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Thursday
July 17, 1986

Briefings on How To Use the Federal Register—

For information on briefings in Seattle, WA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

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

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

SEATTLE, WA

WHEN: July 22; at 1:30 pm.

WHERE: North Auditorium,
Fourth Floor, Federal Building,
915 2nd Avenue, Seattle, WA.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Seattle	206-442-0570
Tacoma	206-383-5230
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Presidential Documents

Title 3—

The President

Executive Order 12562 of July 15, 1986

Establishing an Emergency Board To Investigate Disputes Between Certain Railroads Represented by the National Carriers' Conference Committee of the National Railway Labor Conference and Their Employees Represented by Certain Labor Organizations

Disputes exist between certain railroads represented by the National Carriers' Conference Committee of the National Railway Labor Conference and their employees represented by certain organizations designated on the lists attached hereto and made a part hereof.

These disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (the "Act").

The disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me by Section 10 of the Act, as amended (45 U.S.C. § 160), it is hereby ordered as follows:

Section 1. *Establishment of Board.* There is established, effective July 15, 1986, a board of three members to be appointed by the President to investigate the disputes. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* The board shall report its findings to the President with respect to these disputes within 30 days from the effective date of this Order.

Sec. 3. *Maintaining Conditions.* As provided by Section 10 of the Railway Labor Act, as amended, from the date of the establishment of the board and for 30 days after the board has made its report to the President, no change, except by agreement of the parties, shall be made by the carriers or the employees in the conditions out of which the disputes arose.

Sec. 4. *Expiration.* The board shall terminate upon the submission of the report provided for in Section 2 of this Order.

Ronald Reagan

THE WHITE HOUSE,
July 15, 1986.

Railroads
Alton & Southern Railway Company
Atchison, Topeka & Santa Fe Railway Company
Bessemer and Lake Erie Railroad Company
Burlington Northern Railroad Company

Canadian National Railways—
St. Lawrence Region, Lines in the United States
Great Lakes Region
Canadian Pacific Limited
Central of Georgia Railroad Company
Chicago & Illinois Midland Railway Company
Chicago and North Western Transportation Company
Chicago and Western Indiana Railroad Company
Chicago South Shore and South Bend Railroad
Chicago Union Station Company
Colorado and Wyoming Railway Company
Consolidated Rail Corporation
CSX Transportation
The Baltimore and Ohio Railroad Company
The Baltimore and Ohio Chicago Terminal Railroad Company
The Chesapeake and Ohio Railway Company
CSX Transportation, Inc.
Former Seaboard System Railroad, Inc. which includes the former Seaboard Coast Line Railroad, Louisville and Nashville Railroad (including C&EI and Monon), Clinchfield Railroad, Georgia Railroad and Atlanta and West Point Rail Road
The Toledo Terminal Railroad Company
Western Maryland Railway Company
Western Railway of Alabama
Davenport, Rock Island and North Western Railway Company
Denver and Rio Grande Western Railroad Company
Denver Union Terminal
Des Moines Union Railway Company
Duluth, Missabe and Iron Range Railway Company
Duluth, Winnipeg & Pacific Railway Company
Elgin, Joliet and Eastern Railway Company
Galveston, Houston and Henderson Railroad Company
Grand Trunk Western Railroad Company
Houston Belt and Terminal Railway Company
Illinois Central Gulf Railroad
Kansas City Southern Railway Company
Louisiana & Arkansas Railway Company
Milwaukee-Kansas City Southern Joint Agency
Kansas City Terminal Railway Company
Lake Superior Terminal & Transfer Railway Company
Los Angeles Junction Railway Company
Manufacturers Railway Company
Meridian & Bigbee Railroad
Minnesota and Manitoba Railway Company
Minnesota Transfer Railway Company
Missouri-Kansas-Texas Railroad Company
Missouri Pacific Railroad Company
Weatherford, Mineral Wells and Northwestern Railway
Monongahela Railway Company
Montour Railroad Company
National Railroad Passenger Corporation
Newburgh and South Shore Railway Company
New Orleans Public Belt Railroad
Norfolk and Portsmouth Belt Line Railroad Company
Norfolk and Western Railway Company
Oklahoma, Kansas and Texas Railroad Company

Peoria and Pekin Union Railway Company
Pittsburgh and Lake Erie Railroad
Pittsburgh, Chartiers & Youghiogheny Railway Company
Portland Terminal Railroad Company
Port Terminal Railroad Association
Richmond, Fredericksburg and Potomac Railroad Company
Sacramento Northern Railway Company
St. Joseph Terminal Railroad Company
St. Louis Southwestern Railway Company
Soo Line Railroad Company
Southern Pacific Transportation Company—
    Western Lines
    Eastern Lines
Southern Railway Company—
    Alabama Great Southern Railroad Company
    Atlantic East Carolina Railway Company
    Carolina and Northwestern Railway
    Cincinnati, New Orleans and Texas Pacific Railway Company
    Georgia Southern and Florida Railway Company
    Interstate Railroad Company
    Live Oak, Perry and South Georgia Railroad Company
    Louisiana Southern
    New Orleans Terminal Company
    St. Johns River Terminal Company
    Tennessee, Alabama and Georgia Railway Company
    Tennessee Railway Company
Terminal Railroad Association of St. Louis
Texas Mexican Railway Company
Union Pacific Railroad Company
Western Fruit Express Company
Wichita Terminal Association
Yakima Valley Transportation Company

Labor Organizations

Brotherhood of Maintenance of Way Employees
Brotherhood of Railway Carmen of the U.S. and Canada
Brotherhood of Railroad Signalmen
International Association of Machinists & Aerospace Workers
International Brotherhood of Electrical Workers
International Brotherhood of Firemen & Oilers

[FR Doc. 86-16281
Filed 7-16-86; 10:12 am]
Billing code 3195-01-M

Editorial note: For the text of a White House announcement concerning Presidential Emergency Board No. 211, dated July 15, see the *Weekly Compilation of Presidential Documents* (vol. 22, no. 29).

