that might influence their judgment or results of their work; and

(ii) In such a way that staff members are aware of both the extent and the limitation of their area of responsibility.

(5) The laboratory shall have a technical manager (or similar title) who has overall responsibility for the technical operations of the laboratory.

(6) The laboratory shall have one or more signatures approved by the Director to sign test reports endorsed with the NVLAP logo. Approved signatures shall:

(i) Be competent to make a critical evaluation of tests results; and

(ii) Occupy positions within the laboratory's organization which makes them responsible for the adequacy of test results.

(c) *Facilities and Equipment.* (1) The laboratory shall be furnished with all items of equipment and facilities for the correct performance of the tests and measurements for which accreditation is granted and shall have adequate space, lighting, and environmental control, and monitoring to ensure compliance with prescribed testing conditions.

(2) All equipment must be properly maintained to ensure protection from corrosion and other causes of deterioration. Instructions for a proper maintenance procedure for those items of equipment which requires periodic maintenance must be available. Any item of equipment or component thereof which has been subjected to overloading or mishandling, gives suspect results, or has been shown by calibration or otherwise to be defective, must be taken out of service and clearly labelled until it has been repaired. When placed back in service, this equipment must be shown by test or calibration to be performing its function satisfactorily.

(3) Records of each major item of equipment must be maintained. Each record must include:

(i) The name of the item of equipment;

(ii) The manufacturer's name and type, identification and serial number;

(iii) Date received and date placed in service;

(iv) Current location;

(v) Details of maintenance; and

(vi) Date of last calibration, next calibration due date, and calibration report references.

(d) *Calibration.* The laboratory shall:

(1) Calibrate new testing equipment before putting it into service;

(2) Recalibrate, at regular intervals, in-service testing equipment with the calibration status readily available to the operator;

(3) Perform checks of in-service testing equipment between the regular calibration intervals, where relevant;

(4) Maintain adequate records of all calibrations and recalibrations; and

(5) Provide traceability of all calibrations and reference standards of measurement where these standards exist. Where traceability of measurements to primary (national or international) standards is not applicable, the laboratory shall provide satisfactory evidence of the accuracy or reliability of test results (for example by participation in a suitable program of interlaboratory comparison).

(e) *Test Methods and Procedures.* The laboratory shall:

(1) Conform in all respects with the test methods and procedures required by the specifications against which the test item is to be tested, except that whenever a departure becomes necessary for technical reasons the departure must be acceptable to the client and recorded in the test report;

(2) Maintain a test plan for implementing testing standards and procedures including adequate instructions on the use and operation of all relevant equipment, on the handling and preparation of test items (where applicable), and on standard testing techniques where the absence of such instructions could compromise the test. All instructions, testing standards, specifications, manuals, and reference data relevant to the work of the laboratory must be kept up-to-date and made readily available to the staff;

(3) Maintain measures for the detection and resolution of in-process testing discrepancies for manual and automatic test equipment and electronic data processing equipment, where applicable;

(4) Maintain a system for identifying samples or items to be tested either through documents or through marking to ensure that there is no confusion regarding the identity of the samples or test items and the results of the measurements made; and

(5) Maintain rules for the receipt, retention, and disposal of test items, including procedures for storage and handling precautions to prevent damage to test items which could invalidate the test results. Any relevant instructions provided with the tested item must be observed.

(f) *Records.* The laboratory shall:

(1) Maintain a record system which contains sufficient information to permit verification of any issued report;

(2) Retain all original observations, calulations and derived data, and calibration records for one year unless a longer period is specified; and

(3) Hold records secure and in confidence, as required.

(g) *Test Reports.* (1) The laboratory shall issue test reports of its work which accurately, clearly, and unambiguously present the specified test results and all required information. Each test report must include the following information as applicable:

(i) Name and address of the laboratory;

(ii) Identification of the test report by serial number, date, or other appropriate means;

(iii) Name and address of client;

(iv) Description and identification of the test specimen, sample, or lot of material represented;

(v) Identification of the test specification, method, or procedure used;

(vi) Description of sampling procedure, if appropriate;

(vii) Any deviations, additions to, or exclusions from the test specifications;

(viii) Measurements, examinations, and derived results supported by tables, graphs, sketches, and photographs, as appropriate, and any failures identified;

(ix) A statement of measurement uncertainty where relevant;

(x) Identification of the organization and the person accepting technical responsibility for the test report and date of issue;

(xi) A statement that the report must not be reproduced except in full with the approval of the laboratory; and

(xii) A statement to the effect that the test reprot relates only to the items tested.

(2) The laboratory shall issue corrections or additions to a test report only by a further document suitably marked, e.g. "Supplement to test report serial number . . ." which meets the relevant requirements of § 7.33(g)(1).

(3) The laboratory shall retain a copy of each test report issued for one year unless a longer period is specified.

(4) The laboratory shall ensure that all test reports endorsed with the NVLAP logo are signed by an approved signatory.

§§ 7.34–7.40 [Reserved]

[FR Doc. 84–12847 Filed 5–15–84; 8:45 am]
BILLING CODE 3510–13–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 524]

Establishment of Sonoita Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, and Firearms (ATF) is considering the establishment of a viticultural area in

Arizona to be known as "Sonoita." This proposal is the result of a petition from Mr. A. Blake Brophy, a grape grower in the area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will enable winemakers to label wines more precisely and will help consumers to better identify the wines they purchase.

DATE: Written comments must be received by July 2, 1984.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Notice No. 524).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for the establishment of definite viticultural areas. The regulations also alllow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the Viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF has received a petition from Mr. A. Blake Brophy of the Babocamari Ranch Company, proposing an area near Sonoita, Arizona, as a viticultural area to be known as "Sonoita." The area contains about 325 square miles. It is located in extreme southern Arizona, near the Mexican border. There are about 40 acres of grapes currently planted in the proposed area. The petitioner states that plans call for 360 additional acres to be planted. A winery is currently under construction. Soils in the area that are suitable for wine-grape production include the White House-Bernardino-Hathaway and the Caralumpi-Hathaway associations. Grapes are being grown on the floor of the proposed viticultural area at altitudes of between 4,500 feet and 5,000 feet.

The petitioner claims that the proposed viticultural area is known by the name of "Sonoita" and is associated with grape growing for the following reasons:

(a) "Sonoita" is the name of the only viable community in the area. (The town of Sonoita is centrally located within the proposed viticultural area.)

(b) Historically, the name "Sonoita" is derived from a *visita* established in 1691 by the missionary-explorer, Father Eusebio Francisco Kino. At that time, the name given to this small settlement of Sobaipuri Indians was "Los Santos Reyes de Sonoita."

(c) Since 1975, the Babocamari Ranch Company has been cooperating with the University of Arizona in the growing of *vitis vinifera* grapes in the area and in the making of wine from those grapes. These efforts have been described in an article in the American Journal of Enology and Viticulture, Vol. 32, No. 4, pp. 290–296, entitled "The Use of Soils for the Delineation of Viticultural Zones in the Four Corners Region." This article calls the proposed area "Sonoita"; for example: "Other sites such as Sonoita . . . produce much better fruit than expected" (p. 291).

The Petitioner claims that the proposed viticultural area is distinguished geographically from the surrounding areas for the following reasons:

(1) Topographically, the area is separated from the surrounding areas by three major mountain ranges: the Santa Rita Mountains, the Huachuca Mountains, and the Whetstone Mountains. These mountains rise from 2,500 to 4,500 feet above the floor of the viticultural area.

(2) The "old-timers" used to call the area "Sonoita Valley," because it resembles a valley in appearance. But geologically, the area is technically a basin rather than a valley, because it comprises the headwaters for three distinct drainages: Sonoita Creek to the south, Cienega Creek to the north, and the Babocamari River to the east. (In technical geological terms, a "valley" would comprise only a single drainage.)

(3) The most obvious geographical distinction to the area is that, in its native state, it is classified as "high desert grassland," while the surrounding terrain is either mountain or woody-shrub desert. (See Humphrey, Robert R., *The Desert Grassland*, University of Arizona Press.)

The boundaries of the proposed viticultural area may be found on seven U.S.G.S. quadrangle maps in the 7.5 minute series: Benson, Fort Huachuca, Sunnyside, Elgin, Lochiel, Mount Wrightson, and Empire Mountains. The boundaries are as described in the proposed § 9.97.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, because the value of the proposed viticultural area designation is intangible and subject to influence by unrelated factors. Further, the proposal will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of Feb. 17, 1981, the Bureau has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments conerning this proposed viticultural area from all interested persons.

Furthermore, while this document proposes possible boundaries for the Sonoita viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Drafting Information

The principal author of this document is Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is revised to add to the title of § 9.97, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.97 Sonoita.

Par. 2. Subpart C of 27 CFR Part 9 is amended by adding § 9.97, which reads as follows:

§ 9.97 Sonoita.

(a) *Name.* The name of the viticultural area described in this section is "Sonoita."

(b) *Approved maps.* The appropriate maps for determining the boundaries of Sonoita viticultural area are seven U.S.G.S. maps. They are titled:

(1) Benson Quadrangle, 7.5 minute series, 1958.

(2) Fort Huachuca Quadrangle, 7.5 minute series, 1958.

(3) Elgin Quadrangle, 7.5 minute series, 1958.

(4) Lochiel Quadrangle, 7.5 minute series, 1958.

(5) Mount Wrightson Quadrangle, 7.5 minute series, 1958.

(6) Sunnyside Quadrangle, 7.5 minute series, 1958.

(7) Empire Mountains Quadrangle, 7.5 minute series, 1958.

(c) *Boundary*—(1) *General.* The Sonoita viticultural area is located in Arizona. The starting point of the following boundary description is the summit of Mount Wrightson (9,543 feet) in the Santa Rita Mountains.

(2) *Boundary Description*—(i) From the starting point southeastward in a straight line for approximately 24 miles, to the summit of Lookout Knob (6,171 feet) in the Canelo Hills.

(ii) From there in a straight line eastward for approximately 10 miles, to the summit of Huachuca Peak (8,410 feet) in the Huachuca Mountains.

(iii) From there north-northwestward for approximately 21 miles in a straight line ot the summit of Granite Peak (7,413 feet) in the Whetstone Mountains.

(iv) From there west-southwestward in a straight line for approximately 26 miles, to the summit of Mount Wrightson (the point of beginning).

Approved: May 8, 1984.

W. T. Drake,

Acting Director.

[FR Doc. 84-13174 Filed 5-15-84; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Public Comment Period and Opportunity for Public Hearing on Modified Portions of the West Virginia Permanent Regulatory Program

Correction

In FR Doc. 84–12341 beginning on page 19525 in the issue of Tuesday, May 8, 1984, make the following correction:

On page 19526, first column, DATES, lines five and six, "May 28, 1984" should read "May 29, 1984".

BILLING CODE 1505-01-M

National Park Service

36 CFR Part 13

National Park System Units in Alaska; Proposed Cabin Regulations; Public Hearings

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; notice of public hearings.

SUMMARY: On April 3, 1984 the National Park Service published proposed regulations for the use of existing cabins and other structures, construction of new cabins and other structures and the use of temporary facilities related to the taking of fish and wildlife (49 FR 13160).

Public hearings regarding these proposed regulations will be held at the following places, dates, and times listed below.

DATES:

Anchorage

May 21, 1984, 7–9 pm.

Fairbanks

May 23, 1984, 6:30–8:45 pm.

Juneau

May 25, 1984, 7–9 pm.

Both written and oral comments will be accepted at the hearings. Oral comments should be limited to ten minutes.

The public comment period will remain open until June 4, 1984.

ADDRESSES: Written comments should be sent to: Alaska Regional Director, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503–2892. Anchorage Hearing at Pioneer school 3rd and Eagle, Fairbanks Hearing at Noel Wien library, 1215 Cowles, Juneau Hearing at Centennial Hall, Hammond Room.

FOR FURTHER INFORMATION CONTACT: Roger J. Contor, Regional Director, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503 (907–271–4196).

J. Thomas Ritter,

Acting Associate Director, Park Operations.

[FR Doc. 84–13155 Filed 5–15–84; 8:45 am]

BILLING CODE 4310–70–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[00000/P316; PH–FRI 2556–7]

2,4-Dichlorophenyl P-Nitrophenyl Ether; Proposed Revocation of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would revoke all tolerances established at 40 CFR 180.223 for residues of the herbicide 2,4-dichlorophenyl p-nitrophenyl ether (commonly called nitrofen; trade name, TOK®) and its metabolites containing the diphenyl ether linkage (hereafter, this chemical) in or on certain raw agricultural commodities. EPA is proposing this action because of its concern about the teratogenic risk and potential oncogenic and mutagenic risks associated with this chemical.

DATE: Written comments must be received on or before July 16, 1984.

ADDRESSES: By mail, submit written comments to: Program Management and Support Division (TS–757C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Brannagan, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–7420).

SUPPLEMENTARY INFORMATION: On August 21, 1980, the Rohm and Haas Company, the sole manufacturer of this chemical, voluntarily suspended marketing products containing this chemical in the United States until the company could demonstrate, to the satisfaction of EPA, that this chemical could be applied under conditions which would not present an unacceptable teratogenic risk to applicators, field workers, or food consumers, particularly the unborn through exposure to women. This chemical is teratogenic and carcinogenic in laboratory animals and has demonstrated mutagenic potential in a number of test systems.

This chemical was undergoing a Special Review to determine the risks and benefits associated with its use. On September 15, 1983, before a regulatory decision was reached, the Rohm and Haas Company requested voluntary cancellation of all its products containing this chemical as well as revocation of all tolerances for this chemical. A notice in the **Federal Register** of January 18, 1984 (49 FR 2151) announced that all uses of this chemical have been voluntarily cancelled effective on February 17, 1984.

For the reasons stated above, the Agency is proposing to revoke all tolerances appearing at 40 CFR 180.223 for 2,4-dichlorophenyl P-nitrophenyl ether and its metabolites containing the diphenyl ether linkage.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains this chemical may request that this proposed revocation be referred to an asvisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposal to revoke all tolerances for the chemical in 40 CFR 180.223. Comments must bear the notation indicating the document control number 00000/P316. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Va., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 236, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulation is "Major" and therefore subject to the requirment of a Regulatory Impact Analysis. The Agency has determined that this proposed rule is not a major rule, i.e., it will not have an annual effect on the economy of $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. Revocation of tolerances for this chemical should aid U.S. enterprises by eliminating any unfair advantage that foreign enterprises have gained through the continuance of these tolerances.

This proposed rule has been submitted to the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165, 5 U.S.C. 60 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

As this regulation is intended to prevent sale of foodstuffs primarily where the subject pesticide has been used in an unregistered or illegal manner, it is anticipated that little or no economic impacts would occur at any level of business enterprise.

Accordingly, I certify that this regulation does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

(Sec. 408 (e) and (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346 (e) and (m))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 7, 1984.

William D. Ruckelshaus,
Administrator.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

§ 180.223 [Removed]

By removing § 180.223.

[FR Doc. 84-12985 Filed 5-15-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 78-72; CC Docket No. 80-286]

MTS and WATS Market Structure; and Amendment of the Commission's Rules and Establishment of a Joint Board; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment dates.

SUMMARY: The Chief, Common Carrier Bureau, acting pursuant to delegated authority, extends the dates for filing information and comments concerning end user charges, separations issues, bypass of the switched telephone network and the effect of Federal decisions on local telephone rates. This action is being taken due to the importance of the issues involved and relatively short filing periods previous established. Deferral of these dates will allow interested parties additional time in which to prepare their filings.

DATES: Comments on separations issues other than equal access and network reconfiguration requested by the Joint Board's Order Inviting Comments are to be filed with the Secretary, Federal Communications Commission no later than May 14, 1984. Replies concerning these issues are to be filed no later than May 29, 1984. The dates for filing comments and replies on the separations treatment of equal access and network reconfiguration costs are not being extended. Comments concerning the end user charge issues discussed in the Commission's Further Notice of Proposed Rulemaking are to be filed no later than May 21, 1984. Replies concerning these issues are to be filed no later than June 18, 1984, as previously ordered. Information, studies and comments concerning bypass of the switched telephone network and the effect of Federal decisions on universal service requested in the Public Notices, issued by the Commission on March 28, and March 30, 1984, are to be forwarded to the Commission by May 21, 1984.

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

FOR FURTHER INFORMATION CONTACT: Claudia Pabo, Policy & Program Planning Division, Common Carrier Bureau at (202) 632-9342.

In the Matter of MTS and WATS Market Structure Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board CC Docket No. 78-72, CC Docket No. 80-286.

Adopted: May 3, 1984.
Released: May 4, 1984.
By the Chief, Common Carrier Bureau.

1. The Chief, Common Carrier Bureau acting pursuant to delegated authority, hereby extends the previously established dates for filing: (1) Comments and replies on separations issues other than the allocation of equal access and network reconfiguration costs; (2) comments on end user charge or customer line charge issues including a lifeline exemption or other assistance for low income subscribers, additional assistance for small telephone companies and the best means of implementing customer line charges for residential and single line business subscribers; (3) information and comments on the extent and dangers of bypass and the effect of customer line charges and other federal decisions on universal service.

2. The Commission and Joint Board have recently requested information and comments on a number of issues related to customer line charges and jurisdictional separations in several separate orders and public notices. On March 30, 1984, the Commission adopted a Further Notice of Proposed Rulemaking requesting comments on: (1) Means of providing small telephone companies (for example, those having less than 50,000 loops) with additional assistance; (2) a "lifeline" exemption from customer line charges or other assistance for low income subscribers; and (3) how best to implement customer line charges from residential and single line business users.[1] Comments on these issues were to be filed on May 14, 1984, and replies were to be filed on June 18, 1984. On March 28, the Commission issued a Public Notice requesting information and studies concerning bypass of the public switched network.[2] Filings were to be made May 14, 1984. The Commission also issued a Public Notice on March 30, 1984 seeking further information on the effect of federal decisions on local rates.[3] Filings in response to this notice were also due on May 14, 1984.

3. In addition, on April 11, 1984 the Joint Board adopted an Order Inviting Comments on the following jurisdictional separations issues: (1) Refining the provisions for the additional interstate non-traffic sensitive (NTS) cost allocation designed to assist telephone subscribers in high cost areas; (2) developing appropriate separations procedures for allocation of the costs associated with implementing equal access to the local exchange and network reconfiguration as required by the *Modification of Final Judgment (MFJ);*[4] (3) developing procedures for the assignment of WATS closed end access lines; (4) identifying the effects of the assessment of end user access charges for Centrex-CO lines and developing proposals to ensure that universal service is not adversely affected; (5) determining whether further adjustments are needed in the CPE phase out plan; and (6) preparing a number of miscellaneous revisions in the jurisdictional separations procedures necessitated by changes in the Uniform System of Accounts or the provision of new services. The Joint Board also asked interested parties to file preliminary comments concerning the separations treatment of Central Office Equipment (COE).[5] Comments concerning the separations treatment of equal access and network reconfiguration costs were to be filed on April 30, 1984 and replies were to be filed on May 14, 1984. Comments concerning the other separations issues discussed in this order were to be filed on May 7, 1984 with replies due May 21, 1984.

4. The Rural Telephone Coalition (RTC) filed a Motion for Extension of Time on April 27, 1984 requesting substantial extensions of the time for responding to the Commission and Joint

[1] MTS and WATS Market Structure, CC Docket No. 78-72, and Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286, FCC 84-133, released April 11, 1984, 49 FR 18318 (April 30, 1984).

[2] Public Notice, "Request for Data, Information, and Studies Pertaining to Bypass of the Public Switched Network," Mimeo No. 3206, released March 28, 1984.

[3] Public Notice, "Commission Seeks Further Information on the Effects of Federal Decisions on Local Rates and Services," Mimeo No. 3246, released March 30, 1984.

[4] *United States* v. *AT&T*, 552 F. Supp. 131 (1982), *aff'd sub nom.* Maryland v. United States, 103 S.Ct. 1240 (1983).

[5] Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286, FCC 84-139, released April 11, 1984, 49 FR 18746 (May 2, 1984).

Board orders and public notices discussed above. RTC asked for deferrals in the filing dates ranging from approximately four to eleven weeks. Under RTC's proposal the earliest of the filing dates discussed above would be extended to May 28, 1984, with the latest dated extended to August 13, 1984. In support of its request for additional time, RTC emphasized the importance of the issues involved, the limited comment and reply periods allowed by the Commission and Joint Board, and the need for RTC to participate in other Commission and court proceedings involving the access charge tariffs, the long run regulation of AT&T's domestic services and other matters with filing dates during the same period. RTC also argued that it would be difficult for parties to prepare comments prior to June 30, 1984, the date on which the exchange carriers are to file high cost data with the National Exchange Carrier Association (NECA). On April 30, 1984, Bell Communications Research (BCR) also requested that the comment and reply dates for the separations issues, other than equal access and network reconfiguration, addressed in the Joint Board's Order Inviting Comments be extended until May 14, 1984 and May 29, 1984 respectively. BCR stated that this brief extension of time was necessary in light of the close relationship between certain of the separations and end user charge issues to allow parties to develop comprehensive responses to all of these issues.

5. The Bureau finds that RTC and BCR have shown good cause for brief extensions of the filing dates discussed above with the exception of the date for filing comments and replies concerning the separations treatment of equal access and network reconfiguration costs.[6] The original comment schedule was relatively brief, and we believe that some additional time will assist parties in preparing comments on these issues. Accordingly, we will extend the dates for filing comments and replies on the separations issues other than equal access and network reconfiguration addressed in the Joint Board order and the date for filing comments on the end user charge issues addressed by the Commission order by one week.[7] We are also extending the dates for responding to the Public Notices seeking information on bypass of the switched network and the effect of federal decisions on universal service. However, it appears that some studies cannot be completed before that date. We will make every effort to consider studies on these questions which are completed and filed after this date, and we encourage parties who are examining these issues to continue their work. Any parties intending to file late studies should advise us that they intend to file and provide information concerning the subject and methodology of their study by this filing date.

6. Accordingly, it is ordered, that comments on separations issues other than equal access and network reconfiguration requested by the Joint Board's Order Inviting Comments discussed above are to be filed with the Secretary, Federal Communications Commission no later than May 14, 1984. Replies concerning these issues are to be filed no later than May 29, 1984. The dates for filing comments and replies on the separations treatment of equal access and network reconfiguration costs are not being extended.

7. It is further ordered, that comments concerning the end user charge issues discussed in the Commission's Further Notice of Proposed Rulemaking referred to above are to be filed with the Secretary, Federal Communications Commission no later than May 21, 1984. Replies concerning these issues are to be filed no later than June 18, 1984 as previously ordered.[8]

8. It is further ordered, that information, studies and comments concerning bypass of the switched network and the effect of federal decisions on universal service requested in the Public Notices discussed above are to be forwarded to the Commission by May 21, 1984.

9. This action is taken by the Chief, Common Carrier Bureau pursuant to delegated authority, 47 CFR 0.91 & 0.291(h); Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-286, FCC 80-692 at para. 6, released December 5, 1980, 45 FR 82281 (December 15, 1980).

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-13139 Filed 5-15-84; 8:45 am]

BILLING CODE 6712-01-M

[6] RTC requested an extension of the April 30, 1984 date for filing comments on the separations treatment of equal access and network reconfiguration costs. RTC was orally advised on April 30, 1984, that the motion would be denied. A large number of parties filed comments on these issues as scheduled on April 30, 1984. Interested parties which were unable to file timely comments on these issues may file comments accompanied by a Motion to Accept Late Filed Pleading. Any such requests will be considered on their individual merits. Interested parties which did not file comments may also file replies on May 14, 1984.

[7] The date for filing replies on the end user charge issues in the Commission Order will not be extended. Accordingly these replies are due June 18, 1984.

[8] Both the Commission and the Joint Board have requested comments on additional separations based assistance for small companies. Interested parties may file comments on this issue in response to either or both of these requests for comments.

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Cirsium vinaceum To Be a Threatened Species and To Determine Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list a plant, *Cirsium vinaceum* (Sacramento Mountains thistle), as a threatened species under the authority contained in the Endangered Species Act of 1973, as amended. Critical habitat is being proposed. This plant occurs in Otero County, New Mexico, in the Sacramento Mountains. There are fourteen known populations, which contain a total of 2,000-3,000 plants. Threats to this species are habitat destruction by livestock and water development, competition with introduced plant species, road construction, logging and recreational activities. A final determination that *Cirsium vinaceum* is a threatened species will implement the protection provided by the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 16, 1984. Public hearing requests must be received by July 2, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Office, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Service's Regional Office of Endangered Species, Region 2, 421 Gold Avenue, SW., Room 407, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Dr. Russell L. Kologiski, Bontanist, Region 2 Endangered Species staff (see **ADDRESSES** above) (505-766-3972).

SUPPLEMENTARY INFORMATION:

Background

Cirsium vinaceum was first collected on July 12, 1899, by E. O. Wooten and was described by Wooten and Standley in 1913. *Cirsium vinaceum* is a perennial thistle that grows 1–2 meters tall. The stems are purple and highly branched. The leaves are up to 50 centimeters long and have deep, narrow, pointed lobes. The lobes on the leaf tips have short, slender, yellow spines. There are many purple flower heads per plant. Flowering occurs in July and August, possibly into September. Most of the populations occur on steep calcium carbonate deposits immediately adjacent to flowing springs. The deposits provide adequate moisture and the steepness limits access of livestock to the plants. One population is known from the moist banks of a stream and the adjacent wet meadows. Many of the plants in this population grow directly in the stream.

The dominant plant species associated with *Cirsium vinaceum* are Ponderosa Pine, Douglas Fir, Locust, and Gambel's Oak. *Cirsium vinaceum* is known from 2,400–2,700 meters elevation (Martin and Hutchins, 1980; Todsen, 1976).

Cirsium vinaceum was included in category 1 on the list of plants under review for threatened or endangered classification in the December 15, 1980, **Federal Register** (42 FR 82480) notice of review. Category 1 refers to taxa for which the Service presently has sufficient information to support the biological appropriateness of their being listed as endangered or threatened species. A 1978 status report and a 1979 status report supplement recommended threatened status for *Cirsium vinaceum*, as did the New Mexico Plant Recovery Team in 1983.

Because this species is treated as being under petition, a finding was made on October 13, 1983, that listing *Circium vinaceum* was warranted, but precluded by pending listing actions in accordance with section 4(b)(3)(B)(iii) of the Act. The present proposed rule constitutes the new required finding that a listing action is warranted for this species, and thus implements the action in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting The Species

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; under revision to accommodate the 1982 amendments) set forth procedures for adding species to the Federal list. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. Factors A and C especially pertain to *Cirsium vinaceum* Wooten and Standley (Sacramento Mountains thistle). All of these factors and their application to this species are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Cirsium vinaceum* is known only from the Sacramento Mountains of southcentral New Mexico. The plants were historically known to occur along the moist banks of streams and in wet meadows throughout the Sacramento Mountains. The only population now know to grow in this type of habitat is located at the Lincoln National Forest-Mescalero Indian Reservation boundary. All other known populations are restricted to the areas around springs flowing from limestock rock (Fletcher, 1978). Fourteen populations are known, with a combined total of 2,000–3,000 plants; most of these populations consist of approximately 100 plants each. The populations at Bluff Springs and the population on the Lincoln National Forest-Mescalero Indian Reservation boundary contain approximately 200–300 plants each. Most of the populations are in the Lincoln National Forest, several are on private lands, and one is on the Mescalero Indian Reservation. This plant is dependent on springs or streams; reduction or removal of the water supply would reduce or eliminate the populations. Several populations of the *Cirsium* occur at Bluff Springs, an area heavily used by recreationists. Over-use for recreation or any human-caused deterioration of the area around the springs could harm the *Cirsium*. Road construction and logging activities could also impact the *Cirsium* populations and habitat if planning does not include consideration of this species (Fletcher, 1978). Ground disturbance by livestock is detrimental to this thistle and *Cirsium vinaceum* is slow to reestablish itself in disturbed areas (Fletcher, 1979).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Commercial trade in this plant is not known to exist. Occasional plants might be cut by recreationists, or collected for scientific or educational purposes.

C. *Disease or predation.* The amount of predation on *Cirsium vinaceum* by herbivores is minimal. An occasional browsed flowering stalk or leaf has been observed, but the major detrimental effect of this species from livestock is ground disturbance.

D. *The inadequacy of existing regulatory mechanisms.* The *Cirsium* is protected from removal or damage in the National Forest by Federal regulations in 36 CFR 261.9 (b) through (d). A spring near Alamo Peak which supports a *Cirsium* population was to be developed for water use, but the Forest Service has agreed to provide enough water at this site to prevent deterioration of the habitat. The Forest Service has also agreed to protect two populations in Brown Canyon by establishing a no-cut and no-entry zone around them. These requirements will be imposed prior to any timber sales in the area (Abbott, 1983). Such planning and cooperation will be needed to protect other populations of the *Cirsium* and will be facilitated by this listing. No other State or Federal regulations protect this species.

E. *Other natural or manmade factors affecting its continued existence.* There are numerous areas in which *Cirsium vinaceum* formerly was distributed (such as the type locality) but in which it does not now occur, or exists only in low numbers. Many of these sites still appear to be suitable habitat for the species. The populations which formerly occurred on them apparently have been eliminated or reduced by livestock impacts or through competition with the introduced exotic plant species *Carduus nutans and Dipsacus sylvestris* (Fletcher, 1978, 1979).

The Service has carefully assessed the best scientific information available, regarding past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Cirsium vinaceum* as threatened. This is based on the fact that only 14 populations are known, each containing less than 3,000 plants, and these plants face potential threats from water depletion, and livestock trampling. Since most populations occur on Federal land, the species would benefit from a determination of critical habitat. A decision to take no action to list the species would be contrary to the Act's intent, and a decision to list as endangered would not accurately reflect the status of species as defined by the Act.

Critical Habitat

The Act defines "critical habitat" as: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the Act, on which are found those physical or biological features (I) essential to the conservation of the

species, and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Act in section 4(a)(3) requires that critical habitat be designated to the maximum extent prudent and determinable concurrent with the determination that a species is endangered or threatened. Critical hibitat for *Cirsium vinaceum* is proposed to be the area described below. Constituent elements are permanent surface water, usually associated with calcium carbonate deposits, and an undisturbed surface area that lacks livestock trampling. The proposed critical habitat area includes Lincoln National Forest lands, private lands, and Mescalero Apache Indian lands. The proposed critical habitat is T17S R12E, T16S R12E, T18S R12E, the east half of T17S R11E, the southeast quarter of T16S R11E, the south half of T15S R13E, and sections 14 and 15 of the north half of T15S R13E.

The critical habitat described above encompasses considerably more area than is actually occupied by *Cirsium vinaceum*. It is based, however, upon a recommendation from the U.S. Forest Service, which feels that this entire area is necessary because it contains all presently known populations, and will undoubtedly include any new populations that might be discovered in the future. The Fish and Wildlife Service believes that all of the proposed habitat is essential for the conservation of this species; it is large enough to allow for any expansion of the *Cirsium* as a result of recovery efforts, and is sufficiently defined to allow the Forest Service to manage and plan adequately for the species.

Section 4(b)(8) of the Act requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities that, in the opinion of the Secretary, may adversely modify such habitat or may be affected by such designation. Grazing and water development are the two greatest threats to *Cirsium vinaceum* and its habitat. This *Cirsium* grows in and immediately adjacent to springs and seeps. Trampling by livestock destroys the plants and the habitat. After a population is eliminated, reestablishment rarely occurs. Piping all of the water from springs for use elsewhere would destroy *Cirsium* populations, as the species is dependent on surface water.

Protection of the *Cirsium* populations could be accomplished by fencing of the populations, particularly those accessible to livestock. Fencing of the springs and the surrounding *Cirsium* plants would protect the plants and habitat and allow grazing to continue with little reduction in allotment, if any. If water is removed from 500 to 1,000 meters downstream from the *Cirsium*, the impact to the plants could be avoided or reduced, and the water would still be available for use elsewhere. Improper placement of roads and logging activities could impact the *Cirsium* populations, and the effects of these could be minimized through proper planning. None of these possible protective measures should have a significant impact on the Forest Service. The Fish and Wildlife Service is working with the Forest Service, which has jurisdiction over most of the land involved in this action, to develop management and conservation programs for this species that will take into account the above factors.

Section (4)(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service will evaluate the proposed critical habitat areas at the time of the final rule, after considering existing data and all new information obtained during the comment period regarding economic and other impacts of the designation.

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 protections, 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 provides for land acquistition and cooperation with states amd reqires that recovery plans be prepared and implemented by the Service following listing. The proctection required by Federal agencies, and the taking prohibitions are discussed, in part, 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. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Because it has been proposed for listing, Federal agencies are required under section 7(a) (4) to confer with the Service on any action that is likely to jeopardize the continued existence of this species or result in destruction or adverse modification of proposed critical habitat. This requirement will now apply to *Cirsium vinaceum*. When a species is officially listed, section 7(a) (2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of that species and to ensure that their actions are not likely to result in the destruction or adverse modification of its critical habitat. If an effect on the species or its critical habitat is expected, the Federal agency must enter into consultation with the Service.

Effects of water development projects on *Cirsium vinaceum* can be eliminated or minimized by cooperative efforts to allow protection of *Cirsium* populations and their habitat, and to enable water use to occur. If water is be removed from a stream supporting a *Cirsium* population, diverting the water downstream from the population may leave enough water for its survival. Effects from grazing can be minimized by fencing *Cirsium* populations that are accessible to livestock.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions which apply to all threatened plant species. With respect to *Cirsium vinaceum* all trade prohibitions of section 9(a) (2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. International and interstate commercial trade in *Cirsium vinaceum* is not known to exist. It is anticipated that few trade permits involving plants of wild origin would ever be sought or issued since this plant

is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. Section 4(d) provides for the provision of such protection to threatened plant species through regulations. This protection will apply to *Cirsium vinaceum* once implementing regulations are issued. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 CFR 31417). *Cirsium vinaceum* occurs on Federal lands, and hence this regulation, if finalized, will provide protection for the plants. It is anticipated that few removal and possession permits for the species will ever be requested.

Requests for copies of the regulations on plants, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

If this species is listed under the Act, the Service will review it to determine whether it should be considered for placement on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8A(e) of the Act, and whether it sould be considered for other appropriate treaties.