Rules and Regulations

Federal Register
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Thursday, July 17, 1986

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, and 873

Premium Rates for Life Insurance

AGENCY: Office of Personnel Management.

ACTION: Interim regulations.

SUMMARY: The Office of Personnel Management has re-evaluated the premium rate for basic life insurance and the three forms of optional coverage on the basis of improved mortality experience and changed demographic and economic assumptions. This re-evaluation has resulted in a reduction in the premium rate for basic life insurance, for all age categories for standard optional insurance, and for some age categories for additional optional and family optional insurance. The reductions will be effective with the first pay period beginning on or after August 1, 1986. For retirees, any reductions in premium levels will be reflected in their September 1, 1986, annuity payment.

EFFECTIVE DATE: August 1, 1986.

ADDRESSES: Written comments may be sent to Reginald M. Jones, Jr., Assistant Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street, NW., Wash., DC.

FOR FURTHER INFORMATION CONTACT: Margaret Sears, (202) 632–0003.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. This notice is being waived in order to reduce the premiums required under the Federal Employees' Group Life Insurance Program at the earliest date administratively possible. This reduction represents a savings to both individuals and the Government.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect Federal employees and annuitants only.

List of Subjects in 5 CFR Parts 870, 871, 872, and 873

Administrative practice and procedure, Government employees, Life insurance, Retirement, Workers' compensation.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending Parts 870, 871, 872, and 873 of Title 5 of the Code of Federal Regulations as follows:

1. The authority citation for Parts 870, 871, 872, and 873 continues to read as follows:

Authority: 5 U.S.C. 8716.

PART 870—BASIC LIFE INSURANCE

2. In § 870.401, paragraphs (a), (b), and (f)(1) are revised to read as follows:

§ 870.401 Withholdings and contributions.

(a) During each pay period in which an insured employee is in pay status for any part of the period, $0.185 for each $1,000 of the employee's BIA shall be withheld from the biweekly pay of the employee. The amount withheld from the pay of an employee who is paid on other than a biweekly basis is determined at a proportionate rate, adjusted to the nearest one-tenth of one cent.

(b) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the sum obtained by converting the biweekly rate of $0.185 for each $1,000 of the employee's BIA to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

* * * * *

(f)(1) Except as provided under paragraph (g) of this section, an insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under § 870.601(c)(2) or § 870.701(c)(2) (maximum reduction of 75 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.4008 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.0925 for each $1,000 of the BIA.

* * * * *

PART 871—STANDARD OPTIONAL LIFE INSURANCE

3. In § 871.401, paragraph (c) is revised to read as follows:

§ 871.401 Withholdings.

* * * * *

(c) The biweekly full cost per $10,000 of standard optional insurance until determined by OPM on the basis of experience to be otherwise, is—

For persons under age 35	$0.40
For persons ages 35 through 39	0.50
For persons ages 40 through 44	0.80
For persons ages 45 through 49	1.30
For persons ages 50 through 54	2.20
For persons ages 55 through 59	4.50
For persons ages 60 or over	7.00

The amount withheld from pay, annuity, or compensation paid on other than a biweekly period shall be determined at a proportionate rate, adjusted to the nearest cent.

* * * * *

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

4. In § 872.401, paragraph (c) is revised to read as follows:

§ 872.401 Withholdings.

* * * * *

(c) The biweekly full cost per $1,000 of additional optional insurance in force, until determined by OPM on the basis of experience to be otherwise, is—

For persons under age 35	$0.04
For persons ages 35 through 39	0.05
For persons ages 40 through 44	0.08
For persons ages 45 through 49	0.13
For persons ages 50 through 54	0.22
For persons ages 55 through 59	0.45
For persons ages 60 or over	0.85

The amount withheld from pay, annuity, or compensation paid on other than a biweekly period shall be determined at a proportionate rate,

adjusted to the nearest one-tenth of one cent.

* * * * *

PART 873—FAMILY OPTIONAL LIFE INSURANCE

5. In § 873.401, paragraph (c) is revised to read as follows:

§ 873.401 Withholdings.

* * * * *

(c) The biweekly cost of family optional insurance applicable to employees, annuitants, and compensationers (not family members), until determined by OPM on the basis of experience to be otherwise, is—

For persons under ages 35	$0.30
For persons ages 35 through 39	0.31
For persons ages 40 through 44	0.52
For persons ages 45 through 49	0.70
For persons ages 50 through 54	1.10
For persons ages 55 through 59	1.75
For persons ages 60 or over	2.80

The amount withheld from pay, annuity, or compensation paid on other than a biweekly period shall be determined at a proportionate rate, adjusted to the nearest cent.

* * * * *

[FR Doc. 86-16073 Filed 7-16-86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

Grapes Grown in Designated Area of Southeastern California Expenses and Rate of Assessment for 1985-86—M.O. 925; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects an earlier budget established for California Desert Grapes. Final rule authorizing expenses and rate of assessment for the 1985-86 year was published April 30, 1986, in the **Federal Register** (51 FR 16003). The correct expense amount is $50,500 instead of $42,000. The assessment rate is $0.005 per 22-pound container.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250; Telephone 202-447-5697.