Public Comments Solicited

The Service intends that any final rule adopted will be as accurate and as effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data pertaining to any threat (or lack thereof) to *Cirsium vinaceum;*

(2) The location of any additional populations of *Cirsium vinaceum* and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided for by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on *Cirsium vinaceum; and*

(5) Any foreseeable economic and other impacts resulting from the proposed critical habitat.

Final Promulgation of the regulations on *Cirsium vinaceum* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, Regiona 2, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. The reasons for this determination were published in the **Federal Register** (48 FR 49244) on October 25, 1983.

References

Abbott, J.R. 1983. Personal communication, memo to Regional Forester R3, July 18, 1983.

Fletcher, R. 1978. Status report: *Cirsium vinaceum.* U.S. Forest Service, Region 3, Albuquerque, New Mexico. 5 pp.

—. 1979. Status report: *Cirsium vinaceum.* U.S. Forest Service, Region 3, Albuquerque, New Mexico. 5 pp.

Martin, W.C., and C.R. Hutchins. 1980. A flora of New Mexico. J. Cramer, Vaduz. 2591 pp.

Todsen, T.K. 1976. *Cirsium vinaceum.* A threatened New Mexico species. Abstract of report presented at the annual meeting of the New Mexico Academy of Sciences, Albuquerque. 1 p.

Wooten, E.O., and P.C. Standley. 1913. Description of new plants preliminary to a report upon the flora of New Mexico. *Contributions to the U.S. National Herbarium,* Washington, D.C. 16:109–196.

Authors

The authors of this proposed rule are Sandra Limerick and Margaret Olwell, Endangered Species staff, U.S Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972). Status information was approved by R. Fletcher, U.S. Forest Service, Region 3, 517 Gold Avenue S.W. Albuquerque, New Mexico 87102. E. LaVerne Smith and John L. Paradiso of the Service's Washington Office of Endangered Species served as editors.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

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. It is proposed to amend § 17.12(h) by adding the following in alphabetical order, under the family Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family						
*	*	*	*	*	*	*
Cirsium vinaceum	Sacramento Mountains thistle.	U.S.A. (NM)	T		17.96(a)	NA
*	*	*	*	*	*	*

3. It is further proposed to amend § 17.96(a) by adding the critical habitat of *Cirsium vinaceum* as follows (The position of this and any following critical habitat entries under § 17.96(a) will be determined at the time of publication of a final rule):

§ 17.96 Critical habitat-plants.

(a) * * *

* * * * *

Critical Habitat for Sacramento Mountains Thistle

Family Asteraceae: *Cirsium vinaceum*

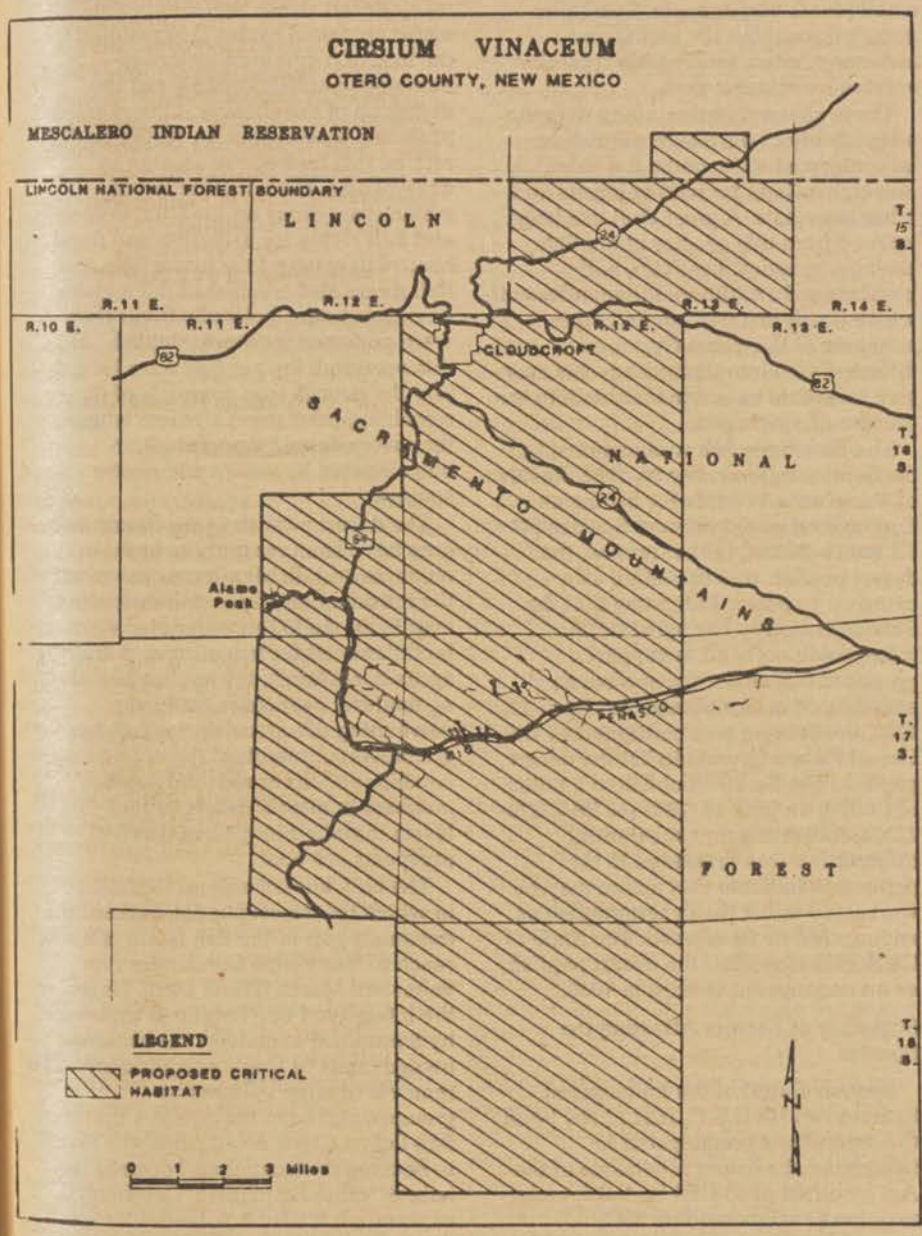
Cirsium vinaceum Wooten & Standley (Sacramento Mountains thistle)

New Mexico: Otero County; T17S R12E, T16S R12E, T18S R12E, the east half of T17S R11E, the southeast quarter of T16S R11E, the south half of T15S R13E, and sections 14 and 15 of the north half of T15S R13E. Constituent elements include permanent surface water, usually associated with calcium carbonate deposits, and an undisturbed habitat that lacks livestock trampling and grazing.

Dated: May 1984.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.



[FR Doc. 84-13127 Filed 5-15-84, 8:45 am]

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Desert Pupfish (Cyprinodon macularius)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the desert pupfish (*Cyprinodon macularius*) to be an endangered species and to designate its critical habitat. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended. The desert pupfish has been drastically reduced in numbers and distribution because of competition for food and space with exotic fishes, predation by exotic fish species, and habitat losses resulting from dam construction, streambank erosion, stream channelization, groundwater pumping, water pollution, and the lining and dredging of irrigation drains. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 16, 1984. Public hearing requests must be received by July 2, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232. Comments and materials relating to this proposal are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, Endangered Species Coordinator, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232 (503/231-6131; FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The desert pupfish (*Cyprinodon macularius*) is a small, laterally-

compressed fish with a smoothly rounded body shape. Adult fish rarely grow larger than 75 mm in total length. Males are larger than females and during the reproductive season become brightly colored with blue on the dorsal portion of the head and sides and yellow on the caudal fin and the posterior part of the caudal peduncle. Females and juveniles typically have tan to olive backs and silvery sides. Most adults have narrow, vertical, dark bars on their sides, which are often interrupted to give the impression of a broken, lateral band. The desert pupfish was described in 1853 by Baird and Girard from specimens collected in the San Pedro River of Arizona.

Desert pupfish were once common in the desert springs, marshes, and tributary streams of the lower Gila and Colorado River drainages in Arizona, California, and Mexico. They also formerly occurred in the slow-moving reaches of some large rivers including the Colorado, Gila, San Pedro, and Santa Cruz Rivers. The current distribution is restricted to Salt Creek, San Felipe Creek and its associated wetland, San Sebastian Marsh, and a few shoreline pools and irrigation drains along the Salton Sea in California; Quitobaquito Spring within Organ Pipe Cactus National Monument in Arizona; and the Sonoyta River drainage and Santa Clara Slough in Sonora, Mexico. Recent surveys of Salt Creek and the irrigation drains around the Salton Sea (Moore 1983) and the Sonoyta River (McMahon and Miller 1984) indicate that these populations may now be reduced to such low levels that they are no longer viable. The status of the population in Santa Clara Slough is not presently known, but it is possible that the flood that inundated vast reaches of the Colorado River delta in 1983 may have given tilapia (*Tilapia zillii*), largemouth bass (*Micropterus salmoides*), and other exotic fishes that compete with, or prey upon, desert pupfish access to this slough.

Desert pupfish are adapted to harsh desert environments and are capable of surviving extreme environmental conditions. They have been reported to survive water temperatures in excess of 110° F (Moyle 1976), oxygen levels as low as 0.1 to 0.4 parts per million (Lowe *et al.* 1967), and salinities nearly twice that of seawater (Barlow 1958). They are also capable of surviving daily temperature fluctuations of 45° F (Lowe and Heath 1969) and salinity changes of as much as 10 to 15 parts per thousand (Kinne 1960). Although desert pupfish are extremely hardy in many respects, they cannot tolerate competition or predation and are thus readily displaced by exotic fishes.

Desert pupfish mature rapidly and may produce up to three generations per year. Spawning males typically defend a small spawning and feeding territory in shallow water. The eggs are usually laid and fertilized on a flocculent substrate and hatch within a few days. After a few hours the young begin to feed on small plants and animals. Spawning occurs throughout the spring and summer months. Individuals typically survive for about a year.

These characteristics, along with the adaptability of the desert pupfish to laboratory aquaria, make it a valuable research animal for ichthyologists and other biologists. A great deal has been learned from this species about fish ecology, genetics, behavior, and physiology. In addition, the rapidity with which the desert pupfish and other members of the genus *Cyprinodon* differentiated into distinct species may give scientists valuable insights into the process of speciation.

The desert pupfish was included in the Service's December 30, 1982, Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58454–58460). In that review, the desert pupfish was classified as a category 1 species indicating that the Service currently has substantial information on hand to support a proposed rule to list the species as endangered or threatened. On April 12, 1983, the Service was petitioned by the Desert Fishes Council to list the desert pupfish. The Service published a notice of finding on June 14, 1983 (48 FR 27273–27274) indicating that substantial information was presented in the petition to indicate that action may be warranted to list the desert pupfish as endangered or threatened. The State of California classified the desert pupfish as an endangered species in 1980.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and the regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or a threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the desert pupfish (*Cyprinodon macularius*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* At the beginning of the 20th Century, the desert pupfish was widespread throughout the lower Gila River and its tributaries, the San Pedro and Santa Cruz rivers, and the lower Colorado River in Arizona, California, and Baja California and Sonora, Mexico. Starting in the 1880's, many desert rivers began experiencing major erosional cycles that resulted in the loss of permanent waters in numerous pupfish streams and the drying up of the shallow, littoral areas preferred by this species. Miller (1961) related this increase in erosion to overgrazing. The construction of mainstream dams on the Gila, Colorado, and Salt rivers for irrigation and flood control dewatered the lower Gila and Salt rivers and eliminated the marshy sidepools in the Colorado River that were preferred by desert pupfish. After this occurred, the pupfish were forced into the mainstream channels of the remaining permanent streams where they were eaten by predators or outcompeted by native and exotic species.

The desert pupfish in the Salton Sea area have been severely reduced in numbers and distribution as the result of the introduction of exotic fish species, modifications to the water conveyance facilities used for irrigating and draining agricultural lands, the application of agricultural pesticides, and the dewatering of natural spring habitats by groundwater pumping. These factors, in combination, have reduced pupfish numbers in most habitats to such low levels that their long-term survival prospects are poor.

The only known habitat in California in which the desert pupfish makes up a dominant part of the fish fauna is a short reach of San Felipe Creek near San Sebastian Marsh (Black 1980). However, the integrity of this habitat is threatened by a proposal to convert the privately owned lands to irrigated agriculture. The removal of large volumes of groundwater from the aquifers that feed San Felipe Creek could cause the marsh to become desiccated and destroy its habitat value for pupfish. Geothermal exploration is also a potential threat to this habitat. Geothermal lease applications have been filed with the Bureau of Land Management for some tracts in the vicinity of San Sebastian marsh. If geothermal energy is discovered in this area in commercially marketable quantities, it is likely the privately owned lands around San Sebastian Marsh could be developed with adverse consequences to the

pupfish habitat. The Federal lands around Salt Creek have already been leased for geothermal exploration.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* A few individuals are occasionally taken incidentally from the Salton Sea by anglers collecting sailfin mollies (*Poecilia latipinna*) for bait. However, there is no evidence that desert pupfish are currently overutilized for any purpose.

C. *Disease or predation.* Several known predators and competitors of desert pupfish have become established in the natural and manmade tributaries of the Salton Sea, including tilapia (*Tilapia mossambica* and *Tilapia zillii*), sailfin molies, shortfin mollies (*Poecilia mexicana*), mosquitofish (*Gambusia affinis*), porthole livebearers (*Poeciliopsis gracilis*), and several members of the families Centrarchidae, Ictaluridae, and Cyprinidae. In Arizona, desert pupfish have been displaced from many of their historic spring habitats by largemouth bass (*Micropterus salmoides*).

Recent studies have shown that juvenile tilapia compete with desert pupfish for many of the same food items, and that adults prey on fish and fish eggs. Field and laboratory observations have revealed that tilapia also interfere with the reproductive behavior of desert pupfish (Schoenherr 1980). The extent to which this type of interference has suppressed pupfish reproduction is not known. Largemouth bass are voracious predators that are capable of eliminating pupfish completely from small spring habitats (Miller and Pister, 1971).

Desert pupfish in the Salton Sea area have been infected by a parasitic copepod (anchor worm) of the Lernaeidae family. These parasites were probably contracted from one of the introduced exotic species, possibly *Tilapia zillii*. Even though this fish was spot-checked for parasites and diseases before it was introduced into the area in 1973, it is possible that this parasite and other fish diseases have entered the system on fish that were not inspected.

A brackish water snail of the Thiaridae family was recently introduced by unknown methods into a small stream near North Shore on the Northern periphery of the Salton Sea. These snails could compete with the desert pupfish for food inasmuch as some food items are common to both organisms. Also, the snail may feed on pupfish eggs, and could be an intermediate host for parasites transmittable to pupfish. The natural dispersal of this snail throughout the Salton Sea ecosystem appears to be limited by salinity. It is not known what effect it would have on the survival prospects of the desert pupfish if it does become established throughout the system.

D. *The inadequacy of existing regulatory mechanisms.* California State law (The Endangered Species Act of 1970, Chapter 1510, Stats. 1970) prohibits the taking of desert pupfish without a permit. However, State law does not provide any protection for habitats that support endangered species.

E. *Other natural or manmade factors affecting its continued existence.* The exotic aquatic weed, *Hydrilla verticillata*, was recently introduced into the All American Canal. This plant is capable of spreading rapidly and is very difficult to control. Consequently it is possible that this acquatic weed may soon find its way into habitats that support desert pupfish. It is not known what the direct effect of its establishment would be on the desert pupfish. However, the extreme methods of chemical, mechanical, and biological control that have been used in other areas where this plant has become established would be likely to have a detrimental effect upon pupfish habitat.

The extensive use of pesticides in areas that border pupfish habitat has previously caused occasional localized fish kills. The population in Quitobaquito Spring is located downwind from nearby farms in Mexico that are sprayed with organophosphates and chlorinated hydrocarbons. Recent studies of this population (Kynard 1981) revealed that the fish in Quitobaquito Spring contained detecable levels of both parathion and DDT derivatives in the late 1970's. Because of the extremely restricted range of the desert pupfish, any major accidental spills or increased levels of pesticide drift could have a devastating impact on the entire population in Quitobaquito Spring.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in the preparation of this proposed rule. Based on this evaluation, the preferred action is to propose to list the desert pupfish as endangered. The now localized distribution of this fish, competition from exotic species, predation pressure, and continued adverse modifications of habitat (i.e., groundwater pumping, pesticide application, changes in water conveyance facilities) indicate it is imminently threatened with extinction; therefore endangered classification is warranted. Recent status surveys have been instrumental in assessing essential habitat and the present condition of the desert pupfish. Overcollection is not the primary threat facing the desert pupfish. For these reasons the Service does not believe that determining critical habitat for the desert pupfish will contribute to the species' further decline; hence, this proposed rule includes a proposal for critical habitat.

Critical Habitat

Critical habitat as defined by Section 3 of the Act means: (i) The specific areas within the geographical area occupied by the species at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographic area occupied by the species at the time it is listed upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being proposed for the desert pupfish at Quitobaquito Spring, Organ Pipe Cactus National Monument, Pima County, Arizona, and portions of San Felipe Creek, Carrizo Wash, and Fish Creek Wash, Imperial County, California. The proposed areas include approximately one-half acre of aquatic habitat at Quitobaquito Spring, and approximately 11 miles of stream channel along San Felipe Creek and two of its tributaries. A riparian buffer zone of at least 100 feet is deemed necessary around the spring and along the tributaries and mainstem of San Felipe Creek because any activities that are carried out adjacent to the spring and stream channel may have a direct impact on the quality of aquatic habitat for desert pupfish; this riparian buffer zone is believed to be essential to the conservation of the species. The regulations promulgation section contains a legal description of the proposed critical habitat.

The areas proposed as critical habitat satisfy all known criteria for the ecological, behavioral, and physiological requirements of the species. The species successfully reproduces in Quitobaquito Spring and the designated reaches of San Felipe Creek, Carrizo Wash, and Fish Creek Wash. These areas also provide adequate food and cover. Perhaps most importantly, these areas are also isolated or at least partially isolated, from predatory and competing exotic fishes. Because the desert pupfish

is non-migratory, the areas it inhabits must fulfill all the requisites for survival and successful reproduction.

Section 4(b)(8) requires, for any proposed or final regulation which designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. It should be emphasized that critical habitat designation may not affect each of the activities listed below, as critical habitat designation affects only Federal agency actions through section 7 of the Act.

1. Withdrawal of water either directly or indirectly from San Sebastian Marsh could destroy or reduce the suitability of this habitat for desert pupfish.

2. Stocking of additional exotic fish or other non-endemic species into waters within the critical habitat may introduce parasites and increase the incidence of predation on desert pupfish.

3. Other activities (which, though not anticipated at this time, could conceivably occur in the foreseeable future) could also reduce the habitat's suitability for desert pupfish. These activities incude geothermal development, stream channelization, increased recreational use, and the siting of transmission lines, roads, canals, or irrigation drains within the designated areas.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service will consider the critical habitat designation in light of all additional relevant information at the time the final rule is prepared.

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 provides for land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, 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. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). 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 or result in the destruction or adverse modification of proposed critical habitat. When a species is actually listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species, or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal activities that could affect the species and its habitat in the future include, but are not limited to, the following: The issuance of permits for mineral exploration or grazing, the development of the area for recreation, the issuance of permits for roads, transmission lines, canals, or irrigation drains, or the channelization of San Felipe Creek for flood control purposes.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered fish or wildlife. 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 in interstate or foreign commerce listed species. It also would be illegal to possess, 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.

Permits may be issued to carry out otherwise prohibited activities involving endangered fish or wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. Such permits are available for scientific purposes or to enhance the propagation or survival of the species.

If listed under the Act, the Service will review this species to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8A(e) of the Act, and whether it should be considered for other appropriate international agreements.

Public Comments Solicited

The Service intends that any final rule adopted will be as accurate and as effective as possible in the conservation of each endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the desert pupfish;

(2) The location of any additional populations of desert pupfish and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on the desert pupfish; and

(5) Any foreseeable economic and other impacts resulting from the proposed critical habitat.

Final promulgation of the regulations on the desert pupfish will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, covered by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Barlow, G.W. 1958. High salinity mortality of desert pupfish, *Cyprinodon macularius*. Copeia 1958:231–232.

Black, G.F. 1980. Status of the desert pupfish, *Cyprinodon macularius* (Baird and Girard).

in California. State of California, Department of Fish and Game, Inland Fisheries Endangered Species Program, Special Publication 80-1. 42 pp.
Kinne, O. 1960. Growth, food intake, and food conversion in a euryplastic fish exposed to different temperatures and salinities. Physiol. Zool. 33:288-317.
Kynard, B.E. 1981. Study of Quitobaquito pupfish: systematics and preservation. Final Report, National Park service No. PX-8100-6-0215. 16 pp.
Lowe, C.H. and W.G. Heath. 1969. Behavioral and physiological responses to temperature in the desert pupfish, *Cyprinodon macularius*. Physiol. Zool. 42:53-59.
Lowe, C.H., D.S. Hinds, and E.A. Halpern. 1967. Experimental catastrophic selection and tolerances to low oxygen concentrations in native Arizona freshwater fishes. Ecology 48:1013-1017.
McMahon, T.E. and R.R. Miller. 1984. Status of the Fishes of the Rio Sonoyta basin, Arizona and Sonora, Mexico. Proc. Desert Fishes Council, Vol. 14. (In Press).
Miller, R.R. 1961. Man and the changing fish fauna of the American Southwest. Michigan Academy of Science, Arts, and Letters. 46:365-404.
Miller, R.R. and E.P. Pister. 1971. Management of the Owens pupfish, *Cyprinodon radiosus*, in Mono Country, California. Transactions American Fishery Society 100:502-509.
Moore, K.E. 1983. Results of two fisheries surveys of the desert pupfish resource in and around the Salton Sea, Imperial and Riverside Counties. Memorandum to Fisheries Management, Region 5, Calif. Dept. Fish and Game. 5 pp.
Moyle, P.B. 1976. Inland fishes of California. Univ. Calif. Press., Berkeley. 405 pp.
Schoenherr, A.A. 1980. The role of competition in the replacement of native fishes by introduced species. *In* R.J. Naiman and D.L. Soltz (eds.). Fishes in North American Deserts. Pp. 173-203. John Wiley and Sons. New York.

Authors

The primary authors of this rule are Dr. Kathleen E. Franzreb and Mr. Edward M. Lorentzen, Sacramento Endangered Species Office, U.S. Fish and Wildlife Service, 1230 "N" Street, 14th Floor, Sacramento, California 95814 (916/440-2791; FTS 448-2791).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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. It is proposed to amend § 17.11(h) by adding the following in alphabetical order under Fishes to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * * * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
* * * * * * * * *							
Pupfish, desert	*Cyprinodon macularius*	U.S.A. (AZ, CA); Mexico.	Entire	E		17.95(e)	N/A
* * * * * * * * *							

3. It is further proposed to amend § 17.95(e) for Fisher by adding critical habitat for the desert pupfish as follows:

§ 17.95 Critical Habitat—fish and wildlife

(e) *Fishes.*

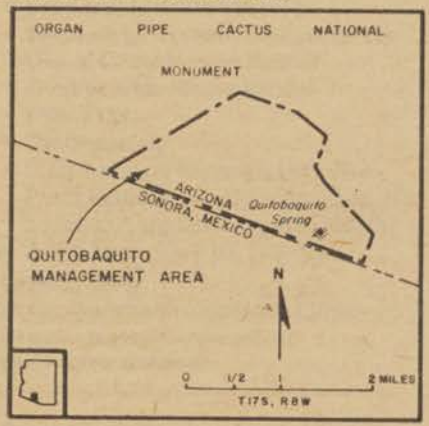
* * * * *

Desert Pupfish

(Cyprinodon macularius)

Arizona: Prima County.

1. *Quitobaquito Spring.* The spring is approximately 25 miles W/NW of Lukeville, Arizona in Organ Pipe Cactus National Monument, in T. 17 S., R. 8 N. The spring consists of approximately one-half acre in the Quitrobaquito Management Area. A 100 foot riparian buffer zone around the spring is included in the critical habitat.



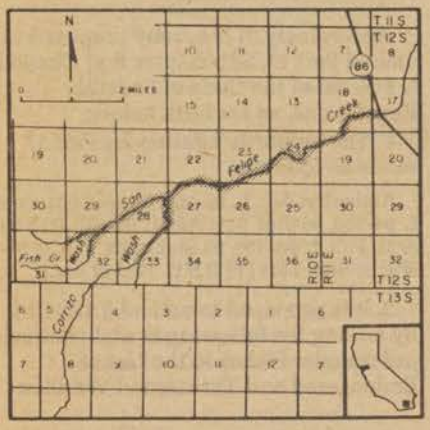
California: Imperial County.

1. *San Felipe Creek.* Approximately 8½ stream miles and 100 feet on either side of San Felipe Creek or the stream channel commencing from the State Highway 86 bridge crossing (approximately ¼ mi S of intersection of Hwy 78 and Hwy 86) upstream to the eastern boundary of Section 31, T. 12 S., R. 10 E.; including those areas of the stream channel in: T. 12 S., R. 11 E., Section 17, 18, and 19; T. 12 S., R. 10 E., Section 22, 23, 24, 26, 27, 28, 29, and 32.

2. *Carrizo Wash.* Approximately 1¾ stream miles and 100 feet on either side of the stream channel commencing from the confluence of Carrizo Wash with San Felipe Creek upstream to the southern boundary of N½ Section 33, T. 12 S., R. 10 E., including

those areas of the stream channel in T. 12 S., R. 10 E., Section 27, 28, and N½ 33.

3. *Fish Creek Wash.* Approximately three-fourths of one stream miles and 100 feet on either side of the stream channel from the confluence of Fish Creek Wash with San Felipe Creek upstream to the southern boundary of N½ Section 32, T. 12 S., R. 10 E., including those areas of the stream channel in T. 12 S., R. 10 E., Sections 29 and N½ 32.



Constituent element for all four areas proposed as critical habitat include clean unpolluted water, free of exotic organisms, expecially exotic fishes, in small slow-moving desert streams and spring pools with marshy backwater areas.

* * * * *

Dated: May 5, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-13126 Filed 84-15-84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 96
Wednesday, May 16, 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.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

May 11, 1984.

The Department of Agriculture has submitted OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate ot the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension (No Change)

- Forest Service
- Visitor's Permit and Vistior's Registration Card
- FS–2300–30, FS–2300–32
- On Occasion
- Individuals or Households: 220,000 responses; 11,000 hours; not applicable under 3504(h)
- Marc Petty (202) 447–7754
- Animal and Plant Health Inspection Service
- Application/Certification Purebred Animals
- Imported for Breeding
- US Form 17–338
- On Occasion
- Farms: 1,000 responses; 250 hours; not applicable under 3504(h)
- Wade H. Ritchie (301) 436–8172

Revised

- Agricultural Cooperative Service
- Kentucky Farm Women and Agricultural Cooperatives
- One Time
- Individuals, Farms: 1,626 responses; 1,380 hours; not applicable under 350(h)
- Dr. Thomas Grey (202) 447–7415

New

- Food and Nutrition Service
- Technology Transfer Project on the Use of Computers in School
- Food Service Management
- FNS–1133
- On Occasion
- State or Local Governments, Non-Profit Institutions: 375 responses; 375 hours; not applicable under 3504(h)
- Anita Kenkrick (703) 756–3888

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 84–13179 Filed 5–15–84; 8:45 am]

BILLING CODE 3410–01–M

Rural Electrification Administration

Intent To Prepare an Environmental Assessment and Conduct A Public Scoping Meeting for a Proposed Project in Montrose County, Colorado

AGENCY: Rural Electrification Administration.

ACTION: Notice of intent to prepare an environmental assessment and conduct a public scoping meeting.

SUMMARY: The Rural Electrification Administration (RAE) intends to prepare an Environmental Assessment (EA) and conduct a public scoping meeting in connection with a project proposed by Colorado-Ute Electric Association, Inc. (Colorado-Ute). The project consists of the construction and operation of a Circulating Fluidized Bed (CFB) Combustion project at Colorado-Ute's existing Nucla Station located in Montrose County, Colorado and may involve possible REA financing assistance or other agency actions.

DATE: REA will conduct a scoping meeting at the following location: June 14, 1984, at Nucla High School gymnasium, Nucla, Colorado, at 7:30 p.m.

ADDRESS: All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meeting, in order for the comments to be part of the formal record. Comments should be sent to Mr. William E. Davis, Director, Western Area—Electric, Rural Electrification Administration, Room 0207–S, U.S. Department of Agriculture, 14th Street and Independence Avenue, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Davis, Western Area-Electric, above address, telephone: (202) 382–8848, or FTS 382–8848, or Colorado-Ute Electric Association, Inc., 1845 South Townsend Avenue, Montrose, Colorado 81401, telephone: (303) 249–4501.

SUPPLEMENTARY INFORMATION: REA, in order to meet its requirements under the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Environmental Policies and Procedures 7 CFR Part 1794 (49 FR 9544–9558, dated March 13, 1984), hereby gives notice that it intends to conduct a public scoping meeting and prepare an Environmental Assessment for the construction and operation of a CFB project at Colorado-Ute's existing Nucla Station. The proposed project would be located in Montrose County, Colorado. REA may provide some financing assistance to Colorado-Ute for the project.

Alternatives to be considered by REA may include among other options: (1) No action; (2) purchase of power from other utilities; (3) energy conservation and load management; (4) conventional power plant; (5) alternative sites; (6) alternative fluidized bed systems; and (7) alternative unit sizes.

The public scoping meeting, to be conducted by a representative of REA, will be held to solicit public input and comments including, but not limited to, the nature of the proposed project, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the EA. Requests for additional information concerning the scoping meeting may be directed to Colorado-Ute or REA at the addresses shown above.

Any REA financing assistance to Colorado-Ute will be subject to and contingent upon reaching satisfactory conclusions with respect to the environmental effects of the project, and final action will be taken only after compliance with environmental procedures required by NEPA have been satisfied.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Gurarantees.

Dated: May 10, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84-13184 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Upper Walnut Critical Area Treatment RC&D Measure, Oklahoma; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Walnut Critical Area Treatment RC&D Measure, Grady County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns stabilizing severely eroding areas with vegetation and structural measures. Structural measures planned include channel liners, pipe drops, diversions, fencing, and gabions.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 8, 1984.

Donald R. Vandersypen,

Assistant State Conservationist.

[FR Doc. 84-13168 Filed 5-15-84; 8:45 am]

BILLING CODE 3410-16-M

Five Rivers RC&D Area Critical Area Treatment and Soil and Water Management; Agriculture Related Pollution Control RC&D Measures; Tennessee

AGENCY: Soil Conservation Service, Agriculure.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2) (c) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Five Rivers RC&D Area Critical Area Treatment and Soil and Water Management—Agricultural Related Pollution Control Measures in Dickson, Houston, Humphreys, Montgomery and Stewart Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 Estes Kefauver FB-USCH, 801 Broadway, Nashville, Tennessee 37203, Telephone: 615/251/5471.

SUPPLEMENTARY INFORMATION: The environmental assessment of these federally assisted actions indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald C. Bivens, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

These measure concern plans for critical area treatment caused by gully and rill erosion and the resulting sediment (sediment pollution), and water management for agriculture related pollution control. The planned works of improvement include erosion control practices such as diversions, critical area plantings, grassed waterways, and animal waste disposal systems. The critical area plantings include trees and/or grasses and legumes.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation are on file and may be reviewed by contacting the Soil Conservation Service Area Office, 4701 Trousdale Drive, Nashville, Tennessee 37220. An environmental assessment has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental assessment are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 7, 1984.
Donald C. Bivens,
State Conservationist.
[FR Doc. 84-13149 filed 5-15-84; 8:45 am]
BILLING CODE 3410-16-M

CIVIL RIGHTS COMMISSION

California 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 California Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 2:00 p.m., on June 9, 1984, at the Westin Bonaventure Hotel, 404 South Figueroa Street, Los Angeles, California 90071. The purpose of the meeting is to discuss a proposed project on educational equality in secondary schools and institutions of higher learning.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Mr. Herbert Hill, at (608) 263-2380 or the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 10, 1984.
John I. Binkley,
Advisory Committee Managment Officer.
[FR Doc. 84-13111 Filed 5-15-84; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 21-84]

Proposed Foreign-Trade Zones; Port of Beaumont, Port Arthur, and Port of Orange in Jefferson and Orange Counties, Texas; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Southeast Texas, Inc., requesting authority to establish general-purpose foreign-trade zones at three ports of entry on the southeast Texas Gulf Coast. One is at the Port of Beaumont in Jefferson and Orange Counties within the Beaumont Customs port of entry; the second is at the Port of Port Arthur in Jefferson County, within the Port Arthur Customs port of entry; and, the third is at the Port of Orange in Orange County, Texas, within the Orange Customs port of entry. The applicant is a Texas non-profit corporation made up of officials from the three port authorities involved. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 7, 1984. The applicant is authorized to make this proposal under Senate Bill 1016, 67th Legislature, Regular Session, 1981, signed on June 12, 1981.

The proposed foreign-trade zone for the Port of Beaumont will involve 219 acres on six sites in Orange and Jefferson Counties. Four of the sites are owned by the Port of Beaumont Navigation District and are located in or near the port area. Zone-related public warehousing services at the port will be handled by Kilpatrick's Bonded Warehouses, Beau-Tex Cartage, and Roy L. Brittain. The fifth site is at the Jefferson County Airport on county property. The sixth site is for the Wilson Warehouse Company facility on Port Arthur Road. The Port of Beaumont will administer all sites except the one at the airport which will be managed by the Jefferson County Airport Manager.

The proposed zone for Port Arthur covers 1085 acres on three sites in the City of Port Arthur, Jefferson County. Site 1 is owned and operated by the Port of Port Arthur Navigation District. Site 2 is an undeveloped parcel south of Highway 365, owned by Hayes, Inc. Site 3 is on South Gulfway Drive west of the turning basin of Taylor's Bayou, and has a vacant industrial building. This zone project will be administered by the Port of Port Arthur Navigation District.

The proposed zone for the Port of Orange will cover 45 acres on two sites within the Port of Orange in the City of Orange and Orange County. One is at the Childers Road Terminal and the other is at the Alabama Street Terminal, the Port's primary dock and warehouse area. Public warehousing services will be provided by Sabine Warehouse. The Port of Orange Navigation District will administer this zone project.

The application contains evidence of the need for zone services in the Beaumont-Port Arthur-Orange area. A number of firms have indicated an interest in using zone procedures for the warehousing, distribution and repackaging of forestry products, oil field equipment, chemicals, plastics, rubber, pharmaceuticals, farm implements, fabricated metal products, hydro drills, heat exchangers, wire rod, welding supplies, liner board, electronic products, coffee and spices. Specific manufacturing approvals are not being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, Suite 500, 5850 San Felipe St., Houston, TX 77057; and Colonel Alan L. Laubscher, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, TX 77553.

As part of its investigation, the examiners committee will hold a public hearing on June 13, 1984, beginning at 9:00 a.m., in the Conference Room of Building B, John Gray Institute, 855 Florida Ave., Beaumont.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by June 5. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 13, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

District Director's Office, U.S. Cutoms Service, 4550 75th Street, Port Arthur, TX 77640

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: May 10, 1984.
John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 84-13119 Filed 5-15-84; 8:45 am]
BILLING CODE 3510-DS-M

[Docket No. 25-84]

Proposed Foreign-Trade Zone; Ellis County, Texas; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Midlothian Traded Zone Corporation, a Texas non-profit corporation associated with the City of Midlothian and the Chamber of

Commerce, requesting authority to establish a general-purpose foreign-trade zone in Ellis County, Texas, adjacent to the Dallas/Ft. Worth Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 7, 1984. The applicant is authorized to make this proposal under Senate Bill 769, 68th Texas Legislature, Regular Session, 1983, signed on May 17, 1983.

The proposed foreign-trade zone will be located on a 600-acre parcel south of U.S. Highway 67 at 9th Street and Center Drive in Midlothian. The facility is part of a planned industrial park to be called the Mid-Texas International Center. Trade Zone Operators, Inc. will manage the zone project with users assuming responsibility for developing their own facilities.

The application contains evidence of the need for zone services in the Ellis County area. Mazda Motors of America, Inc. would use zone procedure for its ongoing automobile accessorization operation on the site, and other such operations are expected. Another proposed user plans to manufacture electronic wire and cable products. No specific manufacturing requests are being made at this time, however, such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe St., Houston, TX 77057; and Colonel Theodore G. Stroup, Jr., District Engineer, U.S. Army Engineer District Fort Worth, 819 Taylor St., P.O. Box 17300, Ft. Worth, TX 76102.

As part of its investigation, the examiners committee will hold a public hearing on June 15, 1983, beginning at 9:00 a.m., in the Midlothian City Hall, 235 North 8th Street, Midlothian.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by June 5. Intead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 16, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 1100 Commerce Street, Rm. 7A5, Dallas, TX 75242

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: May 10, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-13121 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-DS-M

[Docket Nos. 22, 23 and 24–84]

Proposed Foreign-Trade Zone, Subzones, and Oil Refinery Subzones; Nueces County, Texas, Within the Corpus Christi Customs Port of Entry; Applications and Public Hearing

Applications have been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Corpus Christi Authority (the Port Authority), a Texas public corporation, requesting authority to establish a general-purpose foreign-trade zones (Doc. 22–84), and several subzones (Doc. 23–84), including three for oil refineries (Doc 24–84). All of the sites are in Nueces County, Texas, within the Corpus Christi Customs port of entry. The applications were submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 CFR Part 400). They were filed on May 7, 1984. The applicant is authorized to make the proposals under House Bill No. 1200, 68th Texas Legislature, Regular Session, signed June 17, 1983.

The proposed general-purpose zone will involve eleven sites totalling 630 acres. Two sites are owned by the Port Authority and will be used for future expansion. Two involve City facilities—the Corpus Christi Industrial Technology Park and a portion of Corpus Christi International Airport. The remaining seven sites are at privately owned warehousing operations. The firms involved are M & M Sales, Ray East Warehouse, American Petrofina, Berry Contracting, Block Distributing Company, and Corpus Christi Warehouse & Storage.

One of the applications for special-purpose subzones (Doc. 23–84) involves six private distribution and manufacturing operations: CC Distributing, a private plumbing supplies warehouse; H.E. Butt Grocery Company, a private hardware and consumer goods warehouse; Baker's Port, which assembles and repairs oil rigs; Compressors of Texas, an industrial air conditioning repair operation, requesting an export only subzone; Berry Contracting, a manufacturer of pressure vessels, and oil and gas piping systems, requesting an export only subzone; and Hitox Corporation, a manufacturer of pigments. Zone procedures would exempt the companies from duty payment on the products they export. On their domestic sales, they would defer duty and avoid duty on wastage.

The application for oil refinery subzones (Doc. 24–84) involves three crude oil refining operations: Coastal States Petroleum, Southwestern Refining, and Trifinery. Zone procedures would allow the companies to avoid duties on the refined products they export. On their domestic sales, they would be able to defer duty payments and avoid duties on fuel consumed in the refining process. Subzone status should encourage the companies to increase involvement in toll refining arrangements and increase capacity utilization.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the applications and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, Suite 500, 5850 San Felipe St., Houston, TX 77057; and Colonel Alan L. Laubscher, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, TX 77553.

As part of its investigation of the applications, the examiners committee will hold a public hearing on June 14, 1984, beginning at 9:00 a.m., in Room 221, Bayfront Plaza Convention Center, 1901 North Shoreline, Corpus Christi.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by June 5. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through July 16, 1984.

Copies of the applications and accompanying exhibits will be available

during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Oil Indust. Bldg., 11th Floor, 723 Upper Broadway, P.O. Box 1027, Corpus Christi, TX 78403

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Dept. of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230

Dated: May 10, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-13120 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held June 12, 1984, 3:00 p.m., Herbert C. Hoover Building, Room 6802 14th Street, and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of progress on Committee's 1984 annual plan.
4. Report on current work program of the subcommittees:
   a. Foreign Availability.
   b. Hardware, and
   c. Licensing Procedures.
5. New Business.
6. Action items underway.
7. Action items due at next meeting.

Executive Sesssion

8. Discussion of matters properly classified under Excutive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4277. For further information or copies or the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: May 10, 1094.

Milton M. Baltas,

Director of Technical Progams.

[FR Doc. 84-13116 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-DT-M

Computer Systems Technical Advisory Committee; Foreign Availability Subcommittee; Partially Closed Meeting

A meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held June 12, 1984, 9:00 a.m., Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue, NW., Washington, D.C. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Intra-COCOM, West-West Foreign Availability certification.
5. Reply to recommendations to prioritize foreign availability assessment of 8 bit microcomputers.
6. Survey of suppliers of lost business due to delay or denial of U.S. Export Licenses.
7. Decontrol of 4529B Medical Instruments.
8. Foreign availability meeting report by Industry Coalition on Technology Transfer.
9. Definition of U.S. origin of licensed technology.
10. New Business.
11. Action items underway.
12. Action items due at next meeting.

Executive Session

13. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meeting and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217. For further information of copies of the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: May 10, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-13115 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-DT-M

Computer Systems Technical Advisory Committee, Hardware Subcommittee; Closed Meeting

A meeting of the Hardware Subcommitee of the Computer Systems Technical Advisory Committee will be held June 13, 1984, 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. The Subcommittee meeting will continue to its conclusion on June 14, in Room 7808, Herbert C.

Hoover Building. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and performance measurements Subcommittee, pertaining to: (1) Maintenance of the processor performance tables and further investigations of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Subcommittee to the public on the basis of 5 U.S.C. 552(b)(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

For further information contact Mrs. Margaret A. Cornejo (202) 377–2583.

Dated: May 10, 1984.

Milton M. Baltas,

Director of Technical Programs Office of Export Administration.

[FR Doc. 84–13114 Filed 5–15–84; 8:45 am]

BILLING CODE 3510–DT–M

[C–602–001]

Sugar Content of Certain Articles From Australia; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on the sugar content of certain articles from Australia. The review covers the period January 1, 1983 through December 31, 1983. As a result of the review, the Department has preliminarily determined the amounts of net subsidy for 1983 to be Aus. $71.78 per metric ton of sugar content for "approved fruit products," and Aus. $85.20 per metric ton for "other approved products." Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Victoria Marshall or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 20458) the final results of its last administrative review of the countervailing duty order on the sugar content of certain articles from Australia (T.D. 39541, March 24, 1923) and announced its intent to conduct 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 "approved fruit products" and "other approved products" produced in Australia. The current list of "approved fruit products" includes the following items: jams, canned fruit, citrus peel, crystallized (or glace) fruits, certain fruit cordials and fruit juices containing not less than 25 percent pure Australian fruit. The list of "other approved products" currently includes: alcoholic beverages, biscuits, cakes, puddings, pastries and similar mixtures and ingredients used to make them, chemicals derived from cane sugar by hydrolysis, chemical preparations used as inhibitors or stabilizers, condiments, confectionary, desserts and ingredients used to make them, drink powders and crystals, essences and flavorings, ice block mixtures, leather, icing sugar mixture, maple syrup, medicines and drugs, mixtures used to make icings, fillings, dressings and other foods, processed cereal foods or vegetables, processed egg products, processed milk products, quick frozen fruits, soft drinks, soups, spreads, sweetened fruit pulp and other fruit products which are not "approved fruit products." Exceptions to the above are pure sugar and pure icing sugar (that is, not mixed with other manufacturing ingredients), golden syrup, treacle and molasses. These are regarded as sugar and sugar syrups.

The review covers the period January 1, 1983 through December 31, 1983 and is limited to the program of rebate payments made through the Export Sugar Rebate System.

Analysis of the Program

Export sugar rebates are fixed and published by the Export Sugar Committee on a monthly basis and are granted when the world ("parity") price of sugar is lower than the price of sugar in Australia. The average rates for the period of review are set out under the *Preliminary Results.*

Preliminary Results of the Review

As a result of our reviews, we preliminarily determine that the sugar content of certain articles from Australia benefited from average net subsidies of Aus. $71.78 per metric ton of sugar content for approved fruit products and Aus. $85.20 per metric ton of sugar content for other approved products during 1983.

On September 10, 1982, the International Trade Commission ("the ITC") notified the Department that the Australian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury or threat of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 10, 1982 through the date of the ITC's notification to the Department of its determination.

Further, as provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of Aus. $71.78 per metric ton of sugar content on approved fruit products and Aus. $85.20 on other approved products on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall in effect publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and 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 this administrative review including the results or its analysis of issues raised in 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: May 9, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-13122 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Limits for Certain Wool Apparel Products Produced or Manufactured in the Hungarian People's Republic

May 11, 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 May 17, 1984. For further information contact Gordana Slijepcevic, International Trade Specialist (202) 377–4212.

Background

The Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic provides, among other things, for the carryover of shortfalls in certain category limits from the previous agreement year. Accordingly, at the request of the Government of the Hungarian People's Republic, the limits for wool suits in Categories 443 and 444 are being increased by the application of carryover to 7,839 dozen and 5,569 dozen, respectively. This adjustment applies to goods exported in 1984.

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), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 11, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 13, 1983, the Chairman, Commitee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain wool textile products, produced or manufactured in the Hungarian People's Republic and exported during the twelve-month period which began on January 1, 1984, in excess of designated restraint limits. The Chairman further advised you that the limits are subject to adjustment.[1]

Effective on May 17, 1984, the directive of December 13, 1983 is hereby further amended to increase the limits previously established for wool textile products in Categories 443 and 444 to the following:

Category	Amended 12-month limit [1]
443	7,839 dozen.
444	5,569 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1983.

The action taken with respect to the Government of the Hungarian People's Republic and with respect to imports of wool textitle products from Hungary 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. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-13117 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The term "adjustment" refers to those provisions of the Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, which provide, in part, that: (1) Certain limits may be exceeded by not more than five percent during an agreement year, provided the increase is compensated for by an equal decrease in equivalent square yards in another specific limit, as specified; (2) certain limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Apparel Products, Produced or Manufactured in Sri Lanka

May 10, 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 June 1, 1984. For further information contact Ross Arnold, International Trade Specialist (202) 377–4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, between the Governments of the United States and Sri Lanka establishes specific restraint limits for cotton and man-made fiber gloves and mittens in Categories 331 and 631, men's other coats of cotton and man-made fibers in Categories 334 and 634, women's, girls' and infants' cotton and man-made fiber coats in Categories 335 and 635, woven shirts and blouses of cotton and man-made fiber in Categories 340, 341, 640 and 641, cotton trousers in Categories 347 and 348, wool and man-made fiber sweaters in Categories 445/446 and 645/646, and women's, girls', and infants' man-made fiber trousers in Category 648, produced or manufactured in Sri Lanka and exported to the United States during the twelve-month period beginning on June 1, 1984.

The agreement also provides a consultation mechanism for categories of textile products which are not subject to specific ceilings and for which levels may be established during the year upon agreement between the two governments.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, the textile products in the foregoing categories, produced or manufactured in Sri Lanka and exported during the twelve-month period beginning on June 1, 1984, in excess of the designated levels of restraint.

A description of the textile categories in terms to 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), December 30, 1983 (48 FR 57584), and April 4, 1984 (47 FR 13397).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 10, 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 (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 May 10, 1983 between the Governments of the United States and Sri Lanka; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on June 1, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Sri Lanka and exported during the twelve-month period beginning on June 1, 1984, in excess of the indicated restraint limits:

Category	12-mo limit
331	908,982 dozen pairs.
334	177,184 dozen.
335	129,854 dozen.
340	467,234 dozen.
341	467,476 dozen.
347	350,261 dozen.
348	259,710 dozen.
445/446	91,238 dozen.
631	275,600 dozen pairs.
634	106,000 dozen.
635	174,900 dozen.
640	91,141 dozen.
641	467,476 dozen.
645/646	95,400 dozen of which not more than 63,600 dozen shall be in Cat. 646.
648	159,000 dozen.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing categories, produced or manufactured in Sri Lanka, shall, to the extent of any unfilled balances, be charged to the levels of restraint established for them during the thirteen-month period which began on May 1, 1983 and extends through May 31, 1984. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of May 10, 1983 between the Governments of the United States and Sri Lanka, which provide, in part, that: (1) Any specific limit and sublimit may be exceeded by designated percentages of the square yards equivalent total in any agreement period, provided that the amount of the increase is compensated for by an equivalent decrease in one or more other specific limits; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit or sublimit, however, carryover will not be available in the agreement period during which the specific limit is first established; and (3) administrative arrangements or adjustment may be made to resolve minor problems arising in the implementation of the agreement, referred to above, will be made to you by letter.

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), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

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 actions taken with respect to the Government of Sri Lanka and with respect to imports of cotton, wool and man-made fiber textile products from Sri Lanka 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. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-13118 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force USAF Scientific Advisory Board: Meeting

May 7, 1984.

The USAF Scientific Advisory Board Air Force Acquisition Logistics Center Advisory Group will meet in the Commander's Conference Room (233), Building 15, Wright-Patterson Air Force Base, Ohio, on June 14–15, 1984.

The purpose of the meeting is to discuss selected Air Force issues concerning maintainability and supportability, as well as AFALC special interest items. The meeting will convene from 8:30 a.m. to 5:00 p.m. on June 14 and from 8:30 a.m. to 12:00n on June 15.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–695–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-13158 Filed 5-15-84; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 2, 1984.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will meet at Wright-Patterson AFB, OH on May 29, 1984 from 8:30 a.m. to 5:00 p.m. and on May 30, 1984 from 8:00 a.m. to 3:00 p.m. in Room 222, Building 14, Area B.

The purpose of the meeting will be discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division.

The Group will receive classified briefings and hold classified discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division. The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-13157 Filed 5-15-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, 1 June 1984.

Times of Meeting: 0830–1700 hours (Closed).

Place: U.S. Army Chemical Research & Development Center, Edgewood Arsenal, Maryland.

Agenda: The Army Science Board Ad Hoc Subgroup on Chemical/Biological Warfare Intelligence will meet for classified briefings and discussions. The subgroup is tasked with a review of current Army CBW intelligence

efforts and identification of user needs and priorities in order to recommend specific tasks which the Army can and should accomplish regarding chemical warfare. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-13199 Filed 5-15-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday & Wednesday, 5 & 6 June 1984.

Times of Meeting: 0830–1700 hours (Closed).

Place: III Corps, Fort Hood, Texas.

Agenda: The Army Science Board 1984 Summer Study Panel on Technology to Improve Logistics and Weapon Support for Army 21 will meet for classified briefings and discussions. The panel is meeting for orientation briefings and in-depth discussions regarding logistic support for the Army. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-13200 Filed 5-15-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday & Thursday, 6 & 7 June 1984.

Times of Meeting: 0830–1700 hours, both days (Closed).

Place: Fort Monmouth, New Jersey.

Agenda: The Army Science Board Functional Subgroup on C^3I (Command, Control, Communications & Intelligence) will meet for briefings and discussions. The subgroup will receive an update on C^3 programs of the Army, to include briefings on the Army Command and Control Master Plan, countermeasures, and system capacities anticipated for fielding between now and the year 2000 in support of Army Airland Battle doctrine. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-13201 Filed 5-15-84 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Monday & Tuesday, 11 & 12 June 1984.

Times of Meeting: 0830–1700 hours, (Closed).

Place Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Nondevelopmental C^3 Items will meet for classified briefings and discussions. The subgroup will receive policy briefings on the applicability and acquisition of nondevelopmental items in the C^3I arena. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any protion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-13202 Filed 5-15-84 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday & Wednesday, 12 & 13 June 1984.

Times of Meeting: 0830–1700 hours (Closed).

Place: Avionics Research and Development Activity (AVRADA), Fort Monmouth, New Jersey.

Agenda: The Army Science Board Ad Hoc Subgroup on AVRADA (an Army laboratory) Effectiveness Review will meet for classified briefings and discussions. The morning of 12 June will be an Executive Session. It will be followed by a Command overview and detailed program briefings by AVRADA. Agenda items for 13 June are discussions and interactions with AVRADA personnel on cross-sectional selection of programs of particular interest and another Executive Session. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-13203 Filed 5-15-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday & Thursday, 20 & 21 June 1984.

Times of Meeting: 0900–1100 hours, 20 June (Closed); 1100–1730 hours, 20 June (Open); 0830–1700, 21 June (Open).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board 1984 Summer Study panel on Leading & Manning Army 21 (on 20 & 21 June) *and* the ASB Human Capabilities & Resources Functional Subgroup (on 20 June only) will meet jointly for briefings and discussions. The closed (classified) portion of the meeting is for an intelligence briefing on lessons learned in recent conflicts. The open sessions will cover briefings on Light Infantry Divisions, U.S. Army Forces Command perceptions of leadership issues for Army 21, and a technological enrichment program briefing. The Summer Study subpanels (Personnel Factors in Weapon System Performance, Manning a Ready Force, and Leadership) will meet for progress-to-date briefings, and there will be an Executive Session. The first portion of the meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C, specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening this portion of the meeting. The open portion of the meeting are open to the public. Any person may attend, appear before, or file

statements with the committee at the time and in the manner permitted by the committee. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-13204 Filed 5-15-84; 8:45 am]

BILLING CODE 3710-08-M

Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 USC Appendix, Sections 1–15), announcement is made of the following Subcommittee meetings:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of Meetings: 29 May and 1 June 1984.

Time and Place: 1300 hours, Room 14, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

Proposed Agenda: This meeting will be open to the public from 1300 to 1400 hours on 29 May for the administrative review and discussion of the scientific research program of the US Army Medical Research Institute of Chemical Defense. Attendance by the public at open session will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Sections 1–15 of Appendix, the meeting will be closed to the public from 1400–1700 hours on 29 May and from 1300 to 1700 hours on 1 June for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Col. Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Assistant Deputy Commander.

[FR Doc. 84-13334 Filed 5-15-84; 8:45 am]

BILLING CODE 3710-08-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 23, 1984, beginning at 1:30 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be a part of the Commission's regular business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *County of Bucks Department of Parks and Recreation D–75–71 CP (Revised).* An application to revise and renew approval for a dredging and fill project in Silver Lake Park, in Bristol Borough and Bristol Township, Bucks County, Pennsylvania. Previous approval for the project as described in Docket D–75–71 CP has expired. The purpose of the project is to improve recreational facilities and wildlife and fish habitat at Silver Lake Park. The effect of proposed revisions to the project is a reduction in scope of the dredge and fill operations originally proposed. The project has been modified to reduce impacts on adjacent wetlands which will not be filled as previously planned.

2. *Artesian Water Company D–79–58 CP (Revised).* An application to increase ground water withdrawals by the applicant's Artisan's Village well system in New Castle County, Delaware. The applicant requests that the total permitted withdrawal rate from Well Nos. 1 and 2 be increased from 45 million gallons (mg) to 52 mg/30 days.

3. *Great Valley Water Company D–81–74 CP (Revised).* Arevised ground water withdrawal project to supply additional water to the applicant's "Milltown System" service area. The average total withdrawal from existing Wells 20 and 20A will be increased from 0.15 to 0.20 million gallons per day (mgd). The project is located in East Goshen Township, Chester County, Pennsylvania, and is in the Southeastern Pennsylvania Ground Water Protected Area.

4. *Willistown Woods Associates D–83–39.* A sewage treatment project to serve residential units in the Chesterdale Farms and Willistown Woods developments in Willistown Township, Chester County, Pennsylvania. The treatment plant is designed to remove 92 percent BOD and suspended solids from a waste flow averaging 0.064 mgd. Treated effluent will discharge to an unnamed tributary of Hunter's Run (a tributary of Ridley Creek) in Willistown Township.

5. *Georgia Pacific Corporation D–84–1.* Increase of an industrial waste discharge, at the applicant's PVC Compound plant in Delaware City, New Castle County, Delaware. Georgia Pacific Corporation has recently purchased this facility from Ethyl Corporation and plans to increase the average waste flow from 0.30 to 0.47 mgd and BOD_5 load from 27 to 42 lbs./day due to increased utilization of existing production facilities. The treatment facility is designed to remove suspended solids, BOD, COD, fecal coliform, lead and surfactants from the waste stream. Treated effluent will continue to discharge to the Delaware River at River Mile 62.66.

6. *Township of Medford D–84–14 CP.* A sewage treatment project to serve Medford Township in Burlington County, New Jersey. A new treatment plant will be designed to remove 97.5 percent BOD and suspended solids from a design sewage flow of 0.75 mgd. Treated effluent will be combined with effluent from an existing secondary facility prior to discharge. Overall removal efficiency for BOD_5, and TSS will be 93 percent for a design waste flow of 1.75 mgd. Treated effluent will discharge to the Southwest Branch of Rancocas Creek near Kirby's Mill in the Township of Medford.

Documents relating to these projects may be examined at the Commission's offices and preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: May 8, 1984.

Susan M. Weisman,

Secretary.

[FR Doc. 84-13166 Filed 5-15-84; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Working Party (IWP) of the International Energy Agency (IEA) will be held on May 23, 24

and 25, 1984. On May 23 and 24, the meeting will be held at the offices of the Petroleum Association of Japan/Japan Petroleum Development Association, Keidanren Building, No. 9–4, 1-Chome, Ohtemachi, Chiyoda-ku, Tokyo, Japan, beginning at 10:00 a.m. on May 23. On May 25, the meeting will be held at the Imperial Hotel, No. 1–1, 1-Chome, Uchisaiwai-Cho, Chiyoda-Ku, Tokyo, Japan.

The agenda for the meeting is as follows:

1. Status of activites of the IWP and the Standing Group on the Oil Market (SOM).
2. Review of the Crude Oil Cost Information System and Crude Oil Import Register.
3. Oil price indicators.
4. Issues pertaining to global supply/demand balances, including a review of the oil supply/demand format used by the IEA Secretariat.
5. IEA Secretariat study on stocks.
6. Arrangements for future meetings of the SOM and IWP.

As permitted by section 5(c)(2) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program the Secretary of Energy has approved the submission of this agenda less than 14 calendar days in advance of the date of the meeting, because of a recent request by the IEA Secretariat concerning inclusion of an agenda item.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., May 14, 1984.

Theodore J. Garrish,

General Counsel.

[FR Doc. 84–13414 Filed 5–15–84; 11:25 am]

BILLING CODE 6450–01–M

Procurement and Assistance Management Directorate; Restriction of Eligibility for Grant Award

AGENCY: Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that it plans to award a grant of $40,000 to support the 1985 Coal Science Conference sponsored by the International Energy Agency's (IEA) Fossil Fuel Working Party. Pursuant to § 600.7(b) of the DOE Financial Assistance Rules, 10 CFR Part 600, DOE has determined that eligibility for this grant award shall be limited to the conference organizer, the Commonwealth Scientific and Industrial Research Organization (CSIRO) which is an agency of the Government of Australia.

Background: Every two years, the Fossil Fuel Working Party of the IEA sponsors an International Conference on Coal Science. Financial support for the Conference is provided by member nations of the Fossil Fuel Working Party. The DOE represents the United States on the Fossil Fuel Working Party.

Project Scope: The next Conference on Coal Science will be held in Sydney, Australia, on October 28 through November 1, 1985. Topics considered at the Conference will include coal structure, coal liquefaction, gasification, and analytical techniques. The amount of the DOE grant award is expected to be $40,000.

Award Number: DE–FG01–84 FE60425.

FOR FURTHER INFORMATION CONTACT: Charlotte A. Greenwell, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., on May 7, 1984.

Thomas J. Davin, Jr.,

Deputy Director, Procurement and Assistance Management Directorate.

[FR Doc. 84–13099 Filed 5–15–84; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Cibro Sales Corporation, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Cibro Sales Corporation, Inc. (Cibro).

EFFECTIVE DATE: April 24, 1984.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 S. Houston, Room 306, Tulsa, OK 74127, (918) 581–7781.

SUPPLEMENTARY INFORMATION: On March 8, 1984 (49 FR 8672), the ERA published a notice in the **Federal Register** that it has executed a proposed Consent Order with Cibro on February 15, 1984 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order resolves Cibro's potential civil liability arising out of the Federal Petroleum Price and Allocation Regulations in connection with Cibro's transactions involving the resale of crude oil during the period August 1973 through January 27, 1981. The Consent Order requires Cibro to remit the sum of $900,000 plus installment interest in six (6) installments.

Comments were received from eleven states. All of the comments focused on the distribution of the funds and none of the comments contested the validity of the Consent Order. All of the states' comments advocated that the Consent Order proceeds, after payment to identifiable injured customers, should be distributed on a pro-rata basis to states. Ten of the states advocated that the funds distributed to the states be used in energy conservation projects.

Since the comments addressed only the disposition of the funds, the ERA has made the proposed Consent Order final without modification. The ultimate disposition of the funds will depend on several factors, such as the type of alleged violations underlying the Consent Order and the ability of the ERA to identify the persons who ultimately bore the burden of alleged violations. The commenter's suggestions regarding the distribution of funds will be considered in determining the appropriate ultimate disposition. The proposed Consent Order, therefore, was made final and effective on April 24, 1984.

Issued in Tulsa, Oklahoma on the 24th day of April, 1984.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 84–13100 Filed 5–15–84; 8:45 am]

BILLING CODE 6450–01–M

Compton Corp. and Gratex Corp; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Compton Corporation and Gratex Corporation. This Proposed Remedial Order alleges pricing violations in the amount of $6,065,681.93 plus interest in connection with the resale of crude oil at prices in excess of those permitted under 10 CFR Part 212 during the time period December 1978 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mary

Johnson, Economic Regulatory Administration, Department of Energy, 1341, W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or by calling (214) 767–7483. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Room: 6E–055, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 27 day of April, 1984.

Ben Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 84–13101 Filed 5–15–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TA84–2–20–002]

Algonquin Gas Transmission Co.; Rate Reduction Filing Under Rate Schedule S–IS

May 11, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on May 8, 1984 tendered for filing Sixth Revised Sheet No. 213 and Alternate Sixth Revised Sheet No. 213 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that Sixth Revised Sheet No. 213 and Alternate Sixth Revised Sheet No. 213 are being filed to reflect in Algonquin Gas' Rate Schedule S–IS Payment for Inventory Sale Gas decreases in Consolidated Gas Supply Corporation's ("Consolidated") underlying Rate Schedule E.

Algonquin Gas request that the Commission accept that tariff sheet, to be effective May 1, 1984, which synchronizes its rate with the underlying rate of Consolidated.

Algonquin Gas request permission to credit the subsequent month's bill following Commission acceptance to effectuate such rate change as of May 1, 1984 in the event Algonquin Gas does not receive approval in time for the June 7, 1984 billing of May, 1984 sales.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–13194 Filed 5–15–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5706–002]

Grisdale Hill Co.; Surrender of Preliminary Permit

May 10, 1984.

Take notice that Grisdale Hill Company, Permittee for the Trout Lake Creek Project No. 5706 has requested that its preliminary permit be terminated. The Preliminary Permit was issued on May 14, 1982, and would have expired on May 31, 1984. The project would have been located on Trout Lake Creek near Trout Lake with-in Pinchot National Forest in Skamaina County, Washington.

Grisdale Hill Company filed the request on March 16, 1984, and the surrender of the preliminary permit for Project No. 5706 is deemed accepted as of March 16, 1984 and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–13195 Filed 5–15–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–2–54–000]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

May 11, 1984.

Take notice that Louisiana-Nevada Transit Company on May 1, 1984, tendered for filing proposed changes in its FERC Gas Tariff Volume I.[1] The proposed changes are to reflect changes in its purchased gas cost as provided in the Company's Purchased Gas Adjustment Clause applicable to its Rate Schedule No. G–1 and X–2. The change provides for a total adjustment of 136.57¢ per mcf including a deferred gas cost adjustment of 43.33¢ per mcf, to amortize a deferred balance, and a cumulative cost of gas adjustment of 93.24¢ per mcf.

Copies of the filing were served upon the Company's jurisdictional customers and the Arkansas and Louisiana Public Service Commissions.

Any person desiring to be heard or to protest said filing should file a petition with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rule 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be field on or before May 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants party to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–13197 Filed 5–15–84; 8:45 am]

BILLING CODE 6717–01–M

[1] The filing was not complete until the filing fee was paid on May 8, 1984.

[Docket No. ES84–44–000]

Pacific Power & Light Co.; Application

May 11, 1984.

Take notice that on April 30, 1984, Pacific Power & Light Company (Pacific) filed its application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing it (1) to borrow the proceeds of not more than $80,000,000 in aggregate principal amount of Pollution Control Revenue Bonds to be issued by the City of Gillette, Wyoming (City), and (2) to enter into arrangements with the City and other entities as necessary to effect the borrowings. The financing is intended to fund the acquisition, construction, and installation of air and water pollution control and solid waste disposal facilites at Wyodak Generating Plant in which Pacific is 80 percent leaseholder.

Any person desiring to be heard or to make any protest with reference to the application should, on or before May 18, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 835.211 or 835.214, respectively. The application is on file with the

Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13198 Filed 5-15-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-297-000]

International Paper Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 10, 1984.

On April 16, 1984, International Paper Co., (Applicant), 77 West 45th Street, New York, New York, 10036, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping cycle congeration facility is located at a paper mill in Bastrop, Louisiana. The primary energy sources are biomass, in the forms of wood and spent pulping liquor, coal, oil and gas. The electric power production capacity of the facility is 56 megawatts. A new boiler feeds an existing steam turbine generator. Process steam from the cogeneration facility is used in the paper mill. Applicant seeks to qualify as new capacity, 15 megawatts which represent added capacity gained from installing the new boiler.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the preceeding. Any person, wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-13196 Filed 5-15-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ON-FRI 2589-3]

Federal/Non-Federal Role in Municipal Wastewater Treatment; Public Meeting With Liaison Groups

Notice is hereby given that the Environmental Protection Agency (EPA) will be holding a public meeting on the appropriate Federal and non-Federal roles in financing municipal wastewater treatment on May 31, 1984. The meeting will be held at EPA Headquarters, Room 2409M, Waterside Mall, 401 M Street SW., Washington, D.C. The meeting will begin at 10:00 a.m. and will adjourn at 12:00 noon.

The public meeting is intended to provide liaison with professional organizations and groups that have expressed an interest in an on-going EPA study of funding issues. The meeting will thus supplement public comment received in response to a **Federal Register** notice of an EPA study [49 FR 6009], and public meetings of the EPA Management Advisory Group to the Construction Grants Program (MAG) [49 FR 2525, 49 FR 5829].

The purpose of the EPA study is to examine Federal, State, and local roles in obtaining expeditious construction of municipal wastewater treatment facilities needed to meet the requirements of the Clean Water Act. The study will identify and evaluate program alternatives which effectively and efficiently assist local communities in meeting two underlying objectives of the Clean Water Act:

- To foster long-term local self-sufficiency and capability to construct, operate, and replace municipal wastewater treatment facilities, and
- To facilitate compliance by municipal wastewater treatment facilities with the requirements of their National Pollutant Discharge Elimination System (NPDES) permits.

A major goal throughout the course of the study will be to develop a national consensus for an appropriate funding delivery mechanism and an appropriate level of Federal involvement (financial and otherwise) for the period beyond the currrent authorization ending in fiscal year (FY) 1985. The study recommendations will be considered within the context of reauthorization of the construction grants program.

The agenda for the public meeting will be to discuss the status of the EPA funding study and to provide a forum for open discussion of the issues involved. The meeting will include a briefing on written comments received in response to the February 16 call for papers from affected parties concerning the study. Any member of the public wishing to make further comments is invited to submit them in writing at the May 31 meeting.

The meeting will be open to the public. Any member of the public wishing to attend, or desiring additional information, should contact Ms. Alice Klavans at (202) 382-7273.

Dated: May 10, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-13134 Filed 5-15-84 8:45 am]

BILLING CODE 6560-50-M

[OPP-66109; PH-FRC 2587-2]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: June 15, 1984.