List of Subjects in 7 CFR Part 925

Marketing agreements and orders, Desert grapes, California.

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

Therefore, § 925.205 is corrected to read as follows:

§ 925.205 [Corrected]

Section 925.205 is corrected by changing $42,000 to $50,500.

Dated: July 11, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86-16140 Filed 7-16-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 948

Irish Potatoes Grown in Colorado, Area No. 3; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule and opportunity to file comments.

SUMMARY: This interim final rule changes the effective date for the maturity requirements from August 1 through December 31 to July 11 through December 31 for the 1986 season and July 1 through December 31 for subsequent seasons. Colorado Area No. 3 is producing earlier maturing varieties of potatoes and now starts shipping in July rather than August. Shipments of 1986 crop potatoes for this area are expected to start about July 11. The maturity requirements need to be in effect at the time shipments begin.

DATES: Interim final rule effective July 11, 1986. Comments which are received by August 18, 1986, will be considered prior to issuance of the final rule.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085-S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250. Telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This interim final rule has been reveiwed under Departmental Regulation 1512-1 and Executive Order 12291 and has been determined to be a "non-major" rule under the criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has detemined that this action will not have a significant economic impact on a substantial number of small entities.

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

This interim final rule is issued under the marketing agreement and Order No. 948, both as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in Colorado. 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 on a recommendation made by the Colorado Area No. 3 Potato Committee at a public meeting in Greeley, Colorado, on June 12, 1986. That committee, established under the marketing agreement and order, works with the Department in administering the program.

At that meeting the committee recommended an earlier effective date for the minimum maturity requirements for all varieties of potatoes produced and marketed from that area. The maturity requirements are based on the degree of skinning on a shipment of potatoes and are effective during the period August 1 through December 31 each season. These requirements prevent badly skinned potatoes from being distributed to fresh market outlets.

In recent years the producers from this area have switched to earlier maturing varieties and early season shipments now begin in July rather than August. To reflect these changes in industry production and marketing practices, the effective dates should be changed to July 11 for the 1986 season because that is when 1986 crop shipments are expected to start, and to July 1 for each season thereafter.

Maturity requirements relate to the amount of skin on the potato, which can be a factor on the storability of potatotes. "Slightly skinned" potatoes means that not more than 10 percent of the potatoes in the lot have more than one-fourth of the skin missing or "feathered." All varieties of potatoes must grade at least U.S. No. 2, which has no skinning requirement; but under M.O. 948 potatoes cannot be more than "moderately skinned" which means that not more than 10 percent of the potatoes in a lot have more than one-half of the

skin missing or "feathered." For all other grades potatoes cannot be more than "slightly skinned."

The earlier effective date will insure the maturity of early season shipments in the interest of producers and consumers and have no measurable effect on the quantity of potatoes shipped from Colorado Area No. 3, or upon U.S. retail potato prices. The eariler effective date should enable the Colorado Area No. 3 potato industry to better compete with other potato producing areas in the U.S. by insuring the use of qualities acceptable to buyers throughout its entire season. The shipment of unacceptable quality potatoes early in the season can have a negative impact on grower returns.

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

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this interim final rule is based and the effective date necessary to effectuate the declared purposes of the Act. The harvest and shipment of Colorado Area No. 3 potatoes is expected to begin about July 11. Hence, this action must be effective promptly to minimize any inequity among producers or handlers due to different requirements for different parts of the 1986 shipping season. This change in the handling regulation was unanimously recommended by the committee at an open meeting held June 12, 1986. Information regarding this anticipated action has been disseminated among growers and handlers of Colorado Area No. 3 potatoes, and they have been preparing to conduct their operations in light thereof. Hence, they do not require additional time or notice for preparation. However, because of the future effect of this action, it is appropriate to request comments on the action before finalizing it.

List of Subjects in 7 CFR Part 948

Marketing agreements and orders, Potatoes, Colorado.

PART 948—IRISH POTATOES GROWN IN COLORADO

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

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

2. Section 948.387 (47 FR 32910, July 30, 1982) is revised to read as follows:

§ 948.387 Handling regulation.

* * * * *

(b) *Maturity (skinning) requirements—All Varieties*—During the period beginning July 1 and ending December 31 each season, except for the 1986 season which will begin July 11 and end December 31, for U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned"; thereafter no maturity requirements.

* * * * *

Dated: July 11, 1986.

Joseph A. Gribbin,

Director Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–16102 Filed 7–16–86; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1434

Honey Price Support Regulations Governing 1986–1990 Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the Honey Price Support Regulations at 7 CFR Part 1434 to implement the amendment to section 201(b) of the Agricultural Act of 1949 ("1949 Act") (7 U.S.C. 1446(b)) made by the Food Security Act of 1985 for the 1986–1990 crops of honey. The amended provisions principally relate to the Secretary of Agriculture's authority to permit honey producers to repay their price support loans at a level lower than the loan level. The interim rule also (a) defines adulterated honey and makes producers who knowingly pledge adulterated or imported honey ineligible for price support benefits for 3 years; (b) establishes the loan period at nine months; and (c) makes a minor change in connection with the loan application procedure.

EFFECTIVE DATES: April 1, 1986. Comments must be received on or before August 18, 1986, in order to be assured of consideration.

ADDRESS: Send comments on the interim rule to Director, Cotton, Grain and Rice Price Support Division, ASCS–USDA, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this rule will be made available for public inspection in Room 3627-South Building, USDA, between the hours of 8:15 and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ross D. Ballard, Cotton, Grain and Rice Price Support Division, ASCS, U.S. Department of Agriculture, at (202) 447–4704. The Final Regulatory Impact Analysis describing the actions taken in connection with this interim rule and their impact is available from Harry A. Sullivan, Commodity Analysis Division, USDA–ASCS, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–6758.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 1434) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35, and have been assigned OMB clearance numbers 0560–0040 and 0560–0087.

This interim rule has been reviewed under the U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Executive Order 12291 and Department Regulation No. 1512–1 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) 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.

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

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

It has been determined that this action is not expected to have any 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 Statement is needed.

The title and number of the Federal Assistance Program to which this interim rule applies are: Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance.

Background

Section 201(b) of the Agricultural Act of 1949 (1949 Act) (7 U.S.C. 1446), as amended by section 1041 of the Food Security Act of 1985 for the 1986–1990 crops of honey provides as follows:

(1)(A) For the 1986 crop, the loan and purchase level for honey shall be 64 cents per pound, (B) For the 1987 crop, the loan and purchase level for honey shall be 63 cents per pound, (C) For each of the 1988, 1989, and 1990 crops, the loan and purchase level for honey shall be the same as the level established for the preceding crop year reduced by 5 percent, except that such level may not be less than an amount equal to 75 percent of the simple average price received by producers of honey in the 5 preceding crop years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period;

(2) The Secretary may permit a producer of honey to repay a price support loan made to the producer for a crop at a level that is the lesser of: (A) the loan level determined for such crop; or (B) such level as the Secretary determines will minimize the number of loan forfeitures; not result in excessive total stocks of honey; reduce the costs incurred by the Federal Government in storing honey; and maintain the competitiveness of honey in domestic and export markets; and

(3) Defines adulterated honey and makes a producer ineligible for price support benefits for 3 years if the Secretary determines that the producer knowingly pledged adulterated or imported honey as collateral for a price support loan.

A Notice of Proposed Determinations for implementing provisions of section 201(b) of the 1949 Act was published in the **Federal Register** on March 6, 1986 at 51 FR 7839. The proposed determinations provided that (1) the 1986 program would be a price support loan program with a loan rate of 64 cents per pound; (2) the 1986-crop honey loan rate would be adjusted to reflect floral source, color, class and grade, and other market differentials under which honey is marketed; and (3) producers with price support loans for the 1986-crop honey would be permitted to repay such loans at the lesser of the loan level for such crop or at a level which the Secretary determines will minimize the number of loan forfeitures, not result in excessive total stocks of honey, reduce the costs incurred by the Federal Government in storing honey, and maintain the competitiveness of honey in domestic and export markets.

On April 1, 1986, the Secretary announced the following determinations: (1) The average price support loan rate for 1986 honey production will be 64.0 cents per pound; (2) the honey loan rates for extracted honey in 60-pound or larger containers based on color and/or class are as follows: white or lighter, 67.1 cents per pound; extra light amber, 63.1 cents per pound; light amber, 58.2 cents per pound; and other table and non-table honey, 52.2 cents per pound; and (3) producers with honey price support loans will be permitted to repay their loans at the price support level or a lesser level as determined by the Secretary.

A Notice of Final Determinations was issued on July 8, 1986 (51 FR 24732). The Notice affirmed the determinations announced by the Secretary on April 1, 1986, and further provided that (1) the loan repayment level will be determined and announced weekly by the Secretary, or a designee, (2) interest will not be assessed on loans redeemed at lower repayment levels, and (3) pledged honey redeemed at lower repayment levels shall not be eligible to be pledged as collateral for a new loan.

Comments on Program Revisions

In making the final determinations and in preparing this interim rule, all comments concerning the proposed determinations, as well as some comments received prior to the publication of the notice of proposed determinations, were considered. All comments received are on file and available for public inspection in Room 3627-South Building, 14th and Independence Avenue SW., Washington, DC. A number of suggestions made by the commenters have been adopted. See the Notice of Final Determinations for a more thorough discussion of these comments.

Effective Crop Years

The amendments made to section 201(b) of the 1949 Act are effective for the 1986 through 1990 crop years. Accordingly, the heading of the Table of Contents, the Subpart heading, and the text of § 1434.1 have been amended to reflect this fact.

Loan Repayment Level

Commenters favored the new loan repayment option and generally recommended that all market factors, including import prices and domestic sales, be used to estabish the lower loan repayment level. This suggestion has been adopted. The loan repayment level will be based primarily on the market prices of honey. Market data from commercial honey business entities (honey importers/exporters, packers, producers and producer/packers) will be utilized in determining the market prices. Price and quantity data, by color and class, will be collected from a selected subset of these business entities to determine representative market prices for the various color and class of honey.

The lower loan repayment levels will be determined on the basis of the representative market prices adjusted to provide sufficient incentives (margins) to encourage producers to redeem their honey which is pledged as collateral for price support loans.

The repayment levels will be determined and announced by the Secretary, or a designee, on a weekly basis. It is expected that changes in the market conditions may warrant adjustments in the repayment levels on a weekly basis to provide sufficient incentives for producers to redeem their loans.

Accordingly, §§ 1434.25 (a), (b), and (c), 1434.26(a) and 1434.27 are amended and § 1434.25(d) is added to provide that a producer of honey may repay a price support loan at a level determined by the Secretary, or a designee, that is lower than the loan level. Also, § 1434.25(d) provides that the Secretary, or a designee, shall determine and publicly announce on a weekly basis, the repayment levels for each color and class of honey.