ADDRESS: By mail, submit comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:
By mail: Lela Sykes, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 718C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2126).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
226–139	Tasco Roach and Ant Spray	Tobacco States Chemical Co., Inc., P.O. Box 12046, Lexington, KY 40501.	Feb. 7, 1961.
239–1538	Ortho Phosphamidon Technical	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, CA 94801.	July 27, 1960.
239–1865	Ortho Phosphamidon 8 Spray	do	Mar. 4, 1976.
239–2076	Ortho Dinitro General Weed Killer	do	Mar. 15, 1965.
239–2320	Ortho Diazinon 33 Seed Treater (Insecticide)	do	June 24, 1970.
239–2374	Isotox Seed Treater (D)	do	July 19, 1971.
239–2413	Volck Supreme Diazinon	do	Dec. 4, 1972.
239–01784	Ortho Diazinon 2 Dust	do	Nov. 21, 1962.
271–35	Montrose Propanil 3EC	International Minerals and Chemical Corp., P.O. Box 207, Terre Haute, IN 47808.	Mar. 9, 1967.
323–16	Holcomb Insedrid 100	J. I. Holcomb Manufacturing Co., 4415 Euclid Ave, Cleveland, OH 44103.	June 30, 1954.
524–123	Rogue Herbicide	Monsanto Agricultural Products Co., 1101 17th St., NW., Suite 604, Washington, DC 20036.	Jan. 16, 1962.
524–284	Rogue 3 Selective Herbicide	do	Dec. 31, 1968.
809–12	Minimax Diazinon Insecticide	American Disinfectant Co., 928 Eye St., NW., Washington, DC. 20001.	Dec. 29, 1959.
998–93	Superior Diazinon 4E	Superior Chemical Products, Inc., 3942 Frankford Ave, Philadelphia, PA 19124.	May 14, 1973.
998–101	Superior Diazinon 4–S	do	July 26, 1974.
1063–112	Valco Brand Propanil No. 3 Selective Post-Emergence Herbicide.	Valley Chemical Co., P.O. box 1317, Greenville, MS 38701	Mar. 11, 1968.
2391–3	Stay-Spray +	Stay Chemical Co., 2429 Ohio Ave, Flint, MI 48506	Dec. 10, 1964.
2993–55	Brayton Diazinon Pyrethrins Roach and Fly Spray	Brayton Chemicals Inc., P.O. Box 238, West Burlington, IA 52655.	Aug. 8, 1964.
4476–54	Surgisept Virucide Germicide Concentrate	Morton Pharmaceuticals, 1625–39 North Highland, Memphis, TN 38108.	Apr. 15, 1968.
4887–164	Stephenson Chemicals Diazinon MG70	Stephenson Chemicals Co., Inc., Box 87188, College Park GA 30337.	Mar. 2, 1973.
5440–57	Swift's Special Diazinon Roach Spray	Cardinal Chemical Co., Green and Sansome Sts., San Francisco, CA 94111.	Apr. 13, 1967.
6248–10	Black Magic 555 Roach Spray Concentrate	Morgan Enterprises, Inc., d/b/a Black Magic Co., P.O. Box 16453, Jacksonville, Fl 32216.	May 8, 1973.
6248–13	Balck Magic Diazinon Plus	do	June 24, 1975.
6884–3	Vi-Lan Bact Clean No. 8100	Dameron Enterprises Incorporated, 1600 S. Floyd St., Louisville, Ky 40217.	Feb. 11, 1963.

The Agency has agreed that each cancellation shall be effective June 15, 1984 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP–66109]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in Rm. 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended, 86 Stat. 973, 89 Stat. (751, 7 U.S.C. 136))

Dated: May 3, 1984.

Louis P. True, Jr.,

Acting Director, Office of Pesticide Programs.

[FR Doc. 84–13002 Filed 5–15–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

May 11, 1984.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeepong requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone

number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for Approval To Extend With Minor Format Changes

1. Report title: Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.
Agency form number: MSD–4
Frequency: On occasion
Reporters: Banks who engage in activities as a municipal securities dealer and persons designated as municipal securities principals and representatives.
Small businesses are not affected.
General description of report:
Respondent's obligation to reply is mandatory (15 U.S.C. 78o–4, 78q, and 78w); a pledge of confidentiality is promised 5 U.S.C. 552(b)(6).

The filing of the application is required of a person associated with a Municipal Securities Dealer Bank (MSD) and the MSD, prior to such person functioning in a professional capacity. This application serves to verify compliance with the Municipal Securities Rulemaking Board rules and related securities and banking laws, and is also used as a source document for entry into an interagency computer system of records.

2. Report title: Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.
Agency form number: MSD–5
Frequency: On occasion
Reporters: Banks who engage in activities as a municipal securities dealer and persons designated as municipal securities principals and representatives.
Small businesses are not affected.
General description of report:
Respondent's obligation to reply is mandatory (15 U.S.C. 78o–4, 78q, and 78w); a pledge of confidentiality is promised 5 U.S.C. 552(b)(6).

This notice must be filed 30 days after a person associated in a professional capacity with a bank municipal securities dealer terminates employment. The notice is a compliance vehicle for rules of the Municipal Securities Rulemaking Board and related securities and banking laws. It is also a source document for updating information on an interagency computer systerm of records.

Request for Approval To Extend With Revision

3. Report title: Agreement(s) of Domestic Nonmember Banks and Foreign Nonmember Banks in connection with Extension of Credit to Broker-Dealers (FR T–1, T–2)
Agency form number: FR T–1, T–2
Frequency: On Occasion
Reporters: Domestic and Foreign Nonmember Banks
Small businesses are not affected.
General description of report:
Respondent's obligation to reply is mandatory (15 U.S.C. 78h); a pledge of confidentiality is not promised.

This report is filed by nonmember banks, both foreign and domestic, which agree to comply with all statutes and regulations applicable to member banks relating to credit extended to broker-dealers on the collateral or registered securities.

Request for Extension With Revision

4. Report title: Application for Prior Written Consent to Effect a Merger
Agency form number: FR 2070
Frequency: On occasion
Reporters: State member banks
Small businesses are affected.
General description of report:
Respondent's obligation to reply is mandatory (12 U.S.C. 1828(c); a pledge of confidentiality is not promised unless certain conditions are met.

Provides information on the pro forma financial condition of the applicant, applicants' asessment and position on competitive issues and the advantages the proposed merger offers to the public's needs and convenience. Information is used by the Federal Reserve to properly evaluate the proposed merger as to financial soundness, competitive acceptability and consistency with public interest.

Board of Governors of the Federal Reserve System, May 11, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–13191 Filed 5–15–84; 8:45 am]

BILLING CODE 6210–01–M

First Washington Bancorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (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 June 7, 1984.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Washington Bancorp, Inc.*, Naperville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Washington Bank and Trust Company of Naperville, Naperville, Illinois, through an interim bank merger.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Citizens Bancshares Company*, Marion, Arkansas; to become a bank holding company by acquiring 80

percent of the voting shares of Citizens Bank, Marion, Arkansas.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commonwealth Bancorporation, Inc.*, Glendale, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Commonwealth State Bank, Glendale, Colorado. Comments on this application must be received no later than June 1, 1984.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Community Financial Corporation*, Rockwall, Texas; to acquire 100 percent of the voting shares of Wylie Bank, N.A., Wylie, Texas, a *de novo* bank, and 100 percent of the voting shares of Balch Springs Bank, N.A., Balch Springs, Texas, a *de novo* bank.

2. *New Boston Bancshares, Inc.*, New Boston, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of New Boston, New Boston, Texas.

Board of Governors of the Federal Reserve System, May 10, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-13102 Filed 5-15-84; 8:45 am]

BILLING CODE 8210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N-0026]

Drug Experience Reports; NADA'S 8-473, 8-766, 9-504, 10-148, 10-458, 12-219, and 13-028; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of several new animal drug applications (NADA's) for products which are no longer manufactured or marketed, and for which applicants have failed to file required annual reports of drug experience.

EFFECTIVE DATE: May 29, 1984.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Center for veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV-214, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1984 (49 FR 6797), FDA published a notice of opportunity for hearing concerning several NADA's whose applicants had failed to submit periodic reports for new animal drugs approved before June 20, 1963 (21 CFR 510.310). The notice provided that an applicant or any other interested persons may request a hearing by submitting a request for such hearing by March 26, 1984. The NADA's and applicants affected by that publication are:

1. NADA 8-473, Arsonic Growth Stimulant, Dawes Laboratories, Inc., 450 State St., Chicago, IL 60411, approved June 9, 1952.

2. NADA 8-766, Liquamycin Injection, J. B. Garland & Son, 15 Grayton St., worcester, MA 01604, approved March 25, 1953.

3. NADA 9-504, Xylocide, Hance Brothers & White Co., 12th & Hamilton Sts., Philadelphia, PA 19123, approved September 1, 1954.

4. NADA 10-148, Serpasil Tablets 0.25 milligram, E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540, approved October 28, 1955.

5. NADA 10-458, Mikedimide, Parlam Division. Ormont Drug & Chemical Co., Inc., 520 South Dean st., Englewood, NJ 07631, approved September 17, 1956.

6. NADA 12-219, Zymo-Pabst, Premier Malt Products, Inc., 1037 West McKinley Ave., Milwaukee, WI 53201, approved June 15, 1960.

7. NADA 13-028, Balfour Medicated Chicken, Balfour Gurthrie & Co., Ltd., 315 North H St., Fresno, CA 93701, approved September 14, 1961.

Concerning NADA 10-148, Serpasil Tables 0.25 milligram, E. R. Squibb & Sons, Inc., responded stating it had never marketed the product and has no intentions of doing so. Squibb requested that the NADA be withdrawn. No other responses were received. Because the agency has no reason to believe that these firms wish to retain approval of the NADA's and because after due notice and opportunity for hearing no objections have been received to the proposed action, the agency is proceeding to withdraw approval of these NADA's, effective May 29, 1984, to provide any applicant with the opportunity to file exception to the action. Because the NADA approvals are not codified, withdrawal of approval does not require amendment to the regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director of the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's and all supplements for 8-473 for Dawes Laboratories' Arsonic Growth Stimulant; 8-766 for J. B. Garland & Son's Liquamycin; 9-504 for Hance Brothers & White's Xylocide; 10-148 for Squibb's Serpasil Tablets; 10-458 for Parlam Division, Ormont Drug & Chemicals' Mikedimide; 12-219 for Premier Malt's Zymo-Pabst; and 13-028 for Balfour Gurthrie & Co.'s Medicated chicken is hereby withdrawn, effective May 29, 1984.

Dated: May 8, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-13103 Filed 5-15-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. D-84-761]

Redelegation of Authority; Director, Office of Procurement and Contracts, et al; Regional Administrations, et al.

AGENCY: Assistant Secretary for Administration, HUD.

ACTION: Redelegation of Contracting Authority.

SUMMARY: The Designations and Redelegations of Authority published at 41 FR 2666, January 19, 1976, and amended at 41 FR 47279, October 28, 1976; 44 FR 59671, October 16, 1979; and 45 FR 73141, November 4, 1980; are further amended to reflect field organization changes and expansion of procurement authority within the Field.

EFFECTIVE DATE: May 9, 1984.

FOR FURTHER INFORMATION CONTACT: Roosevelt Jones, Director, Office of Procurement and Contracts, Room 5260, 451 7th St., SW., Washington, D.C. 20410. (202) 755-5290 (This in not a toll-free number.)

SUPPLEMENTARY INFORMATION: Sections C and D of the Designation and Redelegation of Authority published at 41 FR 2666, as amended at 41 FR 47279, 44 FR 59671 and 45 FR 73141 are amended to read as follows:

Section C. Authority redelegated

Each Regional Administrator—Regional Housing Commissioner; Director, Office of Administration;

Director, Administrative Services Division; Regional Contracting Officer; and Regional Purchasing Agent, is authorized: (1) To enter into and administer purchases for property and services for the Department which are placed under the General Services Administration Federal Supply Schedule Contracts, Schedule Contracts of the National Industries, for the Blind, and Schedule Contracts of the Federal Prison Industries, Inc., up to the maximum ordering limitation for each such contract; and (2) to enter into an administer purchases and procurement contracts for property and services for the Department not to exceed $10,000 on an individual basis under section 302(c)(3) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c)(3)).

Each Regional Administrator—Regional Housing Commissioner; Director, Office of Administration; and each Regional Contracting Officer, is designated as a Contracting Officer and may, subject to any limitations imposed by the Assistant Secretary for Administration, enter into and administer all purchases, procurement contracts, grants, cooperative agreements and interagency agreements for property, services and assistance required by the Department. Each such Contracting Officer may make related determinations under section 302(c) (1) through (15) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c)(1) through (15)), except the authority to make related determinations under section 302(c) (11), (12) and (13) of the Federal Property and Administrative Services Act, as amended (41 U.S.C. 252(c) (11), (12) and (13)).

The Authority in this Section C does not apply to purchases and contracts for Acquired Property Programs.

Section D. Authority redelegated

Each Field Office Manager and Administrative Division Director is designated as a Purchasing Agent and is authorized: (1) To enter into and administer purchases of property and services for the Department not to exceed $2,000 on an individual basis under section 302(c)(3) of the Federal Property and Administrative Services Act, as amended (41 U.S.C.(c)(3)); and (2) to enter into and administer purchases which are placed under the General Services Administration Federal Supply Schedule Contracts, Schedule Contracts of the National Industries for the Blind, and Schedule Contracts of the Federal Prison Industries, Inc., up to the maximum ordering limitation for each such contract, except:

a. Purchases of capitalized equipment of furniture other than from General Services Administration Federal Supply Schedule Contracts; or

b. Purchases and contracts for Acquired Property Programs.

(Delegation of Authority to Assistant Secretary for Administration, 41 FR 2665, January 19, 1976.)

Dated: May 9, 1984.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 84-13106 Filed 5-15-84; 8:45 am]

BILLING CODE 4210-01-M

Solar Energy and Energy Conservation Bank

[Docket No. N-84-1387]

Solar Energy and Energy Conservation Advisory Committees; Meetings

AGENCY: Solar Energy and Energy Conservation Bank, HUD..

ACTION: Notice; meeting of the Solar Energy and Energy Conservation Advisory Committees.

SUMMARY: This notice announces a meeting of the Solar Energy and Energy Conservation Advisory Committees. The meeting will be held on June 6, 7 and 8, 1984.

EFFECTIVE DATE: May 16, 1984..

FOR FURTHER INFORMATION CONTACT: Colet Ritter, Office of the Solar Energy and Energy Conservation Bank, Housing and Urban Development, 451 7th Street, SW., Room 7110, Washington, DC 20410; Telephone (202) 755-7166. (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION: The Energy Security Act of 1980 established Energy Conservation and Solar Energy Advisory Committees for the purpose of assisting the Board in carrying out the activities of the Bank which relate to energy conserving improvements and solar energy systems. Each committee consists of five members, appointed by the Board from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training and experience.

(5)(a) For the Solar Energy Committee, one individual who is able to represent the views of the solar energy industry as a result of the individual's education, training and experience.

(b) For the Energy Conservation Committee, one individual who is able to represent the views of producers or installers of residential and commercial energy conserving improvements as a result of the individual's education, training and experience.

In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a)(2), announcement is made of the following meeting:

The Solar Energy and Energy Conservation Advisory Committees will meet on June 6, 7 and 8, 1984. The meetings are open to the public and will convene at 9:00 a.m. on Wednesday, June 6, 1984 at the Department of Housing and Urban Development, Departmental Conference Room 10233, 451 7th Street, SW., °Washington, D.C. 20410.

An agenda will be available at the meeting. Inquiries concerning the agenda may be made by contacting the Office of the Solar Energy and Energy Conservation Bank at (202) 755-7166.

(Title V, Subtitle A, of the Energy Security Act of 1980, (Pub. L. 96-294, 12 U.S.C. 3601 *et seq.*))

Dated: May 10, 1984.

Richard H. Francis,

Manager, Solar Energy and Energy Conservation Bank.

[FR Doc. 84-13107 Filed 5-15-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-36685-A]

Conveyance of Public Lands; Oregon

Notice is hereby given that, pursuant to section 203 and 209 of the Act of October 21, 1976 (90 Stat. 2743, 2750 and 2757, 2758; 43 U.S.C. 1701, 1713 and 1719), the following described public land in Gilliam County, was purchased by a modified competitive sale and conveyed to the party shown:

Mr. Durward Kaseberg, Box 233, Wasco, Oregon 97065

Willamette Meridian, Oregon

T. 2 S., R. 19 E.,
Sec. 9, SE¼SW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Durward Kaseberg.

Dated May 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-13160 Filed 5-15-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36615-C]

Conveyance of Public Lands; Oregon

Notice is hereby given that, pursuant to sections 203 and 209 of the Act of October 21, 1976 (90 Stat. 2743, 2750 and 2757, 2758; 43 U.S.C. 1701, 1713 and 1719), the following described public land in Gilliam County, was purchased by modified competitive sale and conveyed to the parties shown:

Mr & Mrs. Douglas E. Shull, Box 171, Wasco, Oregon 97065

Willamette Meridian, Oregon

T. 2 S., R. 19 E.,
Sec. 23, SW¼SE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. Shull.

Dated: May 8, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-13161 Filed 5-15-84; 8:45 am]

BILLING CODE 4310-33-M

[OR-36615-H]

Conveyance of Public Lands; Oregon

Notice is hereby given that, pursuant to section 203 and 209 of the Act of October 21, 1976 (90 Stat. 2743, 2750 and 2757, 2758; 43 U.S.C. 1701, 1713 and 1719), the following described public land in Gilliam County, was purchased by competitive sale and conveyed to the parties shown:

Mr & Mrs. David A. Whitehead, P.O. Box 531, Pasco, Washington 99301

Willamette Meridian, Oregon

T. 3 S., R. 22 E.,
Sec. 4, SW¼NW¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. & Mrs. Whitehead.

Dated: May 8, 1984.

Harold A. Berends,

Cheif, Branch of Lands and Minerals Operations.

[FR Doc. 84-13162 Filed 5-15-84; 8:45 am]

BILLING CODE 4310-33-M

Cedar City District Multiple Use Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Cedar City District Multiple Use Advisory Council will be held on June 14, 1984.

The meeting will begin at 9:30 am in the Cedar City District Office, 1579 North Main, Cedar City, Utah. Since this is the first meeting of the newly appointed council, the agenda will include primarily general business. This will include administrative procedures, election of officers and an orientation on current district programs. Specific discussions will include Minerals activities (tar sands, coal), Planning (Cedar Beaver Garfield RMP/EIS), Grazing (new regulations, improvement maintenance), and Cooperative Management Plans.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 4:00 pm or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager, P.O. Box 724, Cedar City, Utah 84720 by June 12, 1984. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Dated: May 8, 1984.

J. Kent Giles,

Acting District Manager.

[FR Doc. 84-13145 Filed 5-15-84; 8:45 am]

BILLING CODE 4310-DQ-M

Intent To Prepare a Planning Analysis for State Of Arkansas

AGENCY: Bureau of Land Management, Interior.

ACTION: Planning start for the State of Arkansas.

SUMMARY: In compliance with 43 CFR Part 1600, the Jackson District Office announces that the Arkansas Planning Analysis has been initiated and will be available for public review in July 1984. This plan represents those public lands and Federal Mineral Ownership (FMO) under BLM jurisdiction in Arkansas. The BLM administers approximately 3 million acres of Federal minerals under surface lands managed by other Federal agencies. This Arkansas plan will disuss the mineral potential underlying these lands and outline the policies and programs of the Bureau as they relate to the plan, prescribing resource allocations identified by these agencies to date.

Land ownership conflicts/records maintenance—In the past, the Eastern States Office of the BLM has not had an active management posture with regard to Public Domain lands in Arkansas. This situation has led to a greater potential for ownership conflicts and incidence of trespass. To help alleviate these potential problems, a concerted effort towards accurate and well-maintained lands records has been intitiated with the assistance of State and local governments and the general public.

Mineral ownership records—Mineral ownership in Arkansas is located on tracts administered by the Bureau of Land Management as well as other Federal agencies, the State, or private parties. In order to facilitate minerals actions, every effort will be made to coordinate with these entities and maintain accurate minerals records.

This planning effort is the culmination of an effort begun in 1982 as the Arkansas Multiple-Use Plan (MUP), under procedures which are now obsolete. The plan will be completed as a Category 1 Planning Analysis, which means that an Environmental Assessment (EA) will be prepared as an integral part of the process.

Public lands under BLM jurisdiction in Arkansas consist of 35 separate parcels, ranging in size from 10 acres to 80 acres, scattered over 14 counties and totaling 1579.84 acres. Twelve parcels (totaling 490 acres) may qualify for transfer/disposal. Nineteen parcels (totaling 926.84 acres) are involved in some kind of ownership conflict requiring resolution before lands actions can be taken. Four parcels (totaling 163 acres) are within the boundaries of the Buffalo National River and are subject to National Park Service withdrawal under application number ES-11592.

This plan considers 62,935 acres of Federal Mineral Ownership under BLM-administered or privately-owned surface and will address the retaining of minerals by the U.S. (unless requirements of 43 U.S.C. 1719 are met) for leasing by application or through competitive sale. In addition, the plan will make several recommendations regarding the gathering of more detailed data.

Some of the issues to be addressed in the plan include, but are not limited to the following: (1) The potential for

ownership conflicts and trespass; (2) The need to protect various wildlife and plant species (including endangered species); (3) The possible development of mineral deposits; (4) The need to protect valuble cultural resources; and (5) The need to protect floodplains and wetlands.

The plan is being developed by a Bureau of Land Management Interdiscriplinary Team (IDT) located in Jackson, Mississippi. The team inlcudes a geologist, hydrologist, realty specialist, geographer, environmental specialist, soil scientist, natural resource specialist, archaeologist, and administrative personnel. Additional support will be supplied by personnel in BLM's Eastern States Office, which has jurisdiction over the public lands in FMO in Arkansas. Persons wishing to comment and to be kept informed or this effort should immediately contact the team leader at the address or telephone number listed below. Please request to be placed on the mailing list for the Arkansas Plan.

DATE: Comments should be submitted by June 15, 1984.

Comments received or postmarked after that date may not be considered in the decisionmaking process.

ADDRESS: Comments and requests to: District Manager, Jackson District Office, Bureau of Land Management, P.O. Box 11348, Jackson Mississippi 39213, (601) 960–4405.

FOR FURTHER INFORMATION CONTACT: Ed Roberson, Jackson District Office, (601) 960–4405.

Donald L. Libbey,

District Manager.

[FR Doc. 84–13144 Filed 5–15–84; 8:45 am]

BILLING CODE 4310–GJ–M

Public Land Sale; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action I–19988 and I–19989, Competitive Sale of Public Land in Owyhee County, Idaho.

SUMMARY: The following described land has been examined, and through land use planning and public input has been determined to be suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976. Fair market value will be available no less than 30 days prior to this sale date. Sealed bids only will be accepted.

Boise Meridian, Idaho

T. 7 S., R. 6 E., (I–19988)
Sec. 6, NE¼SW¼.
Containing 40 acres
T. 7 S., R. 6E., (I–19989)
Sec. 6, SW¼SE¼.
Containing 40 acres.

The land when patented, will be subject to the following reservations to the United States:

1. Ditches and canals.
2. Geothermal resources, oil and gas.
3. All valid existing rights and reservations of record.

Sale of the land may be subject to temporary continued use of an existing grazing privilege.

Sealed bids must be received in this office no later than July 30, 1984. Bids for less than the fair market value will not be accepted. A bid will constitute an application for conveyance of mineral interests of no known value. A $50 non-refundable filing fee for processing such conveyance, along with one-fifth of the full bid price, must accompany each bid. We will offer any unsold parcel every Tuesday until sold or until October 2, 1984.

DATE AND ADDRESS: The sale offering will be held on July 31, 1984, at 10:00 a.m. in the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale terms and conditions, bidding procedures and other details can be obtained by contacting Pete Cizmich at the above address, or by calling (208) 334–1582.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager at the above address.

Dated: May 8, 1984.

J. David Brunner,

Associate District Manager.

[FR Doc. 84–13165 Filed 5–15–84; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770 (5 U.S.C. App. 1 § 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, June 1, 1984.

The Commission was established pursuant to Public Law 91–383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The meeting will convene at Park Headquarters at 1:30 P.M. for a Review of Interpretive Programs and Developments and will involve a field trip to and on-site review of the NEED facility at Coast Guard Beach and to the Salt Pond Visitor Center in Eastham. Members of the public wishing to accompany the Commission on the field trip must provide their own transportation.

The meeting is open to the public, and it is expected that 30 persons will be able to attend that portion of the session at Park Headquarters.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, telephone (617) 349–3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: May 8, 1984.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 84–13156 Filed 5–15–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–151]

Certain Apparatus for Flow Injection Analysis and Components Thereof; Suspension of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has suspended the above-captioned investigation until completion of the reexamination proceeding currently pending before the U.S. Patent and Trademark Office.

Authority: 19 U.S.C. 1337.

SUPPLEMENTARY INFORMATION: On April 2, 1984, the administrative law judge (ALJ) issued an initial determination (I.D.) in the above-referenced investigation, finding that there is a violation of section 337 by reason, inter alia, of direct, contributory, and induced infringement of the claims of U.S. Letters Patent 4,013,413 (the '413 patent). In making his detrmination, the ALJ found,

inter alia, that all of the claims of the patent were valid, thereby rejecting respondents' arguments that the claims were invalid under 35 U.S.C. 102(b) (anticipation) and 35 U.S.C. 103 (obviousness).

In August, 1983, respondents requested the U.S. Patent & Trademark Office (PTO) to conduct a reexamination proceeding of the suit patent based upon prior art that was not disclosed during the patent prosecuting. On February 1, 1984, the PTO issued an initial office action rejecting all of the claims of the suit patent '413 on the grounds of anticipation and obviousness based upon such prior art. On February 29, 1984, respondents filed a motion to reopen the record in this investigation, which had closed on January 22, to receive this evidence, contending that this initial office action is relevant to the issues of validity and fraud on the patent office. The Commission investigative attorney opposed the motion, and the ALJ denied it. Respondents subsequently petitioned for review of the ALJ's I.D., claiming, inter alia, that the ALJ committed prejudicial error in refusing to admit into evidence the PTO initial office action because such evidence was highly relevant. No comments on the petition for review other than those of the investigative attorney have been received.

Having reviewed the I.D., the petition to review the I.D. and the investigative attorney's opposition to the petition to review the I.D., the Commission determined to suspend this investigation until 30 days after completion of the reexamination proceeding currently pending before the PTO. At that time, the Commission, upon review of the PTO's findings, will decide whether or not to review the initial determination, or whether to again suspend this investigation.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0359.

Issued: May 7, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13212 Filed 5–15–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–170]

Certain Bag Closure Clips; Commission Determination Not To Review Initial Determinations Terminating Three Respondents on the Basis of Consent Order Agreements; Issuance of Consent Orders

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review three initial determinations (IDs) (Orders Nos. 170–14, –15, and –16) terminating three respondents on the basis of consent order agreements.

Authority: 19 U.S.C. 1337, 47 FR 25143, June 10, 1982, and 48 FR 10116, May 5, 1983 (partially codified at 19 C FR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On April 9, 1984, the presiding officer in the above-referenced investigation issued three IDs terminating respondents Wall-Collins Ltd., Westwood Imports Co., and Aluminum Housewares Co., Inc. (Orders Nos. 170–14, –15, and –16), pursuant to those respondents' joint motions with complainant and the Commission investigative attorney to terminate on the basis of consent order agreements (Motions Nos. 170–11, –12, and –14). Under the terms of the consent order agreements, Wall-Collins, Ltd. agrees not to directly, or indirectly through others, export to or import into the United States bag closure clips having the construction of the bag closure clip attached as Exhibit G to the complaint; Westwood Imports Co. agrees not to directly, or indirectly through others, export to or import into the United States bag closure clips having the construction of the bag closure clips attached as Exhibits F and G to the complaint; and Aluminum Housewares Co., Inc. agrees not to directly, or indirectly through others, export to or import into the Untied States bag closure clips having the construction of the bag closure clip attached as Exhibit E to the complaint.

Copies of the IDs and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, telephone 202–523–0074.

Issued: May 9, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13217 Filed 5–15–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–183 (Preliminary)]

Large Diameter Carbon Steel Welded Pipes From Brazil

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured,[3] or threatened with material injury, by reason of imports from Brazil of carbon steel welded pipes known as line pipes, over 16 inches in outside diameter, provided for in item 610.32 of the Tariff Schedules of the United States (TSUS), which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 21, 1984, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Berg Steel Pipe Corp., Panama City, Florida, alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Brazil of the subject merchandise which are allegedly being sold at LTFV. Accordingly, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930, to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Liebeler did not participate in this investigation.

[3] Commissioner Haggart and Rohr have determined in this investigation that there is a reasonable indication of material injury, and therefore do not reach the issue of a reasonable indication of threat of material injury.

materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigation and of the public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the **Federal Register** on March 28, 1984 (49 FR 11895). The conference was held in Washington, D.C. on April 16, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on May 7, 1984. A public version of the Commission's report, *Large Diameter Carbon Steel Welded Pipes from Brazil* (investigation No. 731–TA–183 (Preliminary), USITC Publication 1524, 1984), contains the views of the Commission and information developed during the investigation.

By order of the Commission.

Issued: May 7, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13213 Filed 5–15–84; am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–181]

Certain Meat Deboning Machines; Commission Determination Not to Review Initial Determination Amending Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) to amend the complaint and notice of investigation in the above-captioned investigation.

AUTHORITY: 19 U.S.C. 1337; 19 CFR 210.53(h).

SUPPLEMENTARY INFORMATION: On February 29, 1984, complainants Lever Brothers Company, Protecion B. V., and Protecon, Inc. filed a motion (Motion No. 181–1) to amend the complaint to correct clerical errors and clarify certain ambiguities which were found in the complaint as originally filed.

On April 9, 1984, the presiding officer issued an initial determination (ID) (Order No. 4) granting the motion. He found that ". . . the proposed amendment are strictly corrections of ambiguities and errors which do not alter the scope of the investigation or prejudice the public interest or the rights of the parties to this investigation." In order to conform the notice of investigation to the amended complaint, the notice was also amended to correct the addresses of certain parties.

The Commission has received neither a petition for review of the ID nor comments from other Government agencies.

FOR FURTHER INFORMATION CONTACT: Gracia M. Berg, Esq., Office of the General Counsel, 202–523–1627.

By order of the Commission.

Issued: May 4, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–13215 Filed 5–15–84; 8:45 am]

BILLING CODE 7020–02–M

[Docket No. 1044]

Melamine in Crystal Form From Japan; Dismissal of a Request To Institute Review Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Dismissal of a request to institute a section 751(b) review investigation concerning an affirmative determination in Investigation No. AA1921–162 (1976), Melamine In Crystal Form From Japan.

SUMMARY: The Commission determines that the request to review the Commission's affirmative determination in Investigation No. AA1921–162 is not properly filed since it does not seek prospective relief and does not show changed circumstances sufficient to warrant institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 [19 U.S.C. 1675(b)].

SUPPLEMENTARY INFORMATION: On December 19, 1976, the Commission determined that an industry in the United States was injured or was likely to be injured within the meaning of the Antidumping Act, 1921, by reason of imports of melamine in crystal form from Japan determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (LTFV). On February 2, 1977, the Department of the Treasury issued a finding of dumping and published a notice of the dumping finding in the **Federal Register** [42 FR 6366].

On April 10, 1984, the Commission received a request to review its affirmative determination in Investigation No. AA1921–162. The request was filed by American Cyanamid Company (Cyanamid), a domestic producer of melamine and a petitioner in investigation No. AA1921–162. The request by Cyanamid asked the Commission to determine that revocation of the outstanding antidumping order for the year 1978 would neither cause nor threaten material injury to an industry in the United States and would not retard the establishment of an industry in the United States. No revocation or modification of the antidumping order for any other year was sought by Cyanamid.

The basis of Cyanamid's request for review and retroactive revocation of the antidumping order was alleged changed circumstances in the domestic melamine industry in 1978. Cyanamid alleged that in 1978, due to severe production problems experienced by the domestic producers of melamine, it was forced to import melamine from Japan in order to prevent the closing of its domestic operations which utilize malamine as a raw material.

After having given careful consideration to the request, the Commission has determined that it must be dismissed as improperly filed because the request does not seek prospective relief. The alleged changed circumstances referred to by Cyanamid occurred in 1978 and the request for review contained no allegations of changed circumstances at the present time. Cyanamid's request for revocation of an antidumping order for a single year period amounts to a request for selective retroactive enforcement of the antidumping laws based upon past circumstances. A section 751(b) review investigation, however, requires the Commission to predict future trade behavior if an antidumping order were to be revoked by the Department of Commerce. There is no precedent under section 751(b) for the modification of relief solely on a retroactive basis for a discreet period of time. This case is distinguishable from *Synthetic L-Methionine from Japan*, Investigation No. 751–TA–4, USITC Publication 1167 (1981), in which the Commission recommended that an antidumping order should be both prospectively and retroactively modified.

Cyanamid could have requested a section 751(b) review investigations in 1978, pursuant to section 751(b)(2), which permits review of a section 735(a) determination within two years of publication of the determination upon a showing of "good cause." Had revocation been deemed appropriate, it would have been prospective.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, Telephone 202–523–0074.

By order of the Commission.

Issued: May 8, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-13209 Filed 5-15-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-189]

Certain Optical Waveguide Fibers; Order No. 3

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Donald K. Duvall and designate Administrative Law Judge Paul J. Luckern as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: May 4, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-13214 Filed 5-15-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-152 (Final)]

Pads for Woodwind Instrument Keys From Italy

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumpting investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: April 25, 1984.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from Italy of pads for woodwind instrument keys, provided for in item 726.70 of the Tariff Schedules of the United States, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of Investigation No. 731-TA-152 (Final) under section 735(b) of the act (19 US.C. 1673(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before July 9, 1984, and the Commission will make its final injury determination on or before August 23, 1984 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator, Office of Investigations, U.S. International Trade Commission, telephone 202-523-0439.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 1983, the Commission notified the Department of Commerce that, on the basis of the information developed during the course of its preliminary investigation, there is a reasonable indication that an industry in the United States is materially injured by reason of alleged LTFV imports of pads for woodwind instrument keys from Italy. The preliminary investigation was instituted in response to a petition filed on November 7, 1983, on behalf of Prestini Musical Instruments Corp., Nogales, Ariz.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on June 22, 1984, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on July 12, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 2, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on July 6, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 3, 1984.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Post hearing briefs must conform with the provisions of section 207.24 (19 CFR 207.24), and must be submitted not later than the close of business on July 17, 1984.

Written Submission

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 17, 1984. A signed original and fourteen (14) true copies of each submission must filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8).

All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for conidential treatment must conform

with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedures, Part 207, subparts A and C (19 CFR Part 207) and Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: May 7, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-13211 Filed 5-15-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-186]

Certain Tennis Rackets; Order No. 9

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Donald K. Duvall and designate Administrative Law Judge Paul J. Luckern as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: May 4, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-13218 Filed 5-15-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-113]

Certain Valves; Commission Decision Not To Review Initial Determination Terminating Respondent Valve Services, Inc.