Interest on Lower Loan Repayment

Commenters also recommended that interest charges be forgiven when loans are repaid at the lower loan repayment levels. This suggestion has been adopted because it will provide an additional incentive for producers to redeem their loan collateral. Accordingly, § 1434.18(c) has been added and §§ 1434.25 (a), (b) and (c), 1434.26(a), and 1434.27 have

been amended to provide that interest will not be assessed on loans which have been paid at a level which is less than the loan level.

Honey Redeemed at Lower Loan Repayment Level

Commenters also recommended that the honey redeemed at the lower loan repayment level not be permitted to be repledged for additional price support loan. They recommended that provisions be adopted to ensure that such redeemed honey not be repledged for new loans by requiring the producers to submit evidence that the honey was disposed of such as sales receipts to verify the sale of honey. This suggestion has been adopted. Accordingly, § 1434.4(e) is amended to provide that honey which is redeemed at a level which is less than the loan level may not be reoffered as security or repledged as collateral for a new loan. Section 1434.4(e) is also amended to require producers who redeem honey at the lower loan repayment level to provide evidence of disposition of the redeemed honey, such as sales receipts or other documentation, or, if not disposed of by sale or otherwise, to provide CCC with the storage location and allow CCC access to the redeemed honey.

Loan Application, Availability, Maturity and Expiration Dates

Commenters also suggested changes in the current loan availability and/or maturity dates. They suggested extending the loan availability and/or the maturity dates beyond the current January 31 and April 30 dates, respectively. One commenter suggested that the loan period be established at nine months.

The suggestion to establish the loan period at nine months has been adopted.

Accordingly, § 1434.6(b) has been amended to provide that the loan maturity date shall be the last day of the ninth calendar month following the month in which the loan application was made. The purpose for this change is to make the price support loan aspect of the honey program consistent with the loan maturity dates of other price supported commodities.

Section 1434.6(b) has also been amended to provide that, if a loan is not disbursed within a month following the month in which the loan application is made, the producer must reapply for a loan unless CCC determines that the delay was caused by reasons beyond the producer's control. This change is also being made to make the Honey Price Support Program regulations consistent with the price support program regulations for other commodities.

Ineligible Honey

Section 201(b) of the 1949 Act was also amended by section 1041 of the Food Security Act of 1985 to provide that if the Secretary of Agriculture determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a price support loan, such person shall, in addition to any other penalties or sanctions prescribed by law, be ineligible for a loan, purchase, or payment for the three crop years succeeding such determination. Section 201(b), as amended, also provides that honey shall be considered adulterated if (A) any substance has been substituted wholly or in part for such honey; (B) such honey contains a poisonous or deleterious substance that may render such honey injurious to health, except that in any case in which such substance is not added to such honey, such honey shall not be considered adulterated if the quantity of such substance in or on such honey does not ordinarily render it injurious to health; or (C) such honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.

Accordingly, this interim rule adopts the statutory changes by adding § 1434.3(h) to provide that persons who knowingly pledged adulterated or imported honey as collateral under the honey price support loan program would be ineligible for price support benefits for 3 years and by revising § 1434.8(b) to define adulterated honey.

This regulation is being promulgated as an interim rule because honey price support loans became available to producers when the loan rates were announced by the Secretary on April 1, 1986. Producers, therefore, need to know as soon as possible how CCC intends to implement the loan repayment option contained in the amended section 201 of the 1949 Act to obtain the maximum benefit of such option. It is also important that the provisions relating to the definition of adulterated honey and the penalty provision for pledging adulterated or imported honey be issued promptly for program enforcement purposes. A 30-day comment period is being provided to allow interested persons an opportunity to comment on the provisions of this interim rule. A final rule will be issued together with any changes which CCC determines to be necessary as a result of the comments received on the provisions of this interim rule.

List of Subjects in 7 CFR Part 1434

Honey, Loan programs—Agriculture, Price support programs, Warehouse.

Interim Rule

PART 1434—HONEY

Accordingly, the regulations at 7 CFR Part 1434 are amended to read as follows:

1. The authority citation for Part 1434 continues to read as follows:

Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); Sec. 5, 62 Stat. 1072 (15 U.S.C. 714c); Secs. 201, 401, 63 Stat. 1052, 1054, as amended (7 U.S.C. 1446, 1421).

2. a. The subpart heading in the table of contents and the regulatory text is amended by removing "1982 and subsequent Crops" and inserting in lieu thereof "1986 through 1990 Crops".

§ 1434.1 [Amended]

b. Section 1434.1 is amended by removing "1982 and each subsequent crop" and inserting in lieu thereof "1986 through 1990 crops".

3. Section 1434.3(h) is added to read as follows:

§ 1434.3 [Amended]

* * * * *

(h) *Ineligibility.* If the Secretary of Agriculture, or a designee, determines that a producer knowingly pledged adulterated or imported honey as collateral to secure a price support loan, such producer shall, in addition to any other penalties or sanctions prescribed by law, be ineligible for any honey price support benefit for 3 crop years succeeding such determination.

§ 1434.4 [Amended]

4. Section 1434.4(e) is amended by 1. adding before the period at the end thereof ", except that honey which has been redeemed at a level which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii), may not be reoffered as security or repledged as collateral for a new loan", and 2. adding a new sentence as follows: "Producers who redeem honey at the lower loan repayment level shall provide CCC with (1) evidence of disposition of the redeemed honey such as sales receipts or other written documentation acceptable to CCC or (2) the storage location of the redeemed honey which has not been otherwise disposed of and allow CCC access to such honey."