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) terminating Valve Services, Inc. as a respondent in this investigation.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: The Commission has received neither a petition for review of the I.D. nor comments from Government agencies.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, tel. 202-523-0079.

By order of the Commission.

Issued: May 7, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-13210 Filed 5-15-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-174]

Certain Woodworking Machines; Commission Determination Not To Review Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) granting complainant's motion to amend the complaint and notice of investigation.

AUTHORITY: 19 U.S.C. 1337; 19 C.F.R. 210.53(c) and (h).

SUPPLEMENTARY INFORMATION: On February 13, 1984, complainant Rockwell International Corp. ("Rockwell") filed a motion to amend the complaint and notice of investigation (Motion No. 174-8) to add twenty-two new respondents and two new counts of patent infringement. The Taiwanese respondents opposed the motion and the Commission investigative attorney ("IA") supported it.

On April 4, 1984, the presiding officer issued an ID granting the Rockwell motion (Order No. 12). The Taiwanese have petitioned for review of the ID. The IA opposes review of the ID. The Commission received no other petitions for review of the ID or comments from any government agency.

FOR FURTHER INFORMATION CONTACT: Hannelore V.M. Hasl, Esq., Office of the General Counsel, telephone 202-523-0375.

By order of the Commission.

Issued: May 8, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-13216 Filed 5-15-84; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Lodging of Consent Judgments Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 27, 1984, the proposed consent judgments in *United States* v. *Mister Muffler, et al.*, Civil Action No. H-82-3107 were lodged with the United States District Court for the Southern District of Texas. The proposed consent judgments concern an action to enjoin the defendants from violation of the Clean Air Act.

Consent Judgments were reached previously with two of the defendants, Paktank Gulf Coast Inc., and Chromalloy American Corporation. The consent judgments at issue are concerned with the other two defendants, Mister Muffler, Inc., and Oil Tanking of Texas. Mr. Muffler alledgedly removed catalytic converters from twenty-three (23) automobiles; five of these automobiles were provided to Mister Muffler by Oil Tanking of Texas, in violation of Section 203 of the Clean Air Act. The consent judgments enjoin these two defendants from further violations of the Clean Air Act and require penalties for past violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent judgments. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Mister Muffler, et al.*, D. J. Reference No. 90-5-2-1-541.

The proposed consent judgments may be examined at the office of The United States Attorney, Courthouse and Federal Building, 515 Rusk Avenue in Houston, Texas, 72208 and at Region VI Office of the Environmental Protection Agency, Field Operations and Support Branch Facility, 6608 Hornwood Drive, Houston, Texas 77074. Copies of the consent judgments may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-13176 Filed 5-15-84; 8:45 am]

BILLING CODE 3510-01-M

Drug Enforcement Administration

Registration Applications, etc.; Controlled Substances; Motor City Prescription

In the matter of Unarex of Plymouth Road d/b/a Motor City Prescription, Detroit, Michigan, Docket No. 84-1; Unarex of Dearborn d/b/a Motor City Prescription

Center, Dearborn, Michigan, Docket No. 84–2; Gilfix Pharmacy, Inc., Detroit, Michigan, Docket No. 84–3; Scotch Castle Pharmacy, Inc., Detroit, Michigan, Docket No. 84–4; Gratiot Pharmacy, Inc., Detroit, Michigan, Docket No. 84–5; notice of hearing.

Notice is hereby given that on December 22, 1983, the Drug Enforcement Administration, Department of Justice, issued to each of the above-named entities an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration and, with respect to Unarex of Plymouth Road, Unarex of Dearborn, Scotch Castle Pharmacy, Inc. and Gratiot Pharmacy, Inc., as to why the Drug Enforcement Administration should not deny any respective pending application for registration.

Thirty days having elapsed since each Respondent received its respective Order To Show Cause, and written request for a hearing having been filed on behalf of each Respondent, notice is hereby given that a hearing in these matters will be held commencing at 10:00 a.m. on Tuesday, May 22, 1984, in the Moot Courtroom, Room 232, University of Michigan Law School, Hutchins Hall, State and Monroe Streets, Ann Arbor, Michigan.

Dated: May 10, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84–13180 Filed 5–15–84; 8:45 am]

BILLING CODE 4410–09–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Combined Subcommittees on Reactor Radiological Effects, Air Systems and Waste Management; Meeting

The ACRS Combined Subcommittees on Reactor Radiological Effects, Air Systems and Waste Management will hold a joint meeting on May 31 and June 1, 1984, Room 1167, 1717 H Street NW., Washington, D.C. The Subcommittee will review NRC proposed research programs in the pertinent areas for FY 1986 and 1987.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Thursday and Friday, May 31 and June 1, 1984—8:30 a.m. until the conclusion of business each day.*

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, industry and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: May 11, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–13185 Filed 5–15–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on June 6, 1984, Room 1046, 1717 H Street NW., Washington, D.C.

In accordance with the procedures outlined in the Federal Register on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information (SUNSHINE ACT EXEMPTION 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Wednesday, June 6, 1984—8:30 a.m. until the conclusion of business.*

The Subcommittee will review portions of the NRC Safety Research Program for the ACRS Report to the Commission on the FY 1986 budget.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their respective consultants, and other interested persons regarding this subject.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

I have determined, in accordance with subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 11, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–13186 Filed 5–15–84; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70 (b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in Nuclear Regulatory

Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 4th day of May 1984 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC EXPORT AND IMPORT APPLICATIONS

Name of applicant, date of application, date received, and applicaton No.	Material type (percent)	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Apr. 30, 1984 May 1, 1984, XSNM02143.	93.3	53.700	50.100	Fuel for HFR-Grenoble	France.
Transnuclear, Inc., May 3, 1984, May 4, 1984, XSNM02144.	93.3	55.000	51.300	Fuel for the BR-2 Research Reactor	Belgium.

[FR Doc. 84-13187 Filed 5-15-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-321 and 50-366]

Georgia Power Comp., et al; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-57 and NPF-5 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, located in Appling County, Georgia.

In accordance with the licensees' application for amendment dated February 6, 1984, as supplemented April 3, 1984, the amendments would modify the Technical Specifications for both Units 1 and 2 as follows:

1. Change the slope of the flow-biased Average Power Range Monitor/ Simulated Thermal Power Monitor (APRM/STPM) scram and rod block setpoints from 0.66 to 0.58 and change their intercept values such that, at rated core flow, the setpoints are unchanged from their current values.

2. Delete the requirement for setdown of the APRM/STPM flow-biased scram and rod block setpoints when core maximum fraction of limiting power density (MFLPD) exceeds the fraction of core rated thermal power (core total peaking factor exceeding design peaking factor). In order to maintain function and margins, replace the setdown requirement with new multipliers to the minimum critical power ratio (MCPR) and average planar linear heat generation rate (APLHGR) operating limits when core power or flow conditions are less than the licensed conditions.

3. Replace the Rod Block Monitor (RBM) flow-biased trip equation with power-dependent setpoint definitions, incorporate RBM filter and time delay setpoints, and change the RBM downscale trip setpoint. Add appropriate RBM operability and surveillance requirements, including the definition of Limiting Rod Pattern for Rod Withdrawal Error (RWE).

4. The amendments would make editorial changes to the Technical Specifications for Unit 1 only as follows:

a. Clarify (1) the definition of the bypass power level below which turbine stop and control valve position scrams are not required; (2) the descriptions of the functional dependence of the operating limit MCPR and the APLHGR limit; (3) the figure captions assigned to the rated power-rated flow MCPR operating limits; (4) the nomenclature used and the maximum allowable setpoint for the APRM high neutron flux scram and the STPM scram; (5) the numbering of sections under the Limiting System Safety Setting Neutron Flux Trips; (6) the nomenclature for the APRM Rod Block and RBM upscale trips; and (7) the references to Limiting Rod Pattern, adding the phrase "for RWE".

b. Change the Technical Specification bases to (1) delete references to the APRM/STPM scram and rod block peaking factor setdown requirement; (2) identify the RBM system logic changes and operability requirements; (3) replace references to the k_f analysis bases with descriptions of the $MCPR_P$ bases and add descriptions of the k_p MCPR multiplier, the power and flow-dependent MAPLHGR multipliers, and the governing MCPR operating limit and MAPLHGR limit; (4) delete the Core Thermal Power Limit versus Core Flow Rate Map (Figure 1.1-1) and add a reference to document where the correct map is presented; and (5) correct a reference to the 80°F loss of Feedwater Heating Event.

5. The amendments would make editorial changes to Technical Specifications for Hatch Unit 2 only as follows:

a. Clarify (1) the definition of the bypass power level below which turbine stop and control valve position scrams are not required; (2) the descriptions of the functional dependence of the operating limit MCPR and the APLHGR limit; (3) the figure captions assigned to the rated power-rated flow MCPR operating limits; and (4) footnote (a) in Table 3.3.5-2 relating to the APRM rod block flow dependence.

b. Change the Technical Specification bases to (1) delete references to the APRM/STPM scram and rod block factor setdown requirement; (2) identify the RBM system logic changes and operability requirements; (3) replace references to the k_f analysis bases with descriptions of the $MCPR_P$ bases and add descriptions of the k_p MCPR multiplier, the power and flow-dependent MAPLHGR multipliers, and

the governing MCPR operating limit and MAPLHGR limit; (4) add a clarifying remark to the introduction of the Power Distribution Limits Bases; (5) add to the lists of references where appropriate; and (6) delete a reference to cycle-specific OLMCPR transient results.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 15, 1984, the licensees may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice for hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: (petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036, attorney for the licensees.)

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a later petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated February 6, 1984, as supplemented April 3, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland, this 10th day of May, 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing

[FR Doc. 84–13188 Filed 5–15–84; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13939, 812–5786]

Hartford Variable Annuity Life Insurance Co., et al., Filing of Application

In the matter of Hartford Variable Annuity Life Insurance Co.; Hartford Equity Sales Co. Inc.; Hartford Advisers Fund, Inc.; Hartford Aggressive Growth Fund, Inc.; Hartford Fixed Income Fund, Inc.; and Hartford Stock Fund, Inc., Hartford Plaza, Hartford, CT 06115.

Notice is hereby given that Hartford Variable Annuity Life Insurance Company ("HVA"), Hartford Advisers Fund, Inc. ("Advisers"), Hartford Aggressive Growth Fund, Inc. ("Growth"), Hartford Fixed Income Fund, Inc. ("Fixed Income") and Hartford Stock Fund, Inc. ("Stock") (collectively "Funds"), each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and Hartford Equity Sales Company, Inc. ("HESCO"), a broker-dealer registered under the Securities Exchange Act of 1934, filed an application on March 2, 1984, for an order pursuant to section 6(c) of the Act, exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit Applicants to assess a contingent deferred sales load on redemption of their shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the

Act and the rules thereunder for the text of the applicable provisions.

Applicants propose to offer the shares of Growth, Fixed Income and Stock without the imposition of a front-end sales load and propose to impose a contingent deferred sales load upon redemption of their shares, subject to certain exceptions. Applicants state that no contingent deferred sales load will be imposed upon the redemption of fund shares which were (1) held for more than six years, or (2) acquired upon the reinvestment of dividends or capital gain distributions. Applicants state that the sales load will not be applicable to increases due to capital appreciation in the value of the shares redeemed.

Applicants state that the original purchase date of Fund shares is used to establish the "account year" and all purchase payments made during the year in which the original payment was made are considered to be made in the account year. Applicants state that the amount of the contingent deferred sales load, if any, will depend on the time period in which the shares being redeemed were purchased. Applicants state that when the sales load is imposed, the amount of the sales load will be 6% if redemption occurs during the first account year and will decline by 1% each account year thereafter. Applicants represent that for purposes of calculating the deferred sales load, Fund shares will be redeemed in the order in which they were purchased and shares held the longest will be assumed to be first redeemed.

Applicants represent that they will pay the proceeds of the contingent deferred sales load to HESCO, the distributor of shares for each of the Funds, for the payment of sales commissions and other distribution costs. Applicants state that each of the Funds have adopted a plan under Rule 12b–1 of the Act ("Plan"). The Plans provide that the Funds pay HESCO an amount of up to 1% annually of their respective average net asets for the payment of sales commissions and other distribution costs.

Applicants state that Advisers also imposes a contingent deferred sales load upon redemption of its shares and has adopted a rule 12b–1 Plan which provides for payment of an amount up to 1% annually of its average daily net assets. Advisers has obtained an order of the Commission exempting it from the provisions of sections 2(a)(32), 2(a)(35), and 22(c) of the Act and Rule 22c–1 thereunder (Investment Company Act Release No. 13385).

Applicants state that shares of the Funds may be exchanged for shares of each of the other Funds, including Advisers, and the shares of Advisers may be exchanged for shares of the other Funds, without the imposition of a contingent deferred sales load upon redemption proceeds. Applicants further state that in the case of an exchange the purchase date of the shares acquired, for purposes of determining any possible contingent deferred sales load, will be assumed to be the date of purchase of the shares exchanged (or the date upon which the shares were deemed to have been purchased if the shares exchanged were acquired in one or more prior exchanges(s)).

Applicants represent that shares which were purchased, or deemed to have been purchased due to a prior exchange, more than six years before the exchange and shares acquired as a result of dividends or distributions shall be exchanged first. The value of all other shares being redeemed shall be equal to the lesser of (i) The actual (or, if there have been prior exchanges, the deemed) purchase payments for these shares or (ii) the current net asset value of these shares. Applicants represent that for purposes of applying the contingent deferred sales load to these exchanged shares, the shares held (or deemed to have been held as the result of one or more prior exchanges) by the investor for the longest period of time within the six year period will be redeemed first. If only part of the shares held by an investor in a particular Fund are exchanged, the purchase payment for all of the shares will be allocated, on a pro rata basis, between the shares exchanged and those retained on the Fund. Applicants state that the purchase payment attributed to the shares exchanged will be the lesser of (i) The portion of purchase payment attributed to the shares exchange or (ii) the current net asset value of the exchanged shares.

Applicant requests an exemption from section 2(a)(32) of the Act which defines a "redeemable security" to the extent necessary to permit Applicant to continue to qualify as an open-end company under section 5(a)(1) of the Act. Applicant also requests and exemption from sections 2(a)(35) and 22(c) of the Act and Rule 2c–1 thereunder to the extent necessary to permit the proposed deferred sales load. Applicant further requests that the Commission's Order exempt from the provisions of sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c–1 thereunder any additional management investment companies having a contingent deferred sales charge that may be organized and sponsored by it in the future and which will become a member of the Hartford group of funds and their underwriters and the dealers in their shares.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 4, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–13128 Filed 5–15–84; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2130]

Kansas; Declaration of Disaster Loan Area

Atchison and the adjacent counties of Jackson and Doniphan in the State of Kansas constitute a disaster area because of damage caused by a series of tornadoes on April 26, 1984. Applications for loans for physical damage may be filed until the close of business on July 9, 1984, and for economic injury until the close of business on February 11, 1985, at the address listed below:

Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051

or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (Non-Profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 213012 for physical damage and for economic injury the number is 616500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 9, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-13113 Filed 5-15-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-81740]

Shipping Coordinating Committee, Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Friday, June 1, 1984, in room 2409 (Mall), Waterside Mall, Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

The purpose of the meeting is to review the outcome of the Eighth Consultative Meeting of Contracting Parties to the London Dumping Convention held in London on February 20–24, 1984. The agenda will also include discussion of the draft U.S. submission concerning criteria for the allocation of substances to Annexes I and II of the Convention, in preparation for the July meeting of the intersessional working group on the Annexes to the Convention. As agreed by the Eighth Consultative Meeting, the working group is to prepare a discussion paper on this matter for consideration at the eighth meeting of the Scientific Group on Dumping, to convene in February 1985.

Members of the public may attend up to the seating capacity of the room.

For further information contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Dated: May 9, 1984.

Gordon S. Brown,

Chairman, Shipping Coordination Committee.

[FR Doc. 84-13150 Filed 5-15-84; 8:45 am]

BILLING CODE 4710-09-M

[Public Notice CM-8/739]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea and Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 AM on June 12, 1984 in Room 8334–8336 at the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty-eight Session of the Subcommittee on Radio-communications of the International Maritime Organization (IMO) to be held in London during September 1984. In particuar the Working Group will discuss the following topics:

Maritime Distress System
Digital Selective Calling
Satellite Emergency Position Indicating Radio Beacons (EPIRBs)
Preparations for the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Telecommunications
Preparations for International Radio Consultative Committee (CCIR) Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TPP-3/63), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1231.

Dated: May 8, 1984.

Samuel V. Smith,

Executive Sercretary, Shipping Coordinating Committee.

[FR Doc. 84-13151 Filed 5-15-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review Advisory Committee, Task Group 3-1; Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 3-1 of the Federal Aviation Administration National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of the content and the structure of the Airmen's Information Manual (AIM).

DATE: Beginning Monday, June 4, 1984, at 11 a.m., continuing daily, except Saturday, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 6A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by May 28. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., On May 8, 1984.

John Watterson,

Acting Manager, Special Projects Staff, Office of the Associate Administrator for Air Traffic.

[FR Doc. 84-13105 Filed 5-15-84; 8:45 am]

BILLING CODE 4910-13-M

Implementation of 25 kHz Channel Spacing Requiring Airborne 720-Channel Radios in the VHF Air Traffic Control Communication Band in the Airspace Below 18,000 feet

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: General notice.

SUMMARY: The FAA is announcing a policy decision to further integrate 25 kHz spaced channels into the National Airspace System (NAS) in the 118–136 MHz aeronautical band.

There is a shortage of VHF air traffic control (ATC) communications channels in the 118–136 MHz band creating severe frequency congestion problems in many parts of the country. Unless this frequency shortage is resolved, it will adversely impact air safety, Expeditious ATC operations, and the enhancement and expansion of existing ATC systems requiring VHF communications channels. To maintain the highest level

of air traffic safety and to support modernization of ATC, as outlined in the FAA's National Airspace System Plan, the FAA is adopting a three-phase plan for the further implementation of 25 kHz channel spacing in the 118–136 MHz band. The primary impact on aviation users is that aircraft wishing to receive ATC services provided on 25 KHz spaced channels be equipped with 720-channel radios.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Markey, Acting Manager, Spectrum Management Program, Spectrum Engineering Division, Systems Engineering Service, Room 714B, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3269.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) on August 29, 1983, issued a General Notice: Invitation for Comments in the **Federal Register** on the proposed integration of 25 kHz channel spacing in the VHF air traffic control (ATC) communications band 118–136 MHz in airspace below 18,000 feet MSL (48 FR 39194). This notice informed the public that, due to existing problems of frequency congestion and the increase in radio services to be provided under the modernization of ATC as outlined in the FAA's National Airspace System Plan, the FAA was proposing to introduce 25 kHz channel spacing in low-altitude en route, terminal, and flight service station (FSS) sectors.

There were a total of 12 comments received in response to the General Notice. They represented the views of a state, national aviation associations, companies, and individuals. Seven out of the 12 supported the FAA's plan in its entirety. They noted that frequency congestion is increasing and that safety requires that more channels be available. Several stated that implementing the proposal would have a minimal impact on users.

Four commenters acknowledged the need for 25 kHz spaced channels but expressed concern for those aircraft owners who do not have 720-channel radios. They suggested that efforts be made to make all FAA services available to people with 360-channel radios to the maximum extent possible. One commenter took exception to the plan, stating that the cost to purchase 720-channel radios would be a real hardship on general aviation owners.

The FAA has decided to adopt the scheduled 25 kHz channel spacing as proposed. As many commenters noted, such spacing must be used in order to provide full service to some congested areas. Without 25 kHz channel spacing, the FAA would be unable, in some congested locations, to offer the new radio services that are now being developed. These services will enhance safe and efficient air travel.

In order to minimize operational as well as financial impacts on those users who are not yet equipped with 720-channel radios, the FAA in each phase of the implementation schedule, intends to use 25 kHz channel spacing only when no 50 to 100 kHz channels are adopted, however, full FAA services may not be available to users not 720-channel equipped. For instance, a 360-channel radio equipped aircraft might be unable to fly the most direct route if that route included an air traffic control sector with 25 kHz channel spacing. Rather, that aircraft might be rerouted around that sector, causing a delay in reaching its destination. In each case, the FAA will attempt to assign frequencies to the various services so as to minimize the impact on the airspace users.

Many aircraft are already equipped with 720-channel radios. Aircraft having less than 720-channel radio capability will not be affected in many areas of the country, and only in congested areas will they experience any rerouting and delays due to their limited radio capability.

Schedule for Integrating 25 kHz Channel Spacing

The FAA intends to proceed with the following 25 kHz implementation schedule.

Phase I: Beginning in July 1984, the FAA will introduce 25 kHz channel spacing at selected high density airports. Full FAA services may not be available to users not 720-channel equipped.

Phase II: Beginning in January 1985, the FAA will introduce 25 kHz channel spacing in selected low-altitude en route sectors. Full FAA services may not be available to users not 720-channel equipped.

Phase III: Beginning in January 1986, the FAA will introduce 25 kHz channel spacing at flight service stations and other controlled and uncontrolled airports. Full FAA services may not be available to users not 720-channel equipped.

Aircraft equipped with 360-channel radios will continue to be able to operate in the NAS and receive aircraft separation services. However, those aircraft may encounter rerouting and delays, particularly in congested en route and terminal areas. In addition, in some locations, some or all of the new ATC services which are being developed will not be available to aircraft so equipped.

Issued in Washington, D.C. on May 9, 1984.

J. E. Murdock III,

Acting Deputy Administrator.

[FR Doc. 84–13014 Filed 5–15–84; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Washington and Crawford Counties, Arkansas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Washington and Crawford Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Paul W. Pool, District Engineer, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas, 72201, Telephone: (501) 378–5355; or Jim Gaither, Assistant Division Head, Environmental Division, Arkansas State Highway and Transportation Department, P.O. Box 2661, Little Rock, Arkansas, 72203, Telephone: (501) 569–2520.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arkansas State Highway and Transportation Department will prepare an environmental impact statement (EIS) on a proposal to improve US 71 between Fayetteville and Interstate 40 in Washington and Crawford Counties. Improvements to the corridor are necessary to provide for the existing and projected traffic demand and to provide for increased safety to the traveling public. The urban area of Washington County is experiencing rapid growth, and US 71 is the major transportation link to the transportation services of the Arkansas Valley. The proposed project will be 45–50 miles long.

Besides the no-build alternative, other possible alternatives are to construct a four-lane freeway within the existing corridor, or to construct a four-lane freeway on new location. Five new location alternatives are being studied.

Public meetings were held in 1979 and a scoping meeting was held in 1980. Because of the long lapse in the development of this project, letters describing the proposed action and soliciting comments will be sent to

appropriate Federal, State, and local agencies who have previously expressed interest in this proposal. A public hearing will be held. Public notice will be given of the time and place of the hearing. The U. S. Forest Service will be asked to be a cooperating agency.

Comments or questions concerning this proposed action and the draft EIS that will be made available to the public should be directed to the FHWA at the address provided above.

Issued on: May 8, 1984.

Paul W. Pool,

District Engineer, Little Rock, Arkansas.

[FR Doc. 84-13143 Filed 5-15-84; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Treasury Notes; Series A-1994

Supplement to Department Circular; Public Debt Series—No. 13-84

May 10, 1984.

The Secretary announced on May 9, 1984, that the interest rate on the notes designated Series A–1994, described in Department Circular-Public Debt Series-No. 13–84 dated May 3, 1984, will be 13⅛ percent. Interest on the notes will be payable at the rate of 13⅛ percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-13098 Filed 5-15-84; 8:45 am]

BILLING CODE 4810-40-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 525; Ref: ATF O 1100.91A]

Delegation Order; Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 211, Denatured Alcohol and Rum

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.91, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) or Authorities of the Director in 27 CFR Part 211, dated July 11, 1978, is canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to the distribution and use of denatured alcohol and rum. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level. In addition this order delegates to the Associate Director (Compliance Operations) certain new authorities which were formerly delegated only to the Assistant Director, Technical and Scientific Services.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1982, and by 26 CFR 301.7701–9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations, under 27 CFR 211.21.

b. To approve, pursuant to written applications:

(1) Alternate methods or procedures in lieu of methods or procedures specifically prescribed in regulations, under 27 CFR 211.22(a).

(2) Emergency variations from specified requirements in regulations for construction, equipment, and method of operations, under 27 CFR 211.22(b).

c. To withdraw authorization of any alternate method or procedure or of any variation whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization or variation, under 27 CFR 211.22.

d. To issue permits, pursuant to 27 CFR 211.231, to cover the use of specially denatured alcohol by the United States or a governmental agency, under 27 CFR 211.25.

e. To approve labels, or facsimiles thereof, submitted on ATF F 1479–A, Formula for Article Made with Specially Denatured Alcohol or Rum, under 27 CFR 211.62, 27 CFR 211.106, and 27 CFR 211.197.

f. To require that samples of labels, or facsimiles or sketches of such labels, be attached to each copy of ATF F 1479–A covering articles which do not contain denatured spirits and to require that manufacturers and reprocessors submit advertising matter for articles, under 27 CFR 211.106.

g. To specify on ATF F 1479–A the size of containers in which articles may be sold, the maximum quantity that may be sold to any person at one time, the class of vendee to which an article may be sold, and the specific use for which an atricle may be sold, under 27 CFR 211.108.

h. To approve the printing of extraneous matter on labels which are to be used on containers of completely denatured alcohol containing 5 gallons or less, under 27 CFR 211.121.

i. To authorize other marks to be placed on the Government head or side of a package or container, under 27 CFR 211.142.

j. To require containers of articles, other than those specified in 27 CFR Part 211, containing specially denatured spirits to be labeled or otherwise marked with the information specified in 27 CFR 211.201, under 27 CFR 211.201.

k. To approve applications and grant permits on ATF F 1486, Specially Denatured Spirits for Use of United States, for the procurement and withdrawal of specially denatured spirits for use by the United States or any governmental agency, and to receive evidence of authority to sign for the head of a department or independent bureau or agency, under 27 CFR 211.231.

l. To cancel permits issued on ATF F 1486, under 27 CFR 211.236.

m. To authorize the disposition of excess specially denatured spirits in the possession of a governmental agency, under 27 CFR 211.237.

n. To approve processes for reproducing records and the type of records to be reproduced, under 27 CFR 211.274.

o. To prescribe the format of ATF F 133(5150.29), Manufacturing Record of Products Containing Specially Denatured Alcohol, which is provided by users at their own expense, under 27 CFR 211.275.

5. *Redelegation.*

a. The authorities in paragraphs 4a, 4b(2), 4c, and 4o above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 4b(1) and 4d through 4n above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authorities in paragraphs 4b(1) and 4n above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, subsequent applications for alternate methods or procedures and processes and records which are identical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate these authorities to personnel not lower than the position of technical section supervisor.

d. The authorities in paragraphs 4b(2) and 4m above may be redelegated to regional directors (compliance), who may redelegate these authority to personnel not lower than the position of

chief, technical services or area supervisor.

e. The authority in paragraph 4c above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods or procedures and variations which were approved at the regional level. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of chief, technical services.

(f) The authority in paragraph 4i above may be redelegated to regional directors (compliance), who may redelegate this authority to personnel not lower than the position of technical section supervisor.

6. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on May 16, 1984.

Approved: May 10, 1984.

Stephen E. Higgins,

Director.

[FR Doc. 84-13172 Filed 5-15-84; 8:45 am]

BILLING CODE 4810-13-M

[Notice No. 526; Ref: ATF O 1100.88A]

Delegation Order; Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 250, Liquors From Puerto Rico and Virgin Islands

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to other Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.88, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 250, dated June 5, 1978, is canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to liquors and articles from Puerto Rico and the Virgin Islands. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To prescribe all forms required by regulations including applications, reports, returns, and records, under 27 CFR 250.2.

b. To determine that bottles which are designed or intended for use as containers of distilled spirits sold for beverage purposes adequately protect the revenue, under 27 CFR 250.11.

c. To require the submission of samples of liquors and articles for laboratory analysis in order to determine the rates of tax applicable thereto, under 27 CFR 250.43 or 27 CFR 250.209.

d. To approve formulas described on ATF Form 5110.38, Formula for Distilled Spirits under the Federal Alcohol Administration Act, ATF Form 698 Supplemental, Formula and Process for Wine, and ATF Form 1479-A, Formula for Article Made with Specially Denatured Alcohol or Rum, and filed pursuant to 27 CFR 250.50, 27 CFR 250.51, 27 CFR 250.53, 27 CFR 250.220, 27 CFR 250.221, and 27 CFR 250.223, under 27 CFR 250.54 or 27 CFR 250.224.

e. To authorize labels to be affixed to containers of distilled spirits so as to partially obscure strip stamps and to approve the use of any cup, cap, or seal after receiving a sample of the closure and container, under 27 CFR 250.138 or 27 CFR 250.233.

f. To advise regional directors (compliance) on the disposition of a product which does not conform to an approved formula, under 27 CFR 250.192.

g. To approve, pursuant to applications submitted on ATF Form 1649/5100.31, liquor bottles which are found to meet the requirements of 27 CFR Part 5, to be distinctive, not to jeopardize the revenue, to be suitable for the intended purpose, and not to be deceptive to consumers, and to request actual bottles or authentic models thereof, under 27 CFR 250.314.

h. To disapprove for use as a liquor bottle any bottle which is determined to be deceptive and to advise customs officers that such deceptive bottles are not approved containers for distilled spirits for consumption in the United States, under 27 CFR 250.316.

i. To authorize an importer to receive and store used liquor bottles, under 27 CFR 250.319.

j. To approve the use of an alternate method or procedure in lieu of a method or procedure prescribed by regulations, under 27 CFR 250.331.

k. To withdraw authorization of an alternate method or procedure whenever the revenue is jeopardized or the effective administration of the regulations is hindered by the continuation of such authorization, under 27 CFR 250.331.

5. *Redelegation*

a. The authorities in paragraphs 4a and 4k above may be redelegated to personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 4b through 4j above may be redelegated to personnel in Bureau Headquarters not lower than the position of ATF specialist.

c. The authority in paragraph 4e above may be redelegated to regional directors (compliance), who may redelegate this authority to personnel not lower than the position of chief, technical services or area supervisor.

d. The authority in paragraph 4i above may be redelegated to regional directors (compliance), who may redelegate this authority to personnel not lower than the position of technical section supervisor or area supervisor.

e. The authority in paragraph 4j above may be redelegated to regional directors (compliance) to approve, without submission to Headquarters, applications for alternate methods or procedures which are indentical to those previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of technical section supervisor.

f. The authority in paragraph 4k above may be redelegated to regional directors (compliance) to withdraw approval of alternate methods or procedures which were approved at the regional level. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of chief, technical services.

6. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202) 566-7602.

7. *Effective Date.* This delegation order become effective on May 16, 1984.

Approved: May 10, 1984.

Stephen E. Higgins,

Director.

[FR Doc. 84-13173 Filed 5-15-84; 8:45 am]

BILLING CODE 4810-13-M

Comptroller of the Currency

[Delegation Order 23; Docket #84-16]

Order of Succession To Act As Comptroller

By virtue of the authority contained in 12 U.S.C. 4 and 4a, and by Treasury Order No. 129 (Rev. No. 2), dated April 22, 1955, it is ordered as follows:

A. During a vacancy in the office or during the absence or disability of the Comptroller, the following officers shall possess the power and perform the duties attached by law to the office of the Comptroller of the Currency in the order of succession enumerated:

(1) H. Joe Selby, Senior Deputy Comptroller for Bank Supervision.

(2) David L. Chew, Senior Deputy Comptroller for Policy and Planning.

(3) Michael A. Mancusi, Senior Deputy Comptroller for National Operations.

(4) John F. Downey, Chief National Bank Examiner.

B. In the event of an enemy attack on the continental United States, all Deputy Comptrollers for the districts, including any acting Deputy Comptroller for the districts, are authorized in their respective districts to perform any function of the Comptroller of the Currency or the Secretary of the Treasury, whether or not otherwise delegated, which is essential to carry out responsibilities otherwise assigned to them. The respective officers will be notified when they are to cease exercising the authority delegated in this paragraph.

C. Delegation Order No. 22 published on July 1, 1983 (48 FR 30509) is hereby repealed.

Dated: May 9, 1984.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 84-13138 Filed 5-15-84; 8:45 am]

BILLING CODE 4810-33-M

Customs Service

Senior Executive Service; Performance Review Boards; Appointment of Members

AGENCY: U.S. Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces the appointment of the members of the U.S. Customs Service Performance Review Boards (PRB's) in accordance with 5 U.S.C. 4313(c)(4). The purpose of the PRB's is to review senior executive employees' performance and make recommendations regarding performance and performance awards.

DATE: The Performance Review Boards become effective on May 15, 1984.

FOR FURTHER INFORMATION CONTACT: John L. Heiss, Director, Office of Human Resources, U.S. Customs Service, 1301 Constitution Avenue NW., Room 3417, Washington, D.C., (202) 566-5563.

SUPPLEMENTARY INFORMATION: There are two Performance Review Boards in the U.S. Customs Service as follows:

1. The Performance Review Board to review Senior executives rated by the Commissioner and Deputy Commissioner is composed of the following members:

Edward Stevenson—Deputy Assistant Secretary (Operations), Department of the Treasury

William Barton—Deputy Director, U.S. Secret Service

Willam T. Drake—Deputy Director, Bureau of Alcohol, Tobacco and Firearms

Philip McGuire—Deputy Director, Bureau of Alcohol, Tobacco and Firearms

Robert Maxwell—Deputy Associate Director for Compliance, Bureau of Alcohol, Tobacco and Firearms

2. The Performance Review Board to review all other Senior Executives is composed of the following members:

George C. Corcoran, Jr.—Assistant Commissioner, Office of Enforcement, U.S. Customs Service

Robert P. Schaffer—Assistant Commissioner, Office of Commercial Operations, U.S. Customs Service

William H. Russell—Comptroller, U.S. Customs Service

James W. Shaver—Assistant Commissioner, Office of International Affairs, U.S. Customs Service

John L. Heiss—Director, Office of Human Resources, U.S. Customs Service

William J. Griffin—Regional Commissioner, Northeast Region, U.S. Customs Service

Dennis T. Snyder—Regional Commissioner, New York Region, U.S. Customs Service

Robert N. Battard—Regional Commissioner, Southeast Region, U.S. Customs Service

Peter Dispenzirie—Regional Commissioner, North Central Region, U.S. Customs Service

Donald Kelly—Regional Commissioner, Southwest Region, U.S. Customs Service

John R. Grimes—Regional Commissioner, South Central Region, U.S. Customs Service

Quintin L. Villanueva, Jr., Regional Commissioner, Pacific Region, U.S. Customs Service.

Dated: May 9, 1984.

A. R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 84-13154 Filed 5-15-84; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Symbolism in Poland, 1880-1918" (included in the list [1] filed as a part of this determination), imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the Detroit Institute of Arts and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Detroit Institute of Arts, beginning on or about July 30, 1984, to on or about September 23, 1984, is in the interest. Public notice of this determination is ordered to be published in the **Federal Register.**

Date: May 11, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-13192 Filed 5-15-84; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 49, No. 96
Wednesday, May 16, 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).

CONTENTS

1

AFRICAN DEVELOPMENT FOUNDATION

TIME AND DATE: 1:00 p.m., May 22, 1984.

PLACE: African Development Foundation, 1724 Massachusetts Ave., NW., Washington, D.C.

SUBJECT: General Business.

STATUS: Open.

PERSON TO CONTACT: Kevin Callwood, Special Assistant, African Development Foundation, (202) 861-2900.

Dated: May 10, 1984.

Bunyan Bryant,

Acting General Counsel of the African Development Foundation.

[FR Doc. 84-13249 Filed 5-14-84; 11:30 am]

BILLING CODE 6116-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 21, 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: May 11, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-13190 Filed 5-14-84; 2:38 pm]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 25, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints: a. Certain cloisonne jewelry (Docket No. 1052).
5. Investigations 701-TA-214 and 731-TA-188 [Preliminary] (Lamb Meat from New Zealand)—Briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kennety R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-13205 Filed 5-11-84; 5:01 pm]

BILLING CODE 7020-02-M

4

NUCLEAR REGULATORY COMMISSION.

DATE: Week of May 21, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed:

MATTERS TO BE DISCUSSED:

Tuesday, May 22

10:00 a.m.
Discussion of Shoreham Certified Question (Closed—Ex. 10)
2:00 p.m.
Discussion of Proposed Rule on Backfitting (Public Meeting)

Wednesday, May 23

10:00 a.m.
Discussion of Completed TMI Investigations (Public Meeting)
11:00 a.m.
Staff Briefing on Impact of Remaining TMI Investigation Reports and Position on Management (Public Meeting)

Thursday, May 24

10:00 a.m.
Discussion of Role of the Staff/Ex Parte (Public Meeting)
2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Susquehanna-2 (Public Meeting)

Friday, May 25

10:00 a.m.
Continuation of 4/24 Discussion on Possible Steps to Avoid Licensing Delays (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Draft TMI-1 Management Order
b. ALAB-729/744 Order (TMI-1) (Hardware)

ADDITIONAL INFORMATION:

On May 8 a portion of "Discussion/Possible Vote on Financial Qualifications Policy Statement" was Closed—Ex. 10.

Title change of May 1 meeting—"Briefing by Executive Branch."

Discussion of Shoreham Certified Question scheduled for May 11, *postponed.*

Review of Shoreham Order was held on May 11 (Closed).

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Dated: May 11, 1984.

Walter Magee,

Office of the Secretary.

[FR Doc. 84-13341 Filed 5-11-84; 4:34 pm]

BILLING CODE 7590-01-M

5

SYNTHETIC FUELS CORPORATION.

Interested members of the public are advised that the joint meeting of the Board of Directors of the United States Synthetic Fuels Corporation and the Advisory Committee to the Board of Directors scheduled to be held on May 17, 1984 at the Washington Marriott Hotel, Washington, D.C. and previously noticed in the **Federal Register** of May 10, 1984 (49 FR 19920) has been postponed until further notice.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this notice, please contact Mr. Owen J. Malone, Assistant Secretary, at (202) 822-6372.

Dated: May 15, 1984.

United States Synthetic Fuels Corporation.

Robert W. Gambino,

Group Vice President-Corporate.

[FR Doc. 84-13417 Filed 5-15-84; 11:25 am]

BILLING CODE 0000-00-M

federal register

Wednesday
May 16, 1984

Part II

Department of State

Office of the Secretary

Department of Energy

Office of the Secretary

Department of Commerce

Office of the Secretary

Notice of Amendment to Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978

DEPARTMENT OF STATE
Office of the Secretary

DEPARTMENT OF ENERGY
Office of the Secretary

DEPARTMENT OF COMMERCE
Office of the Secretary

Amendment to Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978

On June 7, 1978, procedures were established pursuant to the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242), 43 Federal Register 25326. This amendment to those procedures adds a new part, entitled "Approvals Under Section 109b(3) of the Atomic Energy Act," establishing component retransfer approval procedures, eliminates the requirement for a Department of Energy retransfer approval under section 131 of the Atomic Energy Act in most cases where a Nuclear Regulatory Commission export license has already authorized the retransfer, eliminates possible duplicative reviews of the same export transaction by generally authorizing certain transactions if the same transaction is authorized by a different export procedure involving the same agencies; and makes minor modifications to the procedures under section 309(c) of the Nuclear Non-Proliferation Act, required by enactment of the Export Administration Act of 1979. For simplicity and ease of use, the entire text of the procedures as amended are set forth below.

Dated: May 1, 1984.

James Devine,

Deputy Assistant Secretary of State for Nuclear Energy and Energy Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs.

Dated: December 5, 1983.

George J. Bradley,

Principal Deputy Assistant Secretary of Energy for International Affairs.

Dated: November 11, 1983.

James W. Culpepper,

Deputy Assistant Secretary of Energy for Defense Programs.

Dated: November 25, 1983.

Walter Olson,

Deputy Assistant Secretary of Commerce for Export Administration.

Part A. General Provisions

Section 1. Authority and Scope

a. The procedures herein are established by:

(i) The Department of Energy pursuant to section 102 and 402(a) of the Nuclear Non-Proliferation Act of 1978 (the "NNPA") and section 54, 57b(2), 64, 82, 109b, 111b(1), and 131 of the Atomic Energy Act of 1954, as amended (the "AEA");

(ii) The Department of State pursuant ot section 102 of the NNPA and sections 109b and 126a(1) of the AEA;

(iii) The Department of Commerce pursuant to section 309(c) of the NNPA, and the general policies and procedures set forth in the Export Administration Act of 1979, as amended.

b. These procedures apply to agency activities with respect to the matters dealt with by sections, 54, 57b(2), 64, 82, 109, 111b(1), 126a and 131 of the AEA and sections 309(c) and 402(a) of the MMPA, and the Export Administration Act of 1979, as amended.

c. These procedures have been agreed to by the Secretaries of State, Energy, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, or by the authorized designee acting on behalf of any of the foregoing.

Section 2. Responsible Officials

a. Department of State, Washington, D.C. 20520—The Deputy Assistant Secretary for Nuclear Energy and Energy Technology Affairs in the Bureau of Oceans and International Environmental and Scientific Affairs.

b. Department of Energy, Washington, D.C. 20545—For sections 57b and 126a of the AEA and section 309 (c) of the NNPA, the Assistant Secretary for Defense Programs. For sections 54, 64, 109b, 111b and 131 of the AEA and section 402 of the NNPA, the Deputy Assistant Secretary for International Affairs.

c. Department of Defense, Washington, D.C. 20301—The Assistant Secretary for International Security Policy.

d. Department of Commerce, Washington, D.C. 20230—The Deputy Assistant Scretary for Export Administration.

e. Arms Control and Disarmanent Agency, Washington, D.C. 20451—The Assistant Director for Nuclear and Weapons Control.

f. The Nuclear Regulatory Commission, Washington, D.C. 20555—The Director, Office of International Programs.

Section 3. Offices for Coordination

a. Department of State—The office of Export and Import Control in the Nuclear Energy and Energy Technology Division of the Bureau of Oceans and International Environmental and Scientific Affairs.

b. Department of Energy—For Parts B, D, and F of these procedures, the Office of International Security Affairs in Defense Programs. For Parts C and E of these procedures, the Office of Nuclear Non-Proliferation Policy, in the Office of International Affairs.

c. Department of Defense—The Office of the Assistant Secretary for International Security Policy.

d. Department of Commerce—The Office of Export Administration.

e. Arms Control and Disarmament Agency—The International Nuclear Affairs Division of the Bureau of Nuclear and Weapons Control.

f. Nuclear Regulatory Commission—The Office of International Programs, Assistant Director for Export/Import and International Safeguards.

Section 4. Coordination and Monitoring

The Interagency Subgroup on Nuclear Export Coordination (SNEC) shall, without prejudice to its authority to carry out other functions, monitor and facilitate the interagency processing of the activities referred to in section 1(b), and serve as a forum for exchanging and coordinating views. This Subgroup shall meet as frequently as necessary, normally every three weeks. This Subgroup shall establish such procedures as are necessary for its effective functioning.

Section 5. Resolution of Interagency Disagreements

a. If, after appropriate consultation, any agency listed in seciton 2 does not agree with a proposed Executive branch action covered by these procedures, the steps set forth below may be followed, normlly in the order indicated, to facilitate resolution of the disagreement:

(i) Consideration in the SNEC;

(ii) Consideration in the Interagency, Group on Non-Proliferation and Peaceful Nuclear Cooperation;

(iii) Any procedures of the National Security Council that are appropriate;

(iv) referral to the President.

b. Recourse to the steps in this section shall be taken expeditiously. An agency wishing to have recourse to any of the steps above shall so indicate immediately to the offices specified in seciton 3. The agency concerned shall normally give five days notice before initiating action under steps (ii), (iii), or (iv).

c. Nothing in this section shall derogate from the statutory authority of any agency. If any agency considers that all statutory requirements have been met and wishes to proceed with an action within its jurisdiction covered by these procedures notwithstanding the existence of an interagency disagreement, it shall normally provide

all other concerned agencies with five working days notice.

Section 6. Content of Judgments, Findings and Determinations Under These Procedures

Judgments, findings and determinations under these procedures shall address the matters required by the applicable section of the law.

Section 7. Technical Provisions

a. Except as otherwise provided, these procedures take effect on May 1, 1984.

b. The processing of any action subject to these procedures shall not be delayed because of the entry into effect of these procedures. Clearances obtained or matters resolved under procedures previously in effect need not be reconsidered for the sole purpose of complying with new procedural requirements.

c. Noting in these procedures shall affect the ability of any agency to protect classified or proprietary information pursuant to applicable law.

d. These procedures may be amended at any time subject to agreement among the agencies specified in section 1 (c).

Part B. Excutive Branch Judgements Under Section 128 a (1) of the Atomic Energy Act

Section 8. Procedures

a. The Nuclear Regulatory Commission shall promptly transmit any properly completed export license application to the offices listed in paragraphs a through e of section 3.

b. As promptly as possible, but in no event later than 15 days after the receipt of each license application the offices listed in paragraphs b through e of section 3 shall review the submission and shall advise the Office of Export and Import Control:

(i) Whether that agency believes that any additional information is required in connection with preparation of the Executive branch judgment. In the event that such information is required, the Office of Export and Import Control shall seek to obtain and provide the information as promptly as possible. If the additional information required is essential to further Executive branch processing, the Office of Export and Import Control may return the application, to the Nuclear Regulatory Commission, in which event the schedule of actions and deadlines set out herein shall recommence upon receipt by the Office of a substantively complete application;

(ii) Whether that agency believes a license application appears of raise issues which will require more extensive consideration than is normally necessary in Executive branch processing of similar license applications. If such issues appear to be present, the Office of Export and Import Control will normally schedule consideration of these issues at the earliest possible meeting of the SNEC and shall as promptly as possible initiate appropriate steps, including those required to obtain any necessary policy decisions and to initiate any necessary diplomatic consultations;

(iii) Of their preliminary views on the license application, if so requested by the Office of Export and Import Control. If the Department of Energy is the license applicant it shall not be subject to the requirements of this paragraph.

c. No later than five working days after receipt of its copy of a license application from the Nuclear Regulatory Commission, the Department of Energy (Office of International Security Affairs) shall, as appropriate, if the proposed export appears to be consistent with the applicable agreement for cooperation, request confirmation in writing from the nation or group of nations under the agreement for cooperation of which the export is to take place, that among other things:

(i) The export will be subject to the terms and conditions of the agreement for cooperation;

(ii) The ultimate consignee and any intermediate consignee is authorized to receive the export; and.

(iii) Physical security measures will be maintained with respect to the export that as a minimum provide protection comparable to that set forth in document INFCIRC 225/Rev. 1 of the International Atomic Energy Agency, entitled, "The Physical Protection of Nuclear Material."*

If any such confirmation is not received within fifty-five days after receipt of the license application by the Office of Export and Import Control in the Department of State, the Office may return the application to the Nuclear Regulatory Commission, in which event the schedule of actions and deadlines set out herein shall recommence after receipt of the confirmation and return to the Office by the Nuclear Regualtory Commission of the application.

d. If the proposed export involves material that has been identified as material with respect to which the United States has agreed to consult with or obtain the approval of any other nation or group of nations prior to its export, the Department of State shall take appropriate action in this regard.

e. If the license application is for an export of high enriched uranium, plutonium or uranium–233, equal to or exceeding formula quantities (as defined in 10 CFR 73.30) the Department of Energy shall prepare an analysis of the technical and economic justification for the use of such material, including whether the quantities requested are necessary for the efficient and continuous operation of the facility involved. This analysis shall be provided to the Office of Export and Import Control of the Department of State within 30 days after receipt by the Department of Energy of its copy of the export license application or as soon thereafter as possible. This analysis shall be provided to concerned agencies and shall be taken into consideration in preparing the Executive branch judgment.

f. As promptly as possible following receipt of the information in paragraph b, and no later than 30 days after its receipt of the license application, the Office of Export and Import Control shall prepare and transmit to the offices listed in paragraphs b through e of section 3, a proposed Executive branch judgment on the application.

g. No later than ten days after the date of receipt of a proposed Executive branch judgment, the designees of the Secretaries of Energy, Defense, and Commerce, and the Director of the Arms Control and Disarmament Agency, shall each provide the Office of Export and Import Control their views on the proposed Executive branch judgment transmitted pursuant to paragraph f. When providing its views, the Department of Energy shall transmit a copy of any confirmation obtained pursuant to paragraph c. If a required confirmation or approval is not available at that time, the Department of Energy shall so advise the Office of Export and Import Control. Upon receipt of the required confirmation, the Department of Energy shall forward it as expeditiously as possible to the Office of Export and Import Control and shall simultaneously advise the Nuclear Regulatory Commission. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 shall be followed.

h. An Executive branch judgment shall normally address the matters required by section 126 a (1) of the AEA with respect to both any intermediate destinations and the final destination of the export that are identified in the license application. Notice of any transfer of the export between

* Many recipients have provided a generic confirmation concerning physical security measures.

intermediate destinations and the final destination shall be received by the Department of Energy. No further action shall be required under Part E for approval of transfers between intermediate and final destinations specified in an application for an export license and for which the license is granted except in the instances set forth in section 16. In such instances, an appropriate request for approval of the transfer shall be submitted to the Department of Energy for action pursuant to the procedures in Part E.

i. A single Executive branch judgment may address more than a single application.

j. An Executive branch judgment may address the matters required by section 126a(1) of the AEA by expressing the view that there is no material changed circumstance associated with a new license application from those existing at the time of issuance of a previous license for an export to the same country, where the previous license was subject to full analysis by the Executive branch.

k. An Executive branch judgment may address any or all of the matters required by section 126a(1) of the AEA by reference to an analysis previously submitted to the Nuclear Regulatory Commission if the offices in paragraphs a through e of section 3 agree that there is no material changed circumstance with respect of such matter or matters.

l. No later than 60 days after receipt of a license application by the Department of State, the Department shall transmit to the Nuclear Regulatory Commission the Executive branch judgment on the license application.

m. Any time period in this section may be extended by the Deputy Assistant Secretary of State for Nuclear Energy and Energy Technology: Provided, that the time period in paragraph 1 may be extended only if in the view of the Secretary of State or his designee it is in the national interest to allow additional time, in which case he shall notify the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the offices listed in paragraphs b through f of section 3 of such extention.

n. The Office of Export and Import Control shall maintain for at least five years records of steps set forth above and the dates on which they were taken.

o. This section shall also apply, to the extent relevant, to proposed general licenses and proposed exemptions from licensing requirements.

Section 9. Exports for Which Executive Branch Review Is Not Required

a. Pursuant to the authority in section 126 a(1) of the AEA to determine that any export in a category would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the categories of exports defined in subsection 110.41(d) of title 10 of the Code of Federal Regulations shall not normally require case-by-case Executive branch review under these procedures.

b. Pursuant to the authority in section 126a(2) of the AEA to deem that the relevant export license requirements are met if there are no material changed circumstances from those existing at the time of the last application for an export to the same country, the following exports to France, Spain and countries that are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (the "NPT") or for which the Treaty for Prohibition of Nuclear Weapons in Latin America is in force, and for which the requirements of section 126 were previously found to be met, shall not require Executive branch review under these procedures, unless the Executive branch informs the Nuclear Regulatory Commission to the contrary:

(1) Low-enriched uranium: a low-enriched uranium reload for a reactor in a country that has in force either a bilateral agreement for cooperation with the United States or an applicable supply agreement pursuant to the Agreement for Cooperation between the United States and the International Atomic Energy Agency;

(2) Equipment: all exports for use in reactors in countries that have provided the assurances required under section 109b of the AEA on a generic basis.

c. This section shall not apply to exports with end uses related to isotope separation, chemical reprocessing, heavy water production, plutonium handling, such types of advanced technology reactors as may be agreed by the agencies listed in section 1(c), and intial exports of nuclear material or equipment to foreign nuclear reactors, and is subject to other limitatons which the Executive branch or the Nuclear Regulatory Commission, may, from time to time, deem necessary.

Part C. Foreign Distributions Under Sections 54, 64, and 82 of the Atomic Energy Act

Section 10. Procedures

a. The Office of Non-Proliferation Policy of the Department of Energy shall transmit requests for distributions of nuclear material to the offices listed in paragraphs a, c, e and f of section 3. If appropriate or if requested by another agency, an analysis shall be prepared setting forth a statement of the purpose of the distribution, reference to the applicable agreements for cooperation, other pertinent information and a recommended course of action. When the proposed distribution appears to raise issues which will require more extensive consideration than is normally necessary for Executive branch processing of similar requests, an anlaysis addressing these issues will be prepared, and the Office of Non-Proliferation Policy will initiate as promptly as possible appropriate steps, including those required in order to obtain any necessary policy decisions and to initiate any necessary diplomatic consultations.

b. No later than 30 days following receipt of the request or of any analysis that may be prepared, the designees of the Secretaries of State and Defense, the Director of the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission shall provide the Office of Non-Proliferation Policy with their concurrence or such other views, comments or proposed courses of action which they consider appropriate. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 shall be followed.

c. No later than 30 days following the expiration of the time limit set forth in paragraph b, the Office of Non-Proliferation Policy shall determine whether to authorize the proposed distribution: Provided, that if recourse is made to the procedure in section 5, this period shall be 60 days.

d. Any time period in this section may be extended by the Deputy Assistant Secretary for International Energy Cooperation and Nuclear Non-Proliferation Policy or his designee.

Section 11. Exports for which further Executive Branch Review is not Required

The Department of Energy, without further interagency concurrence or consultation may, to the extent authorized in sections 54, 64 and 82 of the AEA, distribute material referred to in paragraph a of section 9, subject to the qualifications and conditions contained in paragraph c of that section.

Part D. Direct or Indirect Production of Special Nuclear Material Abroad Pursuant to Section 57b of the Atomic Energy Act

Section 12. Procedures

a. Following receipt by the Department of Energy of any application for specific authorization under Part 810 of title 10 of the Code of Federal Regulations, the Office of International Security Affairs of the Department of Energy shall conduct a preliminary review to determine whether the application is properly submitted under and subject to the provisions of that Part and to determine whether the application involves sensitive nuclear technology. When this review is completed, the Office of International Security Affairs shall transmit any application which is properly submitted and subject to Part 810 to the offices listed in paragraphs a and c through f of section 3, along with any conclusion that sensitive nuclear technology is involved.

b. The Office of International Security Affairs shall prepare an analysis and preliminary staff recommendation concerning each application transmitted pursuant to paragraph a, which shall also be transmitted to the offices indicated in that paragraph. The analysis shall specify whether the application appears to raise issues which will require more extensive considerations than is normally necessary for Executive branch processing of similar applications, and the Assistant Secretary for Defense Programs or his designee shall as promptly as possible initiate appropriate steps, including those required in order to obtain any necessary policy decisions and to initiate any necessary diplomatic consultations.

c. No later than 30 days after receipt of the analysis, the designees of the Secretary of State, Defense, Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall provide the Office of International Security Affairs of the Department of Energy with concurrence in the preliminary staff recommendation or such other views, comments or proposed courses of action which they consider appropriate, including such analysis as may be needed to support their position. In the event of any disagreement which cannot be resolved among the agencies, the provisions in section 5 shall be followed.

d. No later than 30 days following receipt of the concurrence or views as provided in paragraph c, the Assistant Secretary for Defense Programs shall provide the Secretary of Energy with a recommendation, including the views of the agencies listed in paragraph c, concerning his action on the application: Provided, that if recourse is made to the procedures in section 5, this period shall be 60 days.

e. Any time period in this section may be extended by the Assistant Secretary for Defense Programs or his designees.

Section 13. Continued Effect of Part 810 Procedures

a. The regulations set forth in Part 810 of title 10 of the Code of Federal Regulations, "Unclassified Activities in Foreign Atomic Energy Programs," continue in effect.

b. Any amendment of Part 810 shall be made in accordance with these procedures.

Section 14. Coordination of Reviews

Where an activity involving technology controlled pursuant to section 57b(2) of the AEA and requiring specific authorization pursuant to 10 CFR Part 810 is part of an export or activity licensed by another agency of the United States Government, the Department of Energy shall make every effort to coordinate its review with that of the other agency with a view toward expediting the reviewing process and fostering consistent government decision-making.

Part E. Subsequent Arrangements Under Section 131 of the Atomic Energy Act; Approvals Under Section 109 b (3) of the Atomic Energy Act

Section 15. Procedures for Review of Subsequent Arrangement and Procedures and Criteria for Review of Component Retransfers

a. Any request from a nation or group of nations for a subsequent arrangement as defined in section 131 a (2) of the AEA; or (2) approval of a retransfer of a component; or (3) for an enrichment authorization under section 402(a) of the NNPA shall, if it appears consistent with applicable law and agreements and if submitted in appropriate form, be transmitted promptly by the Office of Non-Proliferation Policy of the Department of Energy to the offices listed in paragraphs a and c through f of section 3, together with any supporting documents. All references to the term "subsequent arrangement" shall, for the purposes of this Part, be deemed to include an enrichment authorization. All references to the term "component" shall, for the purpose of this Part, mean any component, item or substance listed in Appendix A to Part 110 of title 10 of the Code of Federal Regulations other than a production or utilization facility or source, special nuclear or by-product material as defined in section 110.2 of that Part.

b. As promptly as possible, but no later than 15 days after receipt of each request for a subsequent arrangement or a component retransfer approval, the offices listed in paragraphs a, and c through f of section 3 shall review the request and shall advise the Office of Non-Proliferation Policy:

(i) Whether that agency believes that any additional information is required. In the event that such information is required, the Office of Non-Proliferation Policy shall seek to obtain and provide the information as promptly as possible;

(ii) Whether that agency believes the request appears to raise issues which will require more extensive consideration than is normally necessary in Executive branch processing of similar requests. If such issues appear to be present, the Office of Non-Proliferation Policy will normally schedule consideration of these issues at the earliest possible meeting of the Subgroup on Nuclear Export Coordination and shall as promptly as possible initiate appropriate steps, including those required to obtain any necessary policy decisions and to begin any diplomatic consultations; and

(iii) Of their preliminary view, if so requested by the Office of Non-Proliferation Policy.

c. The Office of Non-Proliferation Policy shall (if a request for subsequent arrangement is involved, no later than 15 days after the expiration of the time limit set forth in paragraph (b)[1] prepare and transmit to the offices listed in paragraphs a, and c through f of section 3, a proposed subsequent arrangement, proposed denial of a subsequent arrangement, other proposed course of action with respect to the subsequent arrangement, or a proposed approval or denial of a component retransfer request. Where appropriate, a single transmittal may be used to fulfill the requirements of the foregoing sentence and of paragraph a. In the transmittal of a proposed subsequent arrangement pursuant to this paragraph, the Office of Non-Proliferation Policy shall advise the Office of Export and Import Control of the Department of State if, in the view of the Department of Energy, a proposed subsequent arrangement is likely to involve negotiations of a policy nature pertaining to arrangements for the storage or disposition of irraditated fuel elements or approvals for the transfer,

[1] A subsequent arrangement may be initiated in certai circumstances by the Department of Energy, in which case paragraphs a and b are not applicable.

for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. This transmittal shall also specify any steps deemed approrpiate to expedite a proposed subsequent arrangement in the instances specified in section 131a(3) of the AEA. The transmittal of a proposed subsequent arrangement or component retransfer approval may include analysis where necessary in the judgment of the Office of Non-Proliferation Policy to facilitate review. Upon the request of any recipient office within 10 days after receipt of a proposed subsequent arrangement or proposed component retransfer approval, the Office of Non-Proliferation Policy shall prepare and transmit an analysis.

d. No later than 20 days after receipt of the proposed subsequent arrangement or component retransfer approval pursuant to paragraph c, the designees of the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall, as appropriate, provide the Office of Non-Proliferation Policy with their concurrences or such other views, comments, or proposed courses of action. With respect to subsequent arrangements, the response of the designee of the Director of the Arms Control and Disarmament Agency shall also include a declaration of any intention of the Director to prepare a Nuclear Proliferation Assessment Statement pursuant to section 131a of the AEA. Any such statement shall be prepared within 60 days of the receipt by the Director or his designee of a copy of the proposed subsequent arrangement. In the event of any disagreement concerning a proposed subsequent arrangement or component retransfer approval which cannot be resolved between agencies, the provisions of section 5 shall be followed.

e. In the case of a proposed subsequent arrangement, no later than 20 days after the expiration of the time limit set forth in paragraph d, but, if the Director of the Arms Control and Disarmament Agency has declared his intention to prepare a Nuclear Proliferation Assessment Statement, only after receipt of the Statement or the expiration of the time authorized in section 131c of the AEA for the preparation of the Statement, whichever occurs first, the Secretary of Energy, or his designee, after making the determination required by section 131a(1) of the AEA and pursuant to any required judgment, under section 131b(2) of the AEA, shall decide whether to enter into the proposed subsequent arrangement: Provided, that if recourse is made to the provisions in section 5, this period shall be 60 days.

f. In the case of a proposed component retransfer approval request, the Deputy Assistant Secretary for International Affairs shall approve the retransfer if, with the concurrence of the Deputy Assistant Secretary of State for Nuclear Energy and Energy Technology, he finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, that the following criteria or their equivalent are met:

(1) IAEA safeguards as required by article III(2) of the NPT will be applied with respect to such component;

(2) The component will not be used for any nuclear explosive device or for research on or development of any nuclear explosive device;

(3) The component will be further retransferred only to nations or groups of nations for which consent has been given pursuant to section 19 or upon prior consent of the United States; and

(4) The retransfer will not be inimical to the common defense and security of the United States.

Action pursuant to paragraph f shall be taken no later than 20 days after the expiration of the time period in paragraph d: Provided that if recourse is made to the provisions in section 5, this period shall be 45 days.

g. After discharging the Department of Energy's responsibilities under paragraph e of these procedures, the Secretary of Energy or his designee shall cause to be published in the **Federal Register** notice of any proposed subsequent arrangement together with his written determination that the arrangement will not be inimical to the common defense and security. He shall also report to Congress with respect to any proposed subsequent arrangement of the types specified in section 131b(1) of the AEA. No subsequent arrangement shall take effect until the applicable time period or periods in section 131 of the AEA have elapsed.

h. Except for the time limits for the preparation of a Nuclear Proliferation Assessment Statement, any time period in this section may be extended by the Deputy Assistant Secretary for International Energy Cooperation and Nuclear Non-Proliferation Policy or his designee.

Section 16. Retransfers Within the Scope of an Export License and Other Subsequent Arrangements and Component Retransfers for Which Further Executive Branch Review Is Not Required

a. The Secretary of Energy, with the concurrence of the Secretary of State, and having consulted the Director of the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission and the Secretary of Defense, hereby determines that a subsequent arrangement or component retransfer which is limited to a retransfer where an applicable export license has authorized transfer of the material involved for the same purpose and to the same destination for which the retransfer is to be made will not be inimical to the common defense and security and is hereby approved without any further requirement for a request for approval, unless the retransfer does not occur in the same general time period as contemplated by the export license. The foregoing approval does not apply to any such subsequent arrangement subject to section 131 b of the AEA. The foregoing subsequent arrangement shall take effect on May 31, 1984 and may be withdrawn in whole or in part, or with respect to any specific destination if the Departments of Energy and State, after consultation with the Departments of Defense and Commerce, the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission, determine that a material change in circumstances so warrants.

b. The Secretary of Energy, with the concurrence of the the Secretary of State, and having consulted the Director of the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission and the Secretary of Defense, may enter into a proposed subsequent arrangement or approve a component retransfer which is limited to items specified in paragraph a or b of section 9, subject to the qualifications and conditions contained in those paragraphs and paragraph c of that section.

Section 17. Elimination of Duplicative Reviews

a. Where a subsequent arrangement (other than a subsequent arrangement subject to subsection b or f of section 131) is part of an export licensed by an agency of the United States Government, the Secretary of Energy, with the concurrence of the Secretary of State and having consulted the Director of the Arms Control and Disarmament Agency, the Nuclear Regulatory

Commission and the Secretary of Defense, hereby determines that the subsequent arrangement will not be inimical to the common defense and security and is hereby approved, provided that the Executive branch has concurred in such license.

b. Where a proposed export requires approval for enrichment pursuant to section 402(a) of the NNPA and the proposed export for enrichment is licensed by the Nuclear Regulatory Commission, the Secretary of Energy, with the concurrence of the Secretary of State and having consulted the Director of the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission and the Secretary of Defense, hereby approves such enrichment.

c. This section shall take effect on May 31, 1984 and and the approval contained herein may be withdrawn in whole or in part, or with respect to any specific destination if the Departments of Energy and State, after consultation with the Departments of Defense and Commerce, the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission, determine that a material change in circumstances so warrants.

Section 18. Generally Approved Retransfers

a. Where the prior consent of the United States for the retransfer of a component is an export license criterion under section 109b(3) of the AEA, is is hereby determined that such retransfer will not be inimical to the common defense and security and United States consent is hereby granted, without any further requirement for a request for approval, for the retransfer of the component from the nation or group of nations to which export was licensed to the jurisdiction of another nation or group of nations,

(1) It the component will be used in a facility the export of which was licensed pursuant to section 126 of the AEA; or

(2) If the Nuclear Regulatory Commission has in effect a general license for the export from the United States of all components to the retransferee nation or group of nations; or

(3) If the Nuclear Regulatory Commission has in effect a general license for the export from the United States of components for use in the facility in which the component will be used; or

(4) If the Nuclear Regulatory Commission has in effect a general license authorizing the export from the United States of an equal or larger quantity of the same component to the same nation or group of nations as the retransferee.

b. The Secretary of Energy, with the concurrence of the Secretary of State, and having consulted the Director of the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission and the Secretary of Defense, hereby determine that a subsequent arrangement, which is limited to a retransfer to a destination to which a Nuclear Regulatory Commission general export license that is in effect authorizes export from the United States of the same material, will not be inimical to the common defense and security and is hereby authorized without any further requirement for a request for approval. The foregoing subsequent arrangement shall take effect on May 31, 1984.

c. The approvals in paragraphs a and b shall not apply if the retransfer is for any of the purposes set forth in paragraph c of section 9 and may be withdrawn in whole or in part, or with respect to any specific destination, if the Departments of Energy and State, after consulting with the Departments of Defense and Commerce, the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission determine that a material change in circumstances so warrants.

Section 19. Reports on retransfers

a. Any consent to retransfer source or special nuclear material granted in a subsequent arrangement entered into pursuant to those procedures is granted on the express condition that the retransfer nation or group of nations, or its agent, normally within 30 days of the time the retransfer occurs, submit a properly completed Department of Energy Form S–10 to the Director of the Office of Non-Proliferation Policy, Office of International Affairs, Department of Energy, Washington, D.C. 20545.

b. Any consent to retransfer any component pursuant to these procedures is granted on the express condition that the retransferor nation or group of nations, or its agent, normally within 30 days after a generally approved retransfer occurs or at the time a request for specific retransfer approval is made submit to the Director of the Office of Non-Proliferation Policy, Office of International Affairs, Department of Energy, Washington, D.C. 20545, a report containing: (1) The name, address and citizenship of the person submitting the report; (2) a description of the component involved in the retransfer; (3) the name of the retransferor nation or group of nations and the entity under its jurisdiction having possession of the component; (4) the name of the retransferee nation or group of nations and the entity under its jurisdiction having possession of the component; (5) the actual or proposed time when the retransfer is to occur; and (6) the end use of the component.