§ 1434.6 [Amended]

5. Section 1434.6(b) is amended by removing the third sentence and

inserting in lieu thereof the following two sentences: "If the loan is not disbursed by the last day of the calendar month following the month in which the loan application is made, the producer must reapply for a loan, unless CCC determines that the delay was caused by reasons beyond the producer's control. Purchase agreements expire and price support loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan application is made."

6. Section 1434.8(b) is revised to read as follows:

§ 1434.8 [Amended]

* * * * *

(b) *Adulteration.* Honey which is adulterated is not eligible for price support. Honey shall be considered adulterated if:

(1) Any substance has been substituted wholly or in part for such honey;

(2) Such honey contains a poisonous or deleterious substance that may render such honey injurious to health, except that in any case in which such substance is not added to honey, such honey shall not be considered adulterated if the quantity of such substance in or on such honey does not ordinarily render it injurious to health; or

(3) Such honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human or animal consumption.

* * * * *

7. Section 1434.18(c) is added to read as follows:

§ 1434.18 [Amended]

* * * * *

(c) Interest shall not be assessed on a price support loan for honey which has been repaid at a level which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii).

§ 1434.25 [Amended]

8. Section 1434.25 is amended as follows:

a. In paragraph (a), the second sentence is amended by 1. adding the designation "(1)" after the first time "CCC" appears and 2. by adding before the period at the end thereof ", or (2) an amount, without interest, which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii)".

* * * * *

b. Paragraph (b) is amended by adding before the period at the end of the first sentence: ", by payment of (1) the amount of the loan, plus interest, or (2) an amount, without interest, which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii)".

* * * * *

c. Paragraph (c) is amended by (1) adding in the first sentence after the words "repayment of" the designation "(1)" and by adding before period at the end thereof ", or (2) an amount, without interest, which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii)" and (2) adding in the third sentence after the word "loan", ", as provided in this paragraph (c),".

* * * * *

e. Paragraph (d) is added to read as follows:

* * * * *

(d) *Repayment of loan at level less than loan level.* (1) Producers of honey may repay honey price support loans at the level that is the lesser of:

(i) The loan level determined for such crop;

or

(ii) Such level as the Secretary, or a designee, determines will (A) minimize the number of loan forfeitures; (B) will not result in excessive total stocks of honey; (C) reduce the costs incurred by the Federal Government in storing honey; and (D) maintain the competiveness of honey in domestic and export markets.

(2) The Secretary, or a designee, shall determine and publicly announce the repayment levels for each color and class of honey on a weekly basis.

§ 1434.26 [Amended]

9. In § 1434.26(a), the first sentence is amended by a. adding after the words "required to", the designation "(1)", b. removing the word "or", and c. adding after the words "the loan" the following: "by repayment of the amount of loan, plus interest, or an amount, without interest, which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii), or (ii)".

§ 1434.27 [Amended]

10. Section 1434.27 is amended by a. adding the designation "(1)" after the word "repay" and b. adding after the words "of the loan" the following: "or (2) an amount, without interest, which is less than the loan level determined in accordance with § 1434.25(d)(1)(ii)".

Signed at Washington, DC on July 11, 1986.

Milton J. Hertz,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 86-15997 Filed 7-16-86; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1788

REA Fidelity and Insurance Requirements

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR Chapter XVII, REA Regulations, by adding a new Part 1788, REA Fidelity and Insurance Requirements for Electric and Telephone Borrowers, §§ 1788.1 through 1788.55 to the Code of Federal Regulations. This Part revises REA policies and procedures presently set forth in REA Bulletin 114–2:414–1, Minimum Insurance and Fidelity Coverages for Electric and Telephone Borrowers.

In addition to codifying the bulletin, the revision will reduce the requirements on borrowers to report to REA multiple Insurance Expiration Forms and will improve the insurance programs of the borrowers and the contractors, engineers, and architects who perform service to the REA borrowers.

The final rule will affect all present and future REA electric and telephone borrowers. Upon publication of this final rule, REA Bulletins 114–2:414–1, Minimum Insurance and Fidelity Coverages for Electric and Telephone Borrowers and 40–2:340–5, Insurance Coverage for Borrowers' Contractors, Engineers, and Architects, and Bond Requirements for Borrowers' Contractors will be rescinded.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Blaine Stockton, (202) 382–9552.

SUPPLEMENTARY INFORMATION: The Final Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby amends 7 CFR Chapter XVII, by adding a new Part 1788, REA Fidelity and Insurance Requirements for Electric and Telephone Borrowers, §§ 1788.1 through 1788.55. This action has been issued in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government

agencies, or geographic regions; or (3) result in 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.

REA has concluded that promulgation of this rule will not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. 1976) and, therefore, does not require an environmental impact statement or an environmental assessment.

This regulation contains no information or recordkeeping requirements which require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.).

This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as (1) 10.850, Rural Electrification Loans and Loan Guarantees; (2) 10.851, Rural Telephone Loans and Loan Guarantees; and (3) 10.852, Rural Telephone Bank Loans.

For the reasons set forth in the final rule related Notice to 7 CFR 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

I. Introduction

a. On January 7, 1986, REA published a Notice of Proposed Rulemaking in this proceeding where it was proposed to amend 7 CFR Chapter XVII, REA Requirements, by adding a new Part 1788, REA Fidelity and Insurance Requirements for Electric and Telephone Borrowers.

b. Specifically, REA proposed among other things to update REA Bulletin 114–2:414–1 and to establish a revised procedure requiring REA borrowers to furnish a single annual certification at the close of each calendar year. This annual certification will eliminate the requirement on borrowers to furnish to REA completed Insurance Expiration Notice forms at various renewal dates.

c. This rule will assist electric and telephone borrowers to be in compliance with REA insurance requirements when utilizing new casualty insurance forms introduced by the insurance industry. These new policy forms and methods of providing protection necessitate revision of REA insurance requirements.