Part F. Export Items Under Section 309(c) of the Nuclear Non-Proliferation Act

Section 20. Procedures

a. A list of commodities licensed by the Department of Commerce which, if used for purposes other than those for which the export is intended, could be of significance for nuclear explosive purposes, is published in the Department of Commerce's Export Administration Regulations and shall be revised as appropriate by the Departments of Commerce and Energy in consultation with the Departments of State and Defense, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission.

b. Export license applications for commodities on the list referred to in paragraph 1, as well as any other applications which may involve possible nuclear uses, shall be reviewed by the Department of Commerce in consultation with the Department of Energy. When either the Department of Commerce or the Department of Energy believes that—because of the proposed destination of the export, its timing, or other relevant considerations—a particular application should be reviewed by other agencies, or denied, such application shall be referred to the SNEC. The SNEC shall promptly consider any such application and provide its advice and recommendations to the Department of Commerce. Disagreements shall be handled in accordance with the provisions of section 5.

c. Reviewing agencies shall promptly, but not later than 30 days after receipt from the Department of Commerce of an application, provide their views thereon to the Department of Commerce. If, however, it is not possible to provide views within this time or if, at any point during review, it appears that final action on an application will not be completed within 60 days of receipt by the Department of Commerce, any agency which requires additional time shall inform the Department of Commerce at the earliest possible time of the issues involved and provide an estimate of the time needed to complete its review. In accordance with section 17(d)(2) of the Export Administration Act of 1979, if action is not completed within 180 days of receipt of the application by the Department of

Commerce, the applicant shall have the rights of appeal and court action provided in section 10(j) of such Act.

d. If the SNEC recommends denial of an application, the reasons therefor shall be articulated for the record. If the Department of Commerce agrees with the recommendation, that Department, in accordance with section 10(f)(2) of the Export Administration Act of 1979, shall, to the maximum extent consistent with the national security and foreign policy of the United States, inform the applicant in writing of the negative considerations raised with respect to such license application. Before final action is taken on the application, the applicant shall be afforded the opportunity to respond within 15 days to such negative considerations. If appropriate, the applicant's response will be made available to the SNEC for further review and advice. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 shall be followed.

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Part III

Information Security Oversight Office

32 CFR Part 2001
National Security Information; Final Rule

Declassified and Approved For Release 2013/08/22 : CIA-RDP96B01172R000100020001-2

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2001

National Security Information

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: The Information Security Oversight Office is publishing this amendment to its Directive No. 1, implementing Executive Order 12356 (47 FR 14874, April 6, 1982), pursuant to section 5.2(b)(1) of the Executive Order. The National Security Council approved the issuance of this amendment on May 8, 1984. This amendment to § 2001.47 provides instructions to agencies on the preparation of damage assessments following the loss or possible compromise of national security information.

EXECUTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO (202) 535–7251.

SUPPLEMENTARY INFORMATION: This amendment to ISOO Directive No. 1 is issued pursuant to section 5.2(b)(1) of Executive Order 12356.

List of Subjects in 32 CFR Part 2001

Classified information.

PART 2001—[AMENDED]

32 CFR Part 2001 is amended by revising § 2001.47 to read as follows:

§ 2001.47 Loss or Possible Compromise [4.1(b)].

Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to an official designated for this purpose by the person's agency or organization. The agency that originated the information shall be notified of the loss or possible compromise so that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of the compromise. The following guidelines shall govern the conduct of damage assessments:

(a) *Initiation of Damage Assessments.* An agency head shall initiate a damage assessment whenever there has been a compromise of classified information originated by that agency that, in his or her judgment, can reasonably be expected to cause damage to the national security. Compromises may occur through espionage, unauthorized disclosures to the press or other members of the public, unauthorized sales, publication of books and treatises, the known loss of classified information or equipment to foreign powers, or through various other circumstances.

(b) *Content of Damage Assessments.* At a minimum, damage assessments shall be in writing and contain the following:

(1) Identification of the source, date, and circumstances of the compromise.

(2) Classification of the specific information lost.

(3) A description of the specific information lost.

(4) An analysis and statement of the known or probable damage to the national security that has resulted or may result.

(5) An assessment of the possible advantage to foreign powers resulting from the compromise.

(6) An assessment of whether (i) the classification of the information involved should be continued without change; (ii) the specific information, or parts thereof, shall be modified to minimize or nullify the effects of the reported compromise and the classification retained; (iii) downgrading, declassification, or upgrading is warranted, and if so, confirmation of prompt notification to holders of any change.

(7) An assessment of whether countermeasures are appropriate and feasible to negate or minimize the effect of the compromise.

(8) An assessment of other appropriate corrective, administrative, disciplinary or legal actions.

(c) *System of Control of Damage Assessments.* Each agency shall establish a system of control and internal procedures to ensure that damage assessments are performed in all cases described in paragraph (a), and that records are maintained in a manner that facilitates their retrieval and use within the agency.

(d) *Cases Involving More Than One Agency.* (1) Whenever a compromise involves the classified information or interests of more than one agency, each department or agency undertaking a damage assessment shall advise other agencies of the circumstances and findings that affect their information or interests. Whenever a damage assessment, incorporating the product of two or more agencies is needed, the affected agencies shall agree upon the assignment of responsibility for the assessment.

(2) Whenever a compromise occurs within an agency that is not responsible for the damage assessment, that agency shall provide all data pertinent to the compromise to the agency responsible for conducting the assessment.

(3) Whenever a compromise of U.S. classified information is the result of actions taken by foreign nationals, by foreign government officials, or by U.S. nationals in the employ of international organizations, the agency performing the damage assessment shall ensure through appropriate intergovernmental liaison channels, that information pertinent to the assessment is obtained. Whenever more than one agency is responsible for the assessment, those agencies shall coordinate the request prior to transmittal through appropriate channels.

(4) Whenever an action is contemplated against any person believed responsible for the compromise of classified information, damage assessments shall be coordinated with appropriate agency legal counsel. Whenever a violation of criminal law appears to have occurred and a criminal prosecution is contemplated, the agency responsible for the damage assessment shall coordinate with the Department of Justice.

(5) The designated representative of the Director of Central Intelligence, or other appropriate officials with responsibility for the information involved, will be consulted whenever a compromise of Sensitive Compartmented Information (SCI) has occurred.

(Sec. 5.2(b)(1), E.O. 12356)

Dated: May 11, 1984.

Steven Garfinkel,

Director, Information Security Oversight Office.

[FR Doc. 84–13148 Filed 5–15–84; 8:45 am]

BILLING CODE 6820–AF–M

federal register

Wednesday
May 16, 1984

Part IV

Office of Management and Budget

5 CFR Part 1320

Controlling Paperwork Burdens on the Public, Delegation of Review and Approval Authority to the Board of Governors of the Federal Reserve System; Final Rule

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1320

Controlling Paperwork Burdens on the Public, Delegation of Review and Approval Authority to the Board of Governors of the Federal Reserve System

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Final rule.

SUMMARY: This rule delegates to the Board of Governors of the Federal Reserve System (Board) the authority, under the Paperwork Reduction Act of 1980 and 5 CFR 1320.9, to approve of and assign Office of Management and Budget (OMB) control numbers to collection of information requests and requirements conducted or sponsored by the Board. This delegation covers all collections of information by the Board except those meeting certain criteria specified in Appendix A. In exercising this delegated authority, the Board is to afford the public opportunity to participate in the review process, assure that the requirements of 5 CFR 1320.4(b) are adhered to, and assure that the guidelines in 5 CFR 1320.6 are considered in the review process. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. Under the Act, OMB may limit, condition, or rescind this delegation at any time, but it is intended that OMB will exercise this authority only rarely and in unusual circumstances.

EFFECTIVE DATE: June 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Arnold Strasser, Assistant Chief, Reports Management Branch, Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503 ((202) 395–6880).

SUPPLEMENTARY INFORMATION: OMB is granting this delegation after thorough review of the Board's internal paperwork review process. As described in the Notice of Proposed Rulemaking (49 FR 12179), OMB found that the Board's process meets all the requirements for delegation. These requirements are:

(1) The agency review process must exhibit independence from program responsibility;

(2) The agency must have sufficient resources to carry out responsibilities;

(3) The agency review process must evaluate fairly whether the proposed collections of information should be approved;

(4) The agency must exhibit evidence of successful performance.

The Act and OMB's implementing regulations required that OMB follow the notice and comment procedures of Title 5 U.S.C. Chapter 5 before providing delegation to any agency. Moreover, OMB believes that the public has a vital interest in the administration of the Act and should be given an opportunity to comment on any proposed delegation. Accordingly, after having determined that the Board met the requirements for delegation, on March 28, 1984, OMB published a Notice of Proposed Rulemaking in the **Federal Register** (49 FR 12179). A comment was received from one respondent, the Business Advisory Council on Federal Reports. That comment supported the rule, but also included several suggestions.

The first suggestion was that OMB should include language in its final rule that clarifies its position on future delegations. Concern was expressed that this delegation would be viewed as a precedent and that other agencies and departments would be assured of receiving similar delegations. OMB believes that the Paperwork Reduction Act places heavy burden-control responsibility on agencies, and lays the framework for their assumption of authority through delegation of OMB's approval authority, commensurate with that responsibility. This assumption, however, is to be based on a demonstration that they have earned the right to operate with only minimal OMB oversight. Accordingly, OMB views this delegation as being precedential and fully consistent with the philosophy and requirements of the Act and OMB's implementing regulation, 5 CFR 1320. However, delegations will only be granted to agencies and departments that meet the criteria set forth above and in the preamble to the March 28 Notice of Proposed Rulemaking.

The next suggestion concerned Appendix A(1)(a)(3)(i) which deals with public notice and comment. It was suggested that the words "* * * and appropriate * * *" be deleted, on the basis that public comments are always appropriate except in "matters of national security and the like * * *" OMB agrees that in general public comments are appropriate. However, there are cases where public policy requires secrecy up to the point of implementation. Such cases may occur in connection with reports related to monetary policy actions that would affect financial markets and might lead to speculation as a result of advanced information. Therefore, it is appropriate to leave the words "and appropriate" in. As required by Appendix A(1)(a)(3)(i)(A), the Board is required in these circumstances to give notice in the **Federal Register** at the earliest practical date after approving the information collection informing the public of its action and explaining why immediate action was necessary.

Another suggestion dealt with the length of the comment period. It was suggested that the "reasonable opportunity to comment" specifically include the up-to-ninety-days period in the Paperwork Reduction Act and 5 CFR Part 1320. OMB disagrees. Neither the Paperwork Reduction Act nor 5 CFR Part 1320 states what constitutes a reasonable comment period. The ninety days refers to the length of the OMB review period—60 days plus the option of a 30-day extension. These are the maximum time periods for review, not the minimum. OMB strongly urges interested parties to submit comments as soon as possible since in practice, OMB has acted on paperwork review requests on an average of much less than 60 days. OMB expects that the Board will provide every reasonable opportunity for the public to comment, but the public should also take reasonable steps to advise the Board that comments will be provided particularly if those comments are not expected to be provided within a reasonably brief time after the Board has published its notice about the review. However, comments are always welcome and, when necessary, information collection reviews may be reopened at any time.

Another suggestion was that a **Federal Register** notice is essential in all situations, even when immediate implementation is necessary. OMB agrees and a notice is provided for in the rule. However, notices in this situation would indicate that action had already been taken and comments would be solicited for future renewals or revisions. We expect this situation to occur rarely.

The Office of Management and Budget (OMB) published a Notice of Proposed Rulemaking on March 28, 1984 and received one comment on the proposal. This final rule has been adopted after consideration of that comment. It will appear as a new paragraph (d) of 5 CFR 1320.9 and as a new Appendix A to 5 CFR Part 1320.

Regulatory Impact and Regulatory Flexibility Act Analysis

OMB has determined that this regulation is not a major rule as defined by Executive Order 12291 and that the regulation would not have a significant economic impact on a substantial number of small businesses or other small entities.

Issued in Washington, D.C. May 10, 1984.

Christopher C. DeMuth,

Administrator, Office of Information and Regulatory Affairs.

List of Subjects in 5 CFR Part 1320

Reporting and recordkeeping requirements, Paperwork, Collection of information, Delegated review authority.

PART 1320—[AMENDED]

For the reasons set forth in the preamble, OMB amends 5 CFR Part 1320 by adding a new paragraph (d) to § 1320.9 and by adding a new Appendix A to Part 1320 to read as follows:

§ 1320.9 [Amended]

* * * * *

(d) Subject to the provisions of this part, and in accord with the terms and conditions of each delegation as specified in Appendix A to this part, the Director delegates review and approval authority to the following agencies:

(1) Board of Governors of the Federal Reserve System.

Appendix A—Agencies With Delegated Review and Approval Authority

1. The Board of Governors of the Federal Reserve System.

(a) Authority to review and approve collection of information requests, collection of information requirements, and collections of information in current rules is delegated to the Board of Governors of the Federal Reserve System.

(1) This delegation does not include review and approval authority over any new collection of information or any modification to an existing collection of information that:

(i) Is proposed to be collected as a result of a requirement or other mandate of the Federal Financial Institutions Examination Council, or other Federal executive branch entities with authority to require the Board to conduct or sponsor a collection of information.

(ii) Is objected to by another Federal agency on the grounds that that agency requires information currently collected by the Board, that the currently collected information is being deleted from the collection, and the deletion will have a serious adverse impact on the agency's program provided that such objection is certified to OMB by the head of the Federal agency involved, with a copy to the Board, before the end of the comment period specified by the Board on the **Federal Register** notices specified in (3)(i) below.

(iii) Would cause the burden of the information collections conducted or sponsored by the Board to exceed by the end of the fiscal year the Information Collection Budget allowance provided to the Board by OMB for the fiscal year-end.

(2) The Board may ask that OMB review and approve collections of information covered by this delegation.

(3) In exercising delegated authority, the Board will:

(i) Provide the public, to the extent possible and appropriate, with reasonable opportunity to comment on collections of information under review prior to taking final action approving the collection. Reasonable opportunity for public comment will include publishing a notice in the **Federal Register** informing the public of the proposed collection of information, notifying the public of the availability of copies of the "clearance package," and providing the public with the opportunity to comment. Such **Federal Register** notices shall also advise the public that they may also send a copy of their comments to the OMB/OIRA Desk Officer for the Federal Reserve Board.

(A) Should the Board determine that a new collection of information or a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligation, the Board may approve of the collection of information without providing opportunity for public comment. At the earliest practical date after approving the collection of information, the Board will publish a **Federal Register** notice informing the public of its approval of the collection of information and indicating why immediate action was necessary.

(B) In such cases, before taking final action to reauthorize the collection of information for an additional period, the Board will take into account any comments received after the institution of the collection.

(ii) Provide the OMB desk officer for the Federal Reserve Board with a copy of the Board's **Federal Register** notice not later than the day the Board files the notice with the Office of the Federal Register.

(iii) Assure that approved collections of information are reviewed not less frequently than once every three years, and that such reviews are normally conducted before the expiration date of the prior approval. Where the review has not been completed prior to the expiration date, the Board may extend the report, for up to three months, without public notice in order to complete the review and consequent revisions, if any. There may also be other circumstances in which the Board determines that a three-month extension without public notice is appropriate.

(iv) Take every reasonable step to ensure that the collection of information conforms to the requirements of 5 CFR 1320.4(b). In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies. The Board will not approve a collection of information that it determines does not satisfy the guidelines set forth in 5 CFR 1320.6, unless it determines that departure from these guidelines is necessary to satisfy statutory requirements or other substantial need.

(v) Assure that each approved collection of information displays an OMB control number and that all collections of information, except those contained in regulations, display the expiration date of the approval.

(vi) Assure that each approved collection of information, together with a completed SF83, a supporting statement, a copy of each comment received from the public and other agencies in response to the Board's **Federal Register** notice or a summary of these comments, and a certification that the Board has approved of the collection of information in accordance with the provisions of this delegation is transmitted to OMB for incorporation into OMB's public docket files. Such transmittal shall be made as soon as practical after the Board has taken final action approving the collection. However, no collection of information may be instituted until the Board receives written or oral notification from OMB or OMB staff that the transmittal has been received.

(b) OMB will:

(1) Provide the Board in advance with a block of control numbers which the Board will assign in sequential order to, and display on, new collections of information.

(2) Provide a written notice of action to the Board indicating that Board approvals of collections of information have been received by OMB and incorporated into OMB's public docket files and inventory of currently approved collections of information.

(3) Review any collection of information referred by the Board in accordance with the provisions of section 1(a)(2) of this appendix.

(c) OMB may review the Board's paperwork review process under the delegation. The Board will cooperate in carrying out such a review. The Board will respond to any recommendations resulting from such review and, if it finds the recommendations to be appropriate, will either accept the recommendations or propose an alternative approach to achieve the intended purpose.

(d) This delegation may, as provided by 5 CFR 1320.9(c), be limited, conditioned, or rescinded, in whole or in part at any time. OMB will exercise this authority only in unusual circumstances and, in those rare instances, will do so, subject to the provisions of 5 CFR 1320.11(f), prior to the expiration of the time period set for public comment in the Board's **Federal Register** notices *and* generally only if:

(1) Prior to the commencement of a Board review (*e.g.*, during the ICB review), OMB has notified the Board that it intends to review a specific new proposal for the collection of information or the continued use (with or without modification) of an existing collection;

(2) There is substantial public objection to a proposed information collection; or

(3) OMB determines that a substantially inadequate and inappropriate lead time has been provided between the final announcement date of the proposed requirement and the first date when the information is to be submitted or disclosed.

When OMB exercises this authority it will consider that the period of its review began the day that OMB received the **Federal Register** notice provided for in section 1(a)(3)(i) of this Appendix.

(e) Where OMB conducts a review of a Board information collection proposal under section 1(a)(1), 1(a)(2), or 1(d) of this Appendix, the provisions of 5 CFR 1320.17 and 5 CFR 1320.19 continue to apply.

(31 U.S.C. Sec. 18a and 44 U.S.C. Chs. 21, 25, 27, 29, 31, 35)

[FR Doc. 84-13137 Filed 5-15-84; 8:45 am]

BILLING CODE 3110-01-M

federal register

Wednesday
May 16, 1984

Part V

Department of Energy

Federal Energy Regulatory Commission

Natural Gas Policy Act; Notice of Determination by Jurisdictional Agencies

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1124]

NGPA Notices of Determination by Jurisdictional Agencies

Issued: May 11, 1984.

Note.—By final rule issued by the Commission on February 22, 1984 (Order No. 362, Docket RM83-50-000, 49 FR 7109-13, February 27, 1984), notices of determination issued by the Commission after May 27, 1984, *will not be published in the* **Federal Register.** Applicants listed on FERC Form 121 will be notified by mail of Commission receipt of determinations. All other parties should contact: TS Infosystems, Inc., Attn: Mr. Milton Chichester, 825 North Capitol Street, Room 1000, Washington, DC 20426, to inquire about subscribing to these notices. Copies of Order No. 362 are available from the same source.

The following notices of determination were received from the indicated jurisdictional agencies by the FERC pursuant to the NGPA and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production is in million cubic feet (MMcf).

The applications for determination are available for inspection, except for material which is confidential under 18 CFR 275.206, at the FERC, 825 North Capitol St., Room 1000, Washington, D.C. Persons objecting to any of these determinations may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date the notice is issued by the Commission.

Source data from the FERC Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Road, Springfield, Virginia 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
- 102-2: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-4: New onshore reservior
- 102-5: New res. old OCS lease

Section 103: New onshore production well

Section 107-DP: 15,000 ft or deeper
- 107-GB: Geopressured brine
- 107-DV: Devonian shale
- 107-CS: Coal seam gas
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation

Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Temporary pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1124

ISSUED MAY 11, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-ECLIPSE ENERGY CORP			RECEIVED: 04/23/84 JA: NY						
8430458	7328	3102918780		103	107-TF	CZARCINSKI #1	LAKE SHORE	0.0	NATIONAL FUEL SUP
8430457	7036	3101318664		103		HOHENSTEIN #1	LAKE SHORE	18.0	NATIONAL FUEL GAS
8430459	7330	3102918795		103	107-TF	MAMMOSER #5	LAKE SHORE	0.0	NATIONAL FUEL SUP
8430455	7332	3102918871		103	107-TF	MAMMOSER #6	LAKE SHORE	0.0	NATIONAL FUEL SUP
8430456	7334	3101318729		103		PAGANO #2	LAKE SHORE	0.0	NATIONAL FUEL SUP
-KEYSTONE ENERGY OIL & GAS PRODUCTIO			RECEIVED: 04/23/84 JA: NY						
8430460	7339	3100918786		103	107-TF	WILLIAM HAAB #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
** DEPT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE, NM									
-ALEX N CAMPBELL			RECEIVED: 04/24/84 JA: NM K						
8430380	NM-56-84	3004506323		108		TONKIN FEDERAL #1	BASIN DAKOTA	12.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO			RECEIVED: 04/24/84 JA: NM K						
8430272	NM 0082-84	3004507275		108		E E ELLIOTT "A" #3	BLANCO - PICTURED CLI	8.0	EL PASO NATURAL G
8430396	NM153-84PB	3004509188		108-PB		E E ELLIOTT "B" #6	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430397	NM154-84PB	3004507137		108-PB		E E ELLIOTT "C" #2	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430393	NM155-84PB	3004522931		108-PB		ELLIOTT GAS COM "W" #1	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430395	NM159-84PB	3004507973		108-PB		FEDERAL GAS COM "3" #1	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8430285	NM 0094-84	3004507275		108		GALLEGOS CANYON UNIT #198	BASIN DAKOTA	14.0	EL PASO NATURAL G
8430277	NM 0095-84	3004524339		108		SHANE GAS COM "A" #1	BLANCO - PICTURED CLI	12.0	EL PASO NATURAL G
8430394	NM158-84PB	3003921598		108-PB		VALENCIA CANYON UNIT #17	CHOZA MESA PICTURED C	0.0	EL PASO NATURAL G
8430341	NM 211-84PB	3004521715		108-PB		VAN HOOK FEDERAL #1	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430273	NM 0081-84	3004508270		108		W D HEATH "A" #10	BASIN DAKOTA	11.0	EL PASO NATURAL G
8430392	NM157-84PB	3004520970		108-PB		W D HEATH "B" #5	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
-BILLY J KNOTT			RECEIVED: 04/24/84 JA: NM K						
8430267	NM-3-84-ER	3004509616		108-ER		KELLY #1	BLANCO	0.0	EL PASO NATURAL G
-BLACKWOOD & NICHOLS CO LTD			RECEIVED: 04/24/84 JA: NM K						
8430349	NM 194-84PB	3004510867		108-PB		NORTHEAST BLANCO UNIT #33	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430346	NM 197-84PB	3004510589		108-PB		NORTHEAST BLANCO UNIT #59	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430347	NM 196-84PB	3004510589		108-PB		NORTHEAST BLANCO UNIT #59	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430348	NM 195-84PB	3004510589		108-PB		NORTHEAST BLANCO UNIT #59	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430345	NM 198-84PB	3004510572		108-PB		NORTHEAST BLANCO UNIT #61-19	BLANCO MESAVERDE NF 1	16.0	EL PASO NATURAL G
-DEPCO INC			RECEIVED: 04/24/84 JA: NM K						
8430383	NM-1304-83	3004524767		108		FEDERAL 29 #22	WEST KUTZ PC	9.0	GAS CO OF NEW MEX
8430384	NM-1309-8	3004524769		108		FEDERAL 30 #41	WEST KUTZ PC	46.0	GAS CO OF NEW MEX
8430385	NM-1310-83	3004524793		108		FEDERAL 32 #21	WEST KUTZ PC	12.0	GAS CO OF NEW MEX
-DUGAN PRODUCTION CORP			RECEIVED: 04/24/84 JA: NM K						
8430351	NM 223-84PB	3004510488		108-PB		HALL #1	BASIN DAKOTA	0.0	EL PASO NATURAL G
-EL PASO EXPLORATION CO			RECEIVED: 04/24/84 JA: NM K						
8430324	NM 222-84-PB	3003906310		108-PB		JICARILLA 117 E #7PC	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8430319	NM186-84PB	3003920009		108-PB		JICARILLA 119 H #13	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8430318	NM187-84PB	3003921310		108-PB		JICARILLA 119 H #7A	BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
8430320	NM188-84PB	3003906226		108-PB		JICARILLA 120 C #15	SOUTH BLANCO PICTURED	0.0	NORTHWEST PIPELIN
8430322	NM191-84PB	3003922073		108-PB		JICARILLA 120 C #16	SOUTH BLANCO PICTURED	0.0	NORTHWEST PIPELIN
8430321	NM193-84PB	3003921195		108-PB		JICARILLA 123 C #18	SOUTH BLANCO PICTURED	0.0	NORTHWEST PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8430323	NM192-84PB	3003921187		108-PB		JICARILLA 123-C #16	SOUTH BLANCO PICTURED	0.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/24/84	JA: NM K			
8430418	NM76-84PB	3004521162		108-PB		ATLANTIC C #7	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430450	NM-105-84-PB	3003905632		108-PB		CANYON LARGO UNIT #120	BALLARD	0.0	EL PASO NATURAL G
8430452	NM-149-84-PB	3004521114		108-PB		CASE #17	BLANCO	0.0	EL PASO NATURAL G
8430314	NM243-84-PB	3004520864		108-PB		DAUM #8	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8430432	NM1517-83PB	3004520812		108-PB		DAY A #12	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430433	NM2028-83PB	3004520812		108-PB		DAY A #12	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430451	NM-106-84-PB	3004520812		108-PB		DAY A #12	BLANCO	0.0	EL PASO NATURAL G
8430305	NM 169-84PB	3004512192		108-PB		DAY A #8	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430443	NM-114-84-PB	3004510495		108-PB		ELLIOTT A #1	BLANCO	0.0	EL PASO NATURAL G
8430408	NM90-84PB	3004506543		108-PB		FLORANCE D #3	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430428	NM117-84PB	3004506523		108-PB		FLORANCE D #6	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430414	NM82-84PB	3004513085		108-PB		GRAMBLING #4	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430441	NM-83-84-PB	3004524078		108-PB		HANCOCK B #5E	BASIN	0.0	EL PASO NATURAL G
8430419	NM77-84PB	3004520316		108-PB		HEATON #23	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8430444	NM-111-84-PB	3004506030		108-PB		HUERFANITO UNIT #24	BALLARD	0.0	EL PASO NATURAL G
8430297	NM 171-84PB	3004505701		108-PB		HUERFANO UNIT #58	BALLARD PICTURED CLIF	0.0	EL PASO NATURAL G
8430296	NM 172-84PB	3004505743		108-PB		HUERFANO UNIT NP #23	HUERFANO PICTURED CLI	0.0	EL PASO NATURAL G
8430293	NM 240-84PB	3004521139		108-PB		HUGHES A #8	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430440	NM-100-84-PB	3003906504		108-PB		JICARILLA F #13	SOUTH BLANCO	0.0	EL PASO NATURAL G
8430407	NM89-84PB	3003906501		108-PB		JICARILLA F #14	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430412	NM84-84PB	3003922120		108-PB		JICARILLA 67 #19	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430442	NM-115-84-PB	3004507537		108-PB		JONES A #1	BLANCO	0.0	EL PASO NATURAL G
8430438	NM-99-84-PB	3004509752		108-PB		KELLY B #1	BLANCO	0.0	EL PASO NATURAL G
8430313	NM244-84PB	3004521049		108-PB		KING #2	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430434	NM-175-84	3004520861		108-PB		LACKEY A #6	AZTEC	0.0	EL PASO NATURAL G
8430416	NM79-84PB	3004513064		108-PB		LACKEY B #18	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8430417	NM80-84PB	3003905308		108-PB		LINDRITH UNIT #34	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430430	NM119-84PB	3004509232		108-PB		LUDWICK #10 PC	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8430420	NM163-84PB	3004509329		108-PB		LUDWICK #6	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8430448	NM-107-84-PB	3004513111		108-PB		MANSFIELD #5	BLANCO	0.0	EL PASO NATURAL G
8430317	NM221-84PB	3004500000		108-PB		MOORE #1	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430405	NM92-84PB	3004560060		108-PB		MOORE #3	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430413	NM81-84PB	3004520283		108-PB		MUDGE #29	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430453	NM-148-84-PB	3004521083		108-PB		MUDGE #37	BLANCO	0.0	EL PASO NATURAL G
8430425	NM-147-84-PB	3004521084		108-PB		MUDGE #42 PC	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430278	NM-73-84	3004525800		103		NEWBERRY #14	BLANCO PICTURED CLIFF	50.0	EL PASO NATURAL G
8430282	NM-74-84	3004525791		103		NEWBERRY #15	AZTEC PICTURED CLIFFS	40.0	EL PASO NATURAL G
8430306	NM 168-84PB	3004512074		108-PB		PIERCE #4	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430427	NM152-84PB	3004520463		108-PB		PIERCE #5	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430424	NM151-84PB	3004520469		108-PB		PIERCE #6	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430445	NM-112-84-PB	3003907009		108-PB		RINCON UNIT #116	SOUTH BLANCO	0.0	EL PASO NATURAL G
8430454	NM-113-84-PB	3003906909		108-PB		RINCON UNIT #39	SOUTH BLANCO	0.0	EL PASO NATURAL G
8430301	NM 238-84PB	3004521090		108-PB		ROELOF A #6	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430302	NM 239-84-PB	3004521089		108-PB		ROELOFS #7	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430415	NM78-84PB	3004520501		108-PB		RUSSELL #8	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430421	NM164-84PB	3003906872		108-PB		SAN JUAN 27-4 UNIT #12	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430309	NM179-84PB	3003906939		108-PB		SAN JUAN 27-4 UNIT #29	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430310	NM177-84PB	3003900000		108-PB		SAN JUAN 27-4 UNIT #65	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430316	NM241-84PB	3003920886		108-PB		SAN JUAN 27-4 UNIT #77	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430304	NM 237-84PB	3003920954		108-PB		SAN JUAN 27-4 UNIT #78	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430300	NM 245-84PB	3003906775		108-PB		SAN JUAN 27-4 UNIT #8	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430315	NM242-84PB	3003920902		108-PB		SAN JUAN 27-4 UNIT #86	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430423	NM150-84PB	3003920827		108-PB		SAN JUAN 27-4 UNIT #88	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430402	NM95-84PB	3003920828		108-PB		SAN JUAN 27-4 UNIT #89	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430290	NM-0580-83	3003920922		108		SAN JUAN 27-4 UNIT #93	TAPACITO - PICTURED C	16.8	EL PASO NATURAL G
8430439	NM-102-84-PB	3003907012		108-PB		SAN JUAN 27-5 UNIT #10	BLANCO	0.0	EL PASO NATURAL G
8430292	NM 181-84PB	3003906926		108-PB		SAN JUAN 27-5 UNIT #13	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8430298	NM 184-84PB	3003920672		108-PB		SAN JUAN 27-5 UNIT #158	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430404	NM93-84PB	3003906964		108-PB		SAN JUAN 27-5 UNIT #16	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430294	NM 236-84PB	3003920812		108-PB		SAN JUAN 27-5 UNIT #176	TAPACITO PICTURED CLI	0.0	EL PASO NATURAL G
8430435	NM-103-84-PB	3003920818		108-PB		SAN JUAN 27-5 UNIT #179	TAPACITO	0.0	EL PASO NATURAL G
8430436	NM-104-84-PB	3003907141		108-PB		SAN JUAN 27-5 UNIT #2	BLANCO	0.0	EL PASO NATURAL G
8430308	NM180-84PB	3003906786		108-PB		SAN JUAN 27-5 UNIT #35	SOUTH BLANCO PC	0.0	EL PASO NATURAL G
8430312	NM234-84PB	3003906847		108-PB		SAN JUAN 27-5 UNIT #68	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430449	NM-108-84-PB	3003982363		108-PB		SAN JUAN 27-5 UNIT #80	TAPACITO	0.0	EL PASO NATURAL G
8430410	NM85-84PB	3003907137		108-PB		SAN JUAN 28-6 UNIT #11	BLANCA MESA VERDE	0.0	EL PASO NATURAL G
8430303	NM 170-84PB	3003907452		108-PB		SAN JUAN 28-6 UNIT #15	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430426	NM97-84PB	3003920603		108-PB		SAN JUAN 28-6 UNIT #174	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430311	NM185-84PB	3003920863		108-PB		SAN JUAN 28-6 UNIT #202	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430401	NM87-84PB	3003907167		108-PB		SAN JUAN 28-6 UNIT #26	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430411	NM86-84PB	3003907087		108-PB		SAN JUAN 28-6 UNIT #27	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430299	NM 183-84PB	3003907197		108-PB		SAN JUAN 28-6 UNIT #38	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430406	NM88-84PB	3003907308		108-PB		SAN JUAN 28-6 UNIT #8	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430403	NM94-84PB	3003906999		108-PB		SAN JUAN 28-7 UNIT #119	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430295	NM 166-84PB	3003907828		108-PB		SAN JUAN 30-4 UNIT NP #9	EAST BLANCO PICTURED	0.0	EL PASO NATURAL G
8430307	NM167-84PB	3003907828		108-PB		SAN JUAN 30-4 UNIT NP #9	EAST BLANCO PICTURED	0.0	EL PASO NATURAL G
8430447	NM-110-84-PB	3003920525		108-PB		SAN JUAN 30-6 UNIT #103	BLANCO	0.0	EL PASO NATURAL G
8430446	NM-109-84-PB	3003907886		108-PB		SAN JUAN 30-6 UNIT #36	BLANCO	0.0	EL PASO NATURAL G
8430437	NM-101-83-PB	3003907895		108-PB		SAN JUAN 30-6 UNIT #37	BLANCO	0.0	EL PASO NATURAL G
8430429	NM116-84PB	3004507025		108-PB		SCHWERDLFEGER A #8	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8430409	NM91-84PB	3004511955		108-PB		STOREY B #1	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8430431	NM118-84PB	3004521265		108-PB		TAPP #11	BLANCO PICTURED CLIFF	0.0	EL PASO NATURAL G
8430422	NM165-84 PB	3004507339		108-PB		WHIT KUTZ #2	FULCHER KUTZ PICTURED	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	04/24/84	JA: NM K			
8430381	NM-0022-84	3003922720		108		JICARILLA "C" #14E	OTERO GALLUP & BASIN	20.0	EL PASO NATURAL G
-GRACE PETROLEUM CORPORATION				RECEIVED:	04/24/84	JA: NM K			
8430270	NM 0071-84	3003982317		108		BENN 9-1	LYBROOK	0.0	GAS CO OF NEW MEX
-JACK A COLE				RECEIVED:	04/24/84	JA: NM K			
8430389	NM-28-83-SA	3004320228	D	108-SA		APACHE FLATS #8	BALLARD PICTURED CLIF	12.0	EL PASO NATURAL G
-JEROME P MCHUGH				RECEIVED:	04/24/84	JA: NM K			
8430352	NM-201-84-PB	3003921765		108-PB		CHRIS #4	BLANCO	0.0	NORTHWEST PIPELIN
-JOSEPH B GOULD				RECEIVED:	04/24/84	JA: NM K			
8430355	NM-1284-83	3003922796		103		PHILLIPS 1-32	WEST LINDRITH	24.0	NORTHWEST PIPELIN
8430382	NM-1296-83	3003923084		103		PHILLIPS 2-32	WEST LINDRITH	168.0	NORTHWEST PIPELIN
-KOCH INDUSTRIES INC				RECEIVED:	04/24/84	JA: NM K			
8430350	NM 225-84PB	3004521900		108-PB		LAMBE #6	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
-M J BRANNON				RECEIVED:	04/24/84	JA: NM K			
8430390	NM25-83SA	3004505238	D	108-SA		FEDERAL 28 #1	BASIN DAKOTA	15.0	EL PASO NATURAL G
-MARATHON OIL COMPANY				RECEIVED:	04/24/84	JA: NM K			
8430353	NM-178-84-PB	3003906309		108-PB		JICARILLA APACHE #4	BLANCO	0.0	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/24/84	JA: NM K			
8430398	NM162-84PB	3003920162		108-PB		JICARILLA B #8	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8430400	NM160-84PB	3003921811		108-PB		JICARILLA E #2A	BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
8430399	NM161-84PB	3003907044		108-PB		JICARILLA E #3	BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/24/84	JA: NM K			
8430354	NM-0253-83	3004510997		108		BLANCO #8	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430368	NM 146-84PB	3003920019		108-PB		JICARILLA 92 #3	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8430378	NM 145-84PB	3003921133		108-PB		JICARILLA 93 #10	TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
8430375	NM 141-84PB	3003907944		108-PB		ROSA UNIT #18	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430377	NM 139-84PB	3003907951		108-PB		ROSA UNIT #21	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430379	NM 354-84PB	3003907958		108-PB		ROSA UNIT 14	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430369	NM 142-84PB	3003907946		108-PB		ROSA UNIT 15	BLANCO - MESAVERDE	0.0	NORTHWEST PIPELIN
8430370	NM 143-84PB	3003907946		108-PB		ROSA UNIT 15	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430376	NM 140-84PB	3003907955		108-PB		ROSA UNIT 19	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430366	NM 138-84PB	3003907942		108-PB		ROSA UNIT 23	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430367	NM 137-84PB	3003921114		108-PB		ROSA UNIT 56	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
8430374	NM 133-84PB	3003907891		108-PB		SAN JUAN 30-5 UNIT #23	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430372	NM 134-84PB	3003907838		108-PB		SAN JUAN 30-5 UNIT 10	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430371	NM 136-84PB	3003921148		108-PB		SAN JUAN 30-5 UNIT 2R	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430386	NM 132-84PB	3003907799		108-PB		SAN JUAN 30-5 UNIT 30	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8430373	NM 135-84PB	3003907754		108-PB		SAN JUAN 30-5 UNIT 7	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430363	NM 130-84PB	3003907908		108-PB		SAN JUAN 30-6 UNIT #17	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8430362	NM 131-84PB	3003920779		108-PB		SAN JUAN 31-6 UNIT 24	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430291	NM-0430-83	3003907917		108		SAN JUAN 31-6 UNIT 7	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430360	NM 125-84PB	3004506243		108-PB		SAN JUAN 32-7 UNIT #17	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430364	NM 128-84PB	3004511204		108-PB		SAN JUAN 32-7 UNIT NP2	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8430365	NM 127-84PB	3004511204		108-PB		SAN JUAN 32-7 UNIT NP2	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8430361	NM 353-84	3004521545		108-PB		SAN JUAN 32-7 UNIT 28	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8430359	NM 126-84PB	3004510715		108-PB		SAN JUAN 32-7 UNIT 8	SAN JUAN 32-7 UNIT 8	0.0	NORTHWEST PIPELIN
8430356	NM 120-84PB	3004511108		108-PB		SAN JUAN 32-8 UNIT #19	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430358	NM 0122-84PB	3004511066		108-PB		SAN JUAN 32-8 UNIT #22	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430387	NM123-84PB	3004511184		108-PB		SAN JUAN 32-8 UNIT #25	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8430357	NM 121-84PB	3004511135		108-PB		SAN JUAN 32-8 UNIT 14			
-R & G DRILLING CO				RECEIVED:	04/24/84	JA: NM K			
8430391	NM24-83SA	3004506745	D	108-SA		GRAHAM #35	SOUTH BLANCO PICTURED	14.6	EL PASO NATURAL G
8430388	NM0026-83SA	3004507200		108-SA		SCHLOSSER #26	KUTZ FRUITLAND	14.8	EL PASO NATURAL G
-SCHALK DEVELOPMENT COMPANY				RECEIVED:	04/24/84	JA: NM K			
8430343	NM 199-84PB	3003921057		108-PB		SCHALK 29-4 #1	BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
8430342	NM 190-84PB	3003920929		108-PB		SCHALK 52 #6	BLANCO MESA VERDE	0.0	NORTHWEST PIPELIN
8430344	NM 189-84PB	3003920579		108-PB		SCHALK 55 #1	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	04/24/84	JA: NM K			
8430326	NM 210-84 PB	3004507794		108-PB		CAIN #16	BASIN DAKOTA	0.0	SOUTHERN UNION GA
8430333	NM 209-84PB	3004523981		108-PB		DAVIS #11E	BASIN DAKOTA	0.0	SOUTHERN UNION GA
8430332	NM 208-84PB	3004510243		108-PB		EAST #8	BASIN DAKOTA	0.0	SOUTHERN UNION GA
8430325	NM 206-84 PB	3004508787		108-PB		HARE #1	AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
8430331	NM 207-84PB	3004509953		108-PB		HOLDER A #1	BASIN DAKOTA	0.0	SOUTHERN UNION GA
8430327	NM 204-84PB	3004513116		108-PB		HYE #10	BASIN DAKOTA	0.0	SOUTHERN UNION GA
8430328	NM 205-84PB	3004521302		108-PB		PAGE #2Y	BLANCO MESA VERDE	0.0	SOUTHERN UNION GA
8430330	NM 203-84PB	3004511701		108-PB		THOMPSON #11	BASIN DAKOTA	0.0	SOUTHERN UNION GA
8430329	NM 202-84PB	3004511734		108-PB		WHITLEY #9	BLANCO PICTURED CLIFF	0.0	SOUTHERN UNION GA
-UNICON PRODUCING CO				RECEIVED:	04/24/84	JA: NM K			
8430279	NM-77-84	3004524835		103		CONGRESS #7-E	BLOOMFIELD CHACRA EXT	1085.0	GAS CO OF NEW MEX
8430276	NM-97-84	3003922053		103		JICARILLA "F" #5	BASIN DAKOTA	411.0	GAS CO OF NEW MEX
8430287	NM-90-84	3003922053		103		JICARILLA "F" #5	BLANCO MESAVERDE	471.0	GAS CO OF NEW MEX
8430274	NM-88-84	3003921774		103		JICARILLA "H" #10	BLANCO MESAVERDE	597.0	GAS CO OF NEW MEX
8430286	NM-89-84	3003921774		103		JICARILLA "H" #10	BASIN DAKOTA	238.0	GAS CO OF NEW MEX
8430269	NM-1042-83	3003921514		108		JICARILLA "H" #9	MESAVERDE	52.0	GAS CO OF NEW MEX
8430275	NM-87-84	3003922416		103		JICARILLA "J" #11-E	BASIN DAKOTA	789.0	GAS CO OF NEW MEX
8430289	NM-86-84	3003922416		103		JICARILLA "J" #11-E	BLANCO MESAVERDE	802.0	GAS CO OF NEW MEX
8430268	NM-92-84	3003922421		103		JICARILLA "J" #13-E	BLANCO MESAVERDE	787.0	GAS CO OF NEW MEX
8430284	NM-93-84	3003922421		103		JICARILLA "J" #13-E	BASIN DAKOTA	793.0	GAS CO OF NEW MEX
8430280	NM-80-84	3003922040		103		JICARILLA "J" #17	SOUTH BLANCO PICTURED	356.0	GAS CO OF NEW MEX
8430283	NM-79-84	3003922041		103		JICARILLA "J" #18	SOUTH BLANCO PICTURED	778.0	GAS CO OF NEW MEX
8430281	NM-78-84	3003922042		103		JICARILLA "J" #19	SOUTH BLANCO PICTURED	308.0	GAS CO OF NEW MEX
8430271	NM-84-84	3003923295		103		MCCRODEN #4	OJITO GALLUP DAKOTA E	163.0	GAS CO OF NEW MEX
8430288	NM-85-84	3004525754		103		NEWSOM A #20	WILDCAT GALLUP	911.0	EL PASO NATURAL G
8430339	NM-233-84-PB	3004511004		108-PB		NORDHAUS #6	BLANCO	0.0	SOUTHERN UNION GA
-UNION TEXAS PETROLEUM				RECEIVED:	04/24/84	JA: NM K			
8430334	NM 217-84PB	3004507993		108-PB		ALBRIGHT #7	BASIN DAKOTA	0.0	EL PASO NATURAL G
8430336	NM 218-84	3004507993		108-PB		ALBRIGHT #7	BASIN DAKOTA	0.0	EL PASO NATURAL G
8430337	NM 216-84PB	3004507993		108-PB		ALBRIGHT #7	BASIN DAKOTA	0.0	EL PASO NATURAL G
8430340	NM 213-84PB	3003920905		108-PB		JICARILLA "F" #3	BLANCO MESA VERDE	0.0	GAS CO OF NEW MEX
8430335	NM 232-84PB	3003922419		108-PB		JICARILLA "J" #20	SOUTH BLANCO PICTURED	0.0	GAS COMPANY OF NE
8430338	NM 226-84PB	3004505897		108-PB		NEWSOM "C" #3	BALLARD PICTURED CLIF	0.0	GAS CO OF NEW MEX
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** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA, OK									
**********									
-C E HARMON OIL INC				RECEIVED:	04/23/84	JA: OK Y			
8430465		3511326951		103		HIGGINS #6	ATLANTIC	3.6	PHILLIPS PETROLEU
8430466		3511300000		103		HIGGINS #7	ATLANTIC	5.4	PHILLIPS PETROLEU
-DCX RESOURCES LTD				RECEIVED:	04/23/84	JA: OK Y			
8430464		3511300000		102-4		WA-BAHA 1-D	WA-BAHA HILLS NE/4 SE	19.0	PHILLIPS PETROLEU
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8430467		3511300000		103		MULLENDORE #4A SW/4 S17-T29N-R11F	TURKEY CREEK	14.0	AJAX OIL & GAS CO
8430468		3511300000		103		MULLENDORE #8 SW/4 S17-T29N-R11E	TURKEY CREEK	5.4	AJAX OIL & GAS CO
-FOUR SANDS OIL & GAS CO				RECEIVED:	04/23/84	JA: OK Y			
8430461		3511300000		102-2		ADAMS B-1		50.0	PHILLIPS PETROLEU
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-RENFROW OSCAR				RECEIVED:	04/23/84	JA: OK Y			
8430463		3511300000		108		GREY #11	MISSION CREEK	3.2	AJAX GAS CORP