II. Summary of Comments

a. In our Notice of Proposed Rulemaking (NPR) we invited interested parties to file comments on or before March 10, 1986. One written comment was received from the National Rural Utilities Cooperative Finance Corporation. The comment dealt with §§ 1788.8, Procedure for fidelity notices and claims, § 1788.10, Reporting accidents, and § 1788.11, Reporting claims to REA.

It was suggested that copies of notices of possible fraudulent or dishonest acts sent to fidelity insurers, and required to be furnished to REA, also be provided to each supplemental lender.

It was further suggested in the case of accidents and when damage or destruction of property has occurred, that copies of such claims required to be sent to REA also be furnished to each supplemental lender.

b. Subsequent to the publication of the proposed rule to amend 7 CFR Chapter XVII REA regulations by adding a new Part 1788, Fidelity and Insurance Requirements for Electric and Telephone Borrowers, the REA in association with the Surety Association of America revised the Exhibit B in the proposed rule.

The language in the endorsement attached as Exhibit B was in use prior to the introduction by the association of a new Commercial Crime policy.

The Exhibit B in the final rule is identified as the Rural Electrification Administration Joint Insured. It includes all the elements contained in the proposed Exhibit B and relates to specific sections of the new Commercial Crime Policy.

III. Conclusion

a. Sections 1788.8, Procedure for fidelity notices and claims, 1788.10, Reporting accidents, and 1788.11, Reporting claims to REA will provide for copies of notices and claims to be furnished to each supplemental lender.

b. A revised Exhibit B is included in this new part 1788.

c. In the Notice of Proposed Rulemaking (NPR) § 1788.3, Certification of Insurance Coverage stated that written evidence of continued insurance coverage was to be furnished to REA within sixty (60) days of the close of each calendar year.

To provide for the efficient reporting of the annual insurance certification, REA will add a new section to the Financial and Statistical Report, alternatively Forms, 7, 12a, and 469, which is required to be furnished annually or at more frequent intervals as may be required by REA.

Therefore, § 1788.3 is revised to provide for reporting of written evidence to REA within sixty (60) days of the close of each calendar year, or more frequently as required by REA, stating that during such reporting period all insurance required by this Part 1788 was in force and renewals have been obtained for all policies. The certification will be subject to audit verification.

Insurance coverages in force for a number of borrowers will renew between the date of Final Rule and December 31, 1986. Such borrowers will be required to submit written evidence to REA within 60 days after each such expiration date occurring during this interim period that such policy was in force during the prior year and has been renewed.

d. Section 1788.52 in the proposed rule did not specify approved REA bond forms. There are two approved bond forms; the Contractor's Bond, REA Form 168b and Contractor's Bond, REA Form 168c. They are referred to in § 1788.49 of this rule.

e. Subsequent to the publication of the draft rule it was decided that, in view of the continuing maturity of the borrower systems and their internal management capabilities, direct REA assistance in developing insurance programs or negotiating on behalf of borrowers with the insurance industry was no longer a necessary or useful role for REA. Therefore § 1788.13, Technical Assistance; § 1788.14, Negotiation Assistance; and § 1788.15, Insurance Management, which appeared in the draft rule, have been deleted.

REA hereby adds a new Part 1788, REA Fidelity and Insurance Requirements for Electric and Telephone Borrowers, §§ 1788.1 through 1788.55, to 7 CFR Chapter XVII, to read as follows:

PART 1788—REA FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELEPHONE BORROWERS

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Exhibit A—Rural Electrification Administration Endorsement

Exhibit B—Rural Electrification Administration Joint Insured

Authority: 7 U.S.C. 901–950(b) and 7 U.S.C. 1921 et seq.

Subpart A—General Policies and Procedures

§ 1788.1 General.

This part sets forth general Rural Electrification Administration (REA) policy and requirements for minimum insurance and fidelity coverage for electric and telephone borrowers and provides information for borrowers to meet those requirements.

§ 1788.2 Policy.

(a) *Specific coverages required.* REA mortgage provisions require that borrowers procure specific minimum insurance and fidelity coverage and that they maintain this coverage as long as the loan or guaranteed loan remains unpaid.

(b) *Evidence of coverage.* Borrowers shall furnish REA satisfactory evidence that required insurance and fidelity coverage is being continuously maintained.

(c) *Excess coverage.* Borrowers may purchase insurance or fidelity coverage in excess of the REA requirements.

(d) *Borrower responsibility.* Procurement of insurance and fidelity coverage is the primary responsibility of the borrower.

(1) The borrower shall purchase required coverages from companies of the borrower's choice, provided the companies selected are licensed to do business in the state, or states, in which the borrower operates.

(2) The required insurance and fidelity bond coverage shall be in accordance with acceptable insurance industry types of bonds and policies.

(3) If a borrower fails to purchase or maintain the required insurance and fidelity coverages, the mortgagees may place required insurance and fidelity coverage on behalf and in the name of the borrower. The borrower shall pay the cost of this coverage, as provided in the loan documents.