[FR Doc. 84-13193 Filed 5-15-84; 8:45 am]

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federal register

Wednesday
May 16, 1984

Part VI

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19 and 250

Implementing the Caribbean Basin Economic Recovery Act Concerning the Distribution of Excise Taxes on Imported Rum; Rule

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19 and 250

[T.D. ATF-175]

Implementing the Caribbean Basin Economic Recovery Act; Distribution of Excise Taxes on Imported Rum

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule amends ATF regulations to implement a portion of Title II of Pub. L. 98–67 (Caribbean Basin Economic Recovery Act). This new law, signed by President Reagan on August 5, 1983, affects the distribution of Federal excise taxes collected on rum imported into the United States after June 30, 1983. This action will help to ensure that the economies of Puerto Rico and the United States Virgin Islands are not adversely affected by the elimination of importation duties on selected goods imported into the United States from certain countries located in the Caribbean Basin. The temporary regulations provided by this document will remain in effect until superseded by permanent regulations on this subject.

EFFECTIVE DATE: May 16, 1984.

FOR FURTHER INFORMATION CONTACT: Susan McCarron or Robert White, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202–566–7531).

SUPPLEMENTARY INFORMATION:

Existing Law and Procedures

Under current law, the United States imposes an excise tax of $10.50 per proof gallon on distilled spirits, including rum, manufactured in or imported into the United States. Section 7652 of the Internal Revenue Code of 1954 (as amended) provides for merchandise manufactured in Puerto Rico and brough into the U.S. for consumption or sale, and merchandise coming into the U.S. from the Virgin Islands, to be subject to a tax equal to the tax imposed on similar merchandise manufactured in the U.S.

The taxes collected on merchandise, including distilled spirits, made in Puerto Rico and transported into the United States (less the estimated amount necessary for payment of refunds and drawbacks), or consumed on the island, are desposited into the Treasury of Puerto Rico. The taxes collected on merchandise producted in the Virgin Islands and shipped to the United States (less certain amounts deposited to the U.S. Treasury as miscellaneous receipts), are paid to the Treasury of the Virgin Islands.

The Treasury of Puerto Rico is paid directly from funds transferred by the Internal Revenue Service (IRS) on a monthly basis. The Virgin Island receives fiscal year advances of funds based on estimates made by its Treasury and the U.S. Department of the Interior. The IRS reports the actual amount of merchandise that comes into the U.S. from the Virgin Islands on a monthly basis to the Department of the Interior, which is responsible for transferring the appropriate funds to the Virgin Islands and making adjustments to the amount of each fiscal year's advance to include any difference in the prior fiscal year's estimate and actual quantities brought into the United States.

The following procedures are presently used for determining the amount of excise taxes collected on bulk and cased distilled spirits (including rum) manufactured in Puerto Rico and the Virgin Islands, and brought into the U.S. The distilled spirits plants that bring in bulk spirits from Puerto Rico and the Virgin Islands report the amount received into their processing account, adjusted by the percentage of overall monthly gains or losses, on ATF F 5110.28. The ATF regional offices receive Form 5110.28, and report the figures to the IRS for bulk spirits transported from Puerto Rico and the Virgin Islands. Each Customs port of entry reports the amount of excise tax collected by it on merchandise brought into the U.S. from all areas outside the United States on a Customs internal document. The information from this document is then entered into Customs' computer system. Customs reports monthly to the IRS the amount of excise tax it collected on all merchandise brought into the U.S. from Puerto Rico and the Virgin Islands. This figure from Customs includes cased distilled spirits (including rum) transported into the U.S. from Puerto Rico and the Virgin Islands.

Changes Due to Pub. L. 98–67

As a result of the Caribbean Basin initiative, the Caribbean Basin Economic Recovery Act (Pub. L. 98–67, Title II) was passed, effective August 5, 1983, to promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin region. Subtitle A of Title II of this Act eliminates duties on certain merchandise, including rum, imported from Caribbean Basin countries which have been certified by the President. The elimination of the duties should reduce the price of Caribbean Basin imported rum to U.S. consumers, which may result in a reduction of Puerto Rican and Virgin Islands rum sold in the United States. Any such reduction in U.S. sales of rum produced in Puerto Rico and the Virgin Islands will reduce revenues (from excise taxes collected on rum coming into the United States from Puerto Rico and the Virgin Islands) transferred from the U.S. Treasury to the Government of these two possessions. Although the Caribbean Basin Economic Recovery Act was passed for the purpose of benefiting countries in the Caribbean Basin that meet certain criteria, this Act was not intended to reduce the distilled spirits excise tax revenues of Puerto Rico and the Virgin Islands.

In order to protect the revenues of Puerto Rico and the Virgin Islands, a provision was placed in section 221 of the Act, with an effective date of July 1, 1983. This provision states that distilled spirits excise taxes collected under section 5001(a)(1) of the Internal Revenue Code of 1954 on all rum imported into the United States from outside the country (including rum from possessions other than the Virgin Islands and Puerto Rico), whether or not from a Caribbean Basin country, will be paid over to the Treasuries of Puerto Rico and the Virgin Islands. These payments are to be reduced by the estimated amount necessary for payment of refunds and drawbacks. The Act does not impose restrictions on the uses to which the Government of the Virgin Islands or the Government of Puerto Rico may put the revenues they receive under the provision of this section of the Act.

The Act states that the Secretary of the Treasury shall, from time to time, prescribe by regulation a formula for the division of the tax collections between Puerto Rico and the Virgin Islands. This formula can be found in the regulations portion of this document along with the timing and methods for transferring such tax collections. For the purposes of this section of the Act, the term "rum" means any article classified under item 169.13 or 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1202).

The following section of this preamble explains the justification for using this formula to determine the division of tax collections between Puerto Rico and the Virgin Islands. The general public will not be affected by the change mandated by Pub. L. 98–67. Distilled spirits plants importing bulk rum for bottling will be

affected insofar as internal reporting procedures are concerned.

Regulatory Changes

The intent of section 221 of the Caribbean Basin Economic Recovery Act is to help prevent a reduction in Federal tax payments to the Treasuries of Puerto Rico and the Virgin Islands from rum excise tax collections. The formula that is to be incorporated into the temporary regulations will permit both possessions to proportionally share in any future growth of the U.S. rum market that may result from this Act. However, this temporary formula does not take into account the fact that one possession may lose more revenue than the other due to rum imports.

The Bureau of Alcohol, Tobacco and Firearms is in the process of compiling and evaluating information which will enable it to propose a formula that will compensate Puerto Rico and the Virgin Islands for any reduction in their revenues due to rum imports. The formula will be published in the **Federal Register** in the near future as a notice of proposed rulemaking. The formula shown in this temporary regulation will remain in effect until it is superseded by the formula in the final regulation.

In order for ATF to accurately determine the amount of rum brought into the United States from Puerto Rico, the Virgin Islands, and all other areas, it is necessary to require that distilled spirits plants importing bulk rum alter their reporting procedures to provide a more detailed breakdown between imported and domestic rum which is deposited into their processing accounts. This change in the reporting procedures requires amendments to the regulations in Part 19. The amendments to Part 19 concern adjustments to the reporting procedures on the Monthly Report of Processing Operations (ATF Form 5110.28), and Claim forms. ATF F 5110.28 is used by the Bureau and the IRS for determining the amount of excise taxes collected on bulk distilled spirits brought into the U.S. that is paid over to the Treasuries of Puerto Rico and the Virgin Islands. It is also used for statistical purposes.

The implementation of the Caribbean Basin Economic Recovery Act necessitates another change to Part 19 concerning additional taxes due on spirits that are imported for non-beverage purposes and then withdrawn from the bonded premises of a distilled spirits plant for beverage purposes. The additional internal revenue tax imposed by 26 U.S.C. 5001(a)(9) is actually a customs duty that is due on the spirits. This Act eliminates customs duties on merchandise from certain Caribbean Basin countries; therefore, an amendment to 27 CFR 19.517 is necessary to exempt those designated countries from the additional tax requirement.

The formula that is required by this Act to be prescribed by regulation will require several amendments to Part 250 of the regulations. The actual formula is discussed in the next section of this preamble.

The provisions of 26 U.S.C. 7652 were incorporated into the regulations of 27 CFR Part 170, Subparts F and G, but were revoked by Treasury Decision ATF-62, effective January 1, 1980. Therefore, the amendments to Part 250 presented in this document will not only describe the formula for distributing the excise taxes collected on rum imported into the U.S. from areas other than Puerto Rico and the Virgin Islands, but will also set forth the existing provision for paying over to the Treasuries of Puerto Rico and the Virgin Islands the excise taxes on distilled spirits produced in those possessions, and brought into the U.S.

The timing and methods for transferring into the Treasuries of Puerto Rico and the Virgin Islands the taxes collected on rum imported into the U.S. from other areas will be the same as presently used to transfer excise taxes to Puerto Rico (i.e., on a monthly basis).

The Formula

Since the Caribbean Basin Economic Recovery Act retroactively mandates that the excise taxes collected on all rum imported into the U.S. after June 30, 1983, be transferred to the Treasuries of Puerto Rico and the Virgin Islands, it is necessary to implement an immediate amendment to the regulations to set forth the formula for the division of these taxes.

The formula that will be incorporated into the temporary regulations will provide that the distribution of the excise taxes collected under 26 U.S.C. 5001(a)(1) on rum imported from areas other than Puerto Rico and the Virgin Islands will be proportional to the average amount of excise taxes collected on rum brought into the U.S. from Puerto Rico and the Virgin Islands during the fiscal years 1980, 1981, and 1982. Averaging the figures for taxes collected on both bulk and cased rum brought into the U.S. from Puerto Rico and the Virgin Islands during these fiscal years, the base distribution is 86.4 percent ($233,762,604) for Puerto Rico, and 13.6 percent ($36,877,733) for the Virgin Islands. Pending a final regulation, this formula represents the distribution that IRS will make monthly of the excise taxes on rum imports from other areas.

The formula to be incorporated into the regulations will only affect the distribution of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands. The excise taxes collected on rum brought into the U.S. from these two possessions will continue to be covered into the Treasury of the possession in which the rum was produced.

Executive Order 12291

It has been determined that this temporary rule is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 17, 1981), because it will not have a annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this temporary rule, because no notice of proposed rulemaking is required by 5 U.S.C. 553(b) or any other statute.

Paperwork Reduction Act

The requirements to collect information imposed by this temporary rule have been approved by the Office of Management and Budget under sec. 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35 (control number 1512-0277). Comments relating to the collection of information requirements contained in this temporary rule should be submitted to: Office of Information and Regulatory Affairs, Attention: ATF Desk Officer, Office of Management and Budget, Washington, D.C. 20503.

Opportunity for Public Comment

Due to the immediate need for regulations to implement provisions mandated by the passage of Pub. L. 98-67, including the provision to distribute between Puerto Rico and the Virgin Islands all excise taxes collected on rum imported into the United States after June 30, 1983, from all areas other than these two possessions, these temporary

regulations are being published without prior notice or opportunity for public comment. As noted previously in this document, the temporary distribution percentage for these excise taxes on imported rum will be 86.4 percent to Puerto Rico and 13.6 percent to the Virgin Islands. However, we are in the process of compiling and evaluating information which will allow us to prepare a formula that will also compensate each of these two possessions for any reduction in its revenues due to rum imports from other places. This formula will be published in the near future as a notice of proposed rulemaking in the **Federal Register**. The notice will request all interested persons to submit comments during the comment period. Commenters will be asked to make specific suggestions regarding the proposed formula and to propose possible alternative formulas along with specific reasons why the alternative formulas are better than the one proposed. All public comments will be carefully considered before we issue final regulations concerning this matter. Once final regulations are issued, the formula contained in the final regulations will replace the 86.4/13.6 distribution percentage which is contained in this temporary rule.

Drafting Information

The authors of this document are Susan McCarron and Robert White of the Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms. Other personnel of the Bureau, the Treasury Department (including personnel from the Customs Service and the Internal Revenue Service), and the Department of the Interior participated in the preparation of this document.

Effective Date

There is a need for immediate guidance by the distilled spirits industry to implement certain provisions of the Caribbean Basin Economic Recovery Act. The statute applies to articles imported into the United States after June 30, 1983. Consequently, it is found that it would be impracticable and unnecessary, within the meaning of 5 U.S.C. 553(b), to provide a notice of proposed rulemaking prior to the issuance of any regulations. For the same reason it is found that these regulations are exempt from compliance with the 30-day effective date limitation of 5 U.S.C. 553(d). Accordingly, these temporary regulations shall become effective on the date of their publication in the **Federal Register**.

List of Subjects

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research and security measures, Spices and flavorings, Surety bonds, Transportation, U.S. possessions, Warehouses, Wine.

27 CFR Part 250

Administrative practice and procedure, Authority delegations, Beer, Customs duties and inspection, Electronic fund transfers, Excise taxes, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation, U.S. posessions, Wine.

Authority and Issuance

These regulations are issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended). Accordingly, Title 27 of the Code of Federal Regulations is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

Paragraph 1. The table of contents of 27 CFR Part 19 is amended to change the title of § 19.377. As revised, the title of § 19.377 reads as follows:

§ 19.377 Receipt of Puerto Rican and Virgin Islands spirits and receipt of rum from all other areas.

* * * * *

Par. 2. Section 19.42 is amended by revising paragraph (e) to read as follows:

§ 19.42 Claims on spirits returned to bonded premises.

* * * * *

(e) The serial number of ATF F 5110.17 recording the gauge of spirits returned to bonded premises. If the spirits contain Puerto Rican or Virgin Islands rum or spirits, or rum imported from any area other than Puerto Rico and the Virgin Islands, the claim shall show:

(1) The precise quantity (in proof gallons) of the finished product derived from Puerto Rican or Virgin Islands rum or spirits, or rum imported from any other area; and

(2) The amount of tax and the applicable rate of tax imposed by 26 U.S.C. 7652 or 26 U.S.C. 5001(a)(1), determined at the time of withdrawal from bond, on the Puerto Rican or Virgin Islands rum or spirits, or on the rum imported from any other area, contained in the product.

Claims for credit or refund of tax shall be filed by the proprietor of the plant to which the spirits were returned within six months of the date of the return. If the claim is allowed, refund (without interest) will be made, or credit (without interest) will be allowed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008); sec. 807, Pub. L. 96–39, 93 Stat. 285 (26 U.S.C. 5215))

(Approved by the Office of Management and Budget under control number 1512–0277)

Par. 3. Section 19.377 is revised to read as follows:

§ 19.377 Receipt of Puerto Rican and Virgin Islands spirits and receipt of rum from all other areas.

(a) Proprietors shall maintain a separate accounting in proof gallons of Puerto Rican or Virgin Islands spirits received in the processing account for nonindustrial use, showing spirits from the storage account of the same or another plant or from customs custody. Each month proprietors shall determine the percentage of overall monthly processing gains or losses of nonindustrial spirits. The proof gallons of Puerto Rican or Virgin Islands spirits received in processing during any month shall be adjusted by the percentage of overall gains or losses for the month. Proprietors shall file monthly reports on Form 5110.28 showing separately the adjusted proof gallons of Puerto Rican rum, other Puerto Rican spirits, Virgin Islands rum, and other Virgin Islands spirits received in processing as provided in § 19.786.

(b) Proprietors shall maintain a separate accounting in proof gallons of imported rum from all areas other than Puerto Rico and the Virgin Islands that is received in the processing account. This amount shall be adjusted by the percentage of overall gains or losses for the month by the proprietor. This information will be reported monthly on Form 5110.28 showing separately the number of proof gallons of imported rum other than from Puerto Rico or the Virgin Islands.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5555); sec. 221, Pub. L. 98–67, 97 Stat. 369 (26 U.S.C. 7652))

(Approved by the Office of Management and Budget under control number 1512–0277)

Par. 4. Section 19.517 is revised to exempt certain Caribbean Basin countries from the additional tax. As revised, § 19.517 reads as follows:

§ 19.517 Imported spirits.

(a) *Non-Caribbean Basin countries.* When spirits which have been imported for non-beverage purposes and transferred to bonded premises pursuant to 26 U.S.C. 5232 are withdrawn for beverage purposes, there shall be paid, in addition to the internal revenue tax imposed by 26 U.S.C. 5001, a tax equal to the duty which would have been paid had the spirits been imported for beverage purposes, less the duty already paid thereon. The additional tax shall be referred to as "additional tax—less duty", and shall be paid at the time and in the manner that the basic tax is paid. The total quantity in proof gallons withdrawn shall be the basis for computing the tax at the rates indicated. The amount of the "additional tax—less duty" shall be stated separately and identified as such on the tax return.

(b) *Designated Caribbean Basin countries.* The additional tax (duty) imposed by 26 U.S.C. 5001(a)(9), on imported spirits originally withdrawn from customs custody for non-beverage purposes without payment of tax, and thereafter withdrawn from bonded premises for beverage purposes, is not applicable to spirits that are manufactured in certain Caribbean Basin countries, imported into the United States, and transferred to bonded premises under the provisions of this part. In order to be exempt from the additional tax (duty), the Caribbean Basin country must be designated by the President under the provisions of 19 U.S.C. 2701 and 2702.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); sec. 221, Pub. L. 98–67, 97 Stat. 369 (26 U.S.C. 7652))

(Approved by the Office of Management and Budget under control number 1512–0277)

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Paragraph 1. The table of contents for 27 CFR Part 250 is amended to reflect the addition of §§ 250.30 and 250.31, the removing and reserving of Subpart C, and the addition of Subparts Ca and Cb. Sections 250.35–250.45 previously assigned to Subpart C are reassigned to Subpart Cb. As amended, the table of contents for Part 250 reads as follows:

* * * * *

Subpart C—[Reserved]

Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands

250.30 Excise taxes.
250.31 Formula.

Subpart Cb—Products Coming into the United States From Puerto Rico

250.35 Taxable status.

* * * * *

Par. 2. Section 250.1 is revised to add reference to provisions of 26 U.S.C. 7652 which will be in §§ 250.35 and 250.200. As revised, § 250.1 reads as follows:

§ 250.1 Alcoholic products coming into the United States From Puerto Rico and the Virgin Islands.

This part, "Liquors and Articles from Puerto Rico and the Virgin Islands," relates to:

(a) The production, bonded warehousing, and withdrawal of distilled spirits and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax;

(b) The collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands;

(c) The transfer, without payment of tax, of Puerto Rican and Virgin Islands spirits in bulk containers or by pipeline from customs custody to the bonded premises of a distilled spirits plant qualified under Part 19 of this chapter;

(d) The deposit of the distilled spirits excise taxes, collected under 26 U.S.C. 5001(a)(1), into the Treasuries of Puerto Rico and the Virgin Islands on all distilled spirits, or articles containing distilled spirits which are subject to tax under section 5001(a)(10) or section 7652, produced by those two U.S. possessions, and transported into the United States (less certain amounts); and

(e) The deposit of the distilled spirits excise taxes, collected under 26 U.S.C. 5001(a)(1), into the Treasuries of Puerto Rico and the Virgin Islands on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), less certain amounts.

(Sec. 221, Pub. L. 98–67, 97 Stat. 369 (26 U.S.C. 7652))

(Approved by the Office of Management and Budget under control number 1512–0277)

Par. 3. 27 CFR Part 250 is amended by removing and reserving the heading of Subpart C, as follows:

Subpart C—[Reserved]

Par. 4. Part 250 is amended to reflect the addition of Subpart Ca, to read as follows:

Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands

§ 250.30 Excise taxes.

All distilled spirits excise taxes collected under 26 U.S.C. 5001(a)(1) (less the estimated amounts necessary for payment of refunds and drawbacks), on all rum imported into the United States from outside the country (including rum from possessions other than Puerto Rico and the Virgin Islands), will be deposited into the Treasuries of Puerto Rico and the Virgin Islands according to the formula described in § 250.31. The provisions of this section of the regulations are applicable to all rum imported after June 30, 1983, into the United States, other than rum from Puerto Rico and the Virgin Islands.

(Sec. 221, Pub. L. 98–67, 97 Stat. 369 (26 U.S.C. 7652))

(Approved by the Office of Management and Budget under control number 1512–0277)

§ 250.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands in proportion to the average amount of taxes that were collected on rum brought into the U.S. from these two possessions during the fiscal years 1980, 1981, and 1982. Accordingly, the Puerto Rican Treasury will receive 86.4 percent, and the Virgin Islands Treasury will receive 13.6 percent, of the excise taxes collected on rum imported into the United States from areas other than Puerto Rico and the Virgin Islands.

(b) The method for transferring the excise tax collections on rum imported from other countries into the Treasuries of Puerto Rico and the Virgin Islands shall be the same as the method used for transferring excise taxes on distilled spirits (including rum) brought into the United States from Puerto Rico, and deposited into that Treasury.

(Sec. 221, Pub. L. 98–67, 97 Stat. 369 (26 U.S.C. 7652))

(Approved by the Office of Management and Budget under control number 1512–0277)

Par. 5. Part 250 is amended to reflect the addition of Subpart Cb. Sections 250.35–250.45 previously assigned to Subpart C are reassigned in full as Subpart Cb. Section 250.35 is revised, and the heading for Subpart Cb is added to read as follows:

Subpart Cb—Products Coming Into the United States From Puerto Rico

§ 250.35 Taxable status.

(a) Liquors coming into the United States from Puerto Rico, except as provided in § 250.36, are subject to a tax equal to the internal revenue tax imposed on the production in the United States of like liquors. Articles coming into the United States from Puerto Rico, except as provided in § 250.36, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

(b) Distilled spirits excise taxes, collected under 26 U.S.C. 5001, on all distilled spirits, or articles containing distilled spirits which are subject to tax under section 5001(a)(10) or section 7652, coming into the United States from Puerto Rico, or consumed on the island, will be deposited into the Treasury of Puerto Rico. Such excise tax deposits into the Treasury of Puerto Rico will be reduced by the estimated amount necessary for payment of refunds and drawbacks.

* * * * *

Par. 6. Section 250.200 of Subpart J is revised as follows:

§ 250.200 Taxable status.

(a) Liquors coming into the United States from the Virgin Islands, except as provided in § 250.201, are subject to a tax equal to the internal revenue tax imposed upon the production in the United States of like liquors. Articles coming into the United States from the Virgin Islands, except as provided in § 250.201, are subject to tax on the liquors contained therein at the rates imposed in the United States on like liquors of domestic production.

(b) Distilled spirits excise taxes, collected under 26 U.S.C. 5001, on all distilled spirits, or articles containing distilled spirits which are subject to tax under section 5001(a)(10) or section 7652, coming into the United States from the Virgin Islands will be paid to the Treasury of the Virgin Islands. Such excise tax payments to the Treasury of the Virgin Islands will be reduced by one percent and by the estimated amount of refunds or credits, and may be further reduced by certain amounts deposited to the U.S. Treasury as miscellaneous receipts. The moneys so transferred and paid over shall constitute a separate fund in the Treasury of the Virgin Islands, and may be expended as the Virgin Islands legislature may determine, provided, that the approval of the President of the United States or his designated representative shall be obtained before such moneys may be obligated or expended by the Virgin Islands.

* * * * *

Signed: March 9, 1984.

Stephen E. Higgins,

Director.

Approved: May 4, 1984.

John M. Walker, Jr.

Assistant Secretary, Enforcement and Operations.

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H.R. 3376 / Pub. L. 98–282

To declare that the United States holds certain lands in trust for the Makah Indian Tribe, Washington. (May 14, 1984; 98 Stat. 179) Price: $1.50

Correction: In the list of Public Laws appearing on page iii in the Reader Aids section in the issue of Monday, May 14, 1984, "H.R. 355" should have read "H.R. 3555".

Correction: In the list of Public Laws appearing on page iii in the Reader Aids section in the issue of Tuesday, May 15, 1984, "$150" should have read "$1.50".