(e) *Losses not covered.* In the event of a loss not covered because of a deductible provision in an insurance policy, the borrower should treat the loss as an expense in the year in which it occurs if provision has not been made for such losses in an insurance reserve account. If an insurance reserve has been established, the amount of the loss should be charged directly against that account. Ordinarily, losses not covered because of a deductible provision can be absorbed as current operating costs. A reserve account may be established to provide for losses which would be excluded because of a deductible and the following guidelines are recommended:

(1) The reserve balance at any one time should not exceed the total of the deductibles in the borrower's insurance policies.

(2) The annual credit to the reserve account should not exceed one-tenth of the maximum reserve balance, as set forth above, or a lesser amount needed to maintain the reserve at the maximum level.

(3) No reserve should be considered for losses to outside plant or for other coverages not required by REA.

(4) Accounts used for such reserves shall be as specified in the applicable Uniform System of Accounts.

§ 1788.3 Certification of insurance coverage.

Borrowers shall furnish written evidence to REA within sixty (60) days of the close of each calendar year stating that during such year all insurance required by this Part 1788 was in force and renewals have been obtained for all policies. The annual certification will be subject to audit verification.

§ 1788.4 New borrowers' procedure.

New borrowers shall furnish REA, by letter, a schedule of their insurance policies in force, showing the name of the insurance company, specific type of policy, policy number, expiration date, and the amounts of coverage. In the case of fire insurance policies, new borrowers shall specify amounts of coverage (building, contents) and a complete description of the locations. For workers' compensation, in those states where a state agency administers the workers' compensation fund, new borrowers shall provide the file or account number in lieu of a policy number.

§ 1788.5 REA Endorsements required.

(a) Each insurance policy, other than fidelity bonds or policies, purchased by borrowers to meet the requirements of REA shall contain the following REA Endorsement:

The insurer agrees with the Rural Electrification Administration as follows:

1. That this endorsement forms a part of the original policy.

2. Changes in policy forms or endorsements, as a result of approval by a regulatory authority, will be submitted to the Rural Electrification Administration prior to use for a borrower of said Administration.

3. That it will mail to said Administration, at least 10 days before the effective date thereof, notice of cancellation or termination of said policy.

4. That each endorsement subsequently issued will become a part of said original policy.

(b) When the REA Borrower is a subsidiary of a parent corporation, REA requires the following endorsement for policies covering subsidiary companies be included as a part of each public liability and fire policy.

The Insurer agrees with the Rural Electrification Administration, as follows:

1. That this endorsement forms a part of the original policy.

2. Changes in policy forms or endorsements, as a result of approval by a regulatory authority, will be submitted to the Rural Electrification Administration prior to use for a borrower of said Administration.

3. That it will mail to said Administration, at least ten days before the effective date thereof, notice of cancellation or termination

of said policy, or cessation of coverage for any reason of any affiliate or subsidiary of the assured which is a borrower from the administration.

4. That each endorsement subsequently issued will become a part of said original policy.

(c) In the case of a cooperative or mutual organization, REA requires that the following: "Endorsement Waiving Immunity From Tort Liability" be included as a part of each public liability, owned, nonowned, hired automobile, and aircraft liability, employers' liability policy, and boiler policy:

The Insurer agrees with the Rural Electrification Administration that such insurance as is afforded by the policy applies subject to the following provisions:

1. The company agrees that it will not use, either in the adjustment of claims or in the defense of suits against the Insured, the immunity of the Insured from tort liability, unless requested by the Insured to interpose such defense.

2. The Insured agrees that the waiver of the defense of immunity shall not subject the company to liability of any portion of a claim, verdict or judgment in excess of the limits of liability stated in the policy.

3. The company agrees that if the Insured is relieved of liability because of its immunity, either by interposition of such defense at the request of the Insured or by voluntary action of a court, the insurance applicable to the injuries on which such suit is based, to the extent to which it would otherwise have been available to the Insured, shall apply to officers and employees of the Insured in their capacity as such; provided that all defenses other than immunity from tort liability which would be available to the company but for said immunity in suits against the Insured or against the company under the policy shall be available to the company with respect to such officers and employees in suits against such officers and employees or against the company under the policy.

§ 1788.6 Analysis of deductibles.

When deductibles are considered, careful analysis should be given to the size of the deductible and its effect on the financial position of the borrower. A periodic review should be made of the policy to determine the economy and advisability of continuing the deductible.

§ 1788.7 Specialized requirements.

Borrowers with specialized requirements or equipment, such as nuclear facilities, private generation connection, hydro, solar, wind, watercraft, and aircraft, or who do not operate their own systems, will be advised of REA insurance requirements in each specific case.

§ 1788.8 Procedure for fidelity notices and claims.

Upon discovery by the borrower or REA of any fraudulent or dishonest act of any officer, employee, or collection agent, the borrower shall notify the bonding company of such discovery promptly in writing. Such notice, a copy of which shall be sent immediately to REA and each supplemental lender, shall be given on behalf of both the borrower and REA. If a proof of loss is filed, it shall also be filed on behalf of both the borrower and REA. A copy of the proof of loss, if any, shall be sent immediately to REA and each supplemental lender by the borrower.

§ 1788.9 Recovering claims.

The borrow shall, when necessary to protect all rights under the fidelity bond, initiate suit against the insurance company to recover all claims.

§ 1788.10 Reporting accidents.

Borrowers shall promptly provide the insurance company providing coverage a written report of all accidents involving injury to persons, damage to the property of others, or direct damage to the insured property of the borrower and forward at the same time a copy of all reports except those involving only employees of the borrower to REA and each supplemental lender.

§ 1788.11 Reporting claims to REA.

The borrower shall furnish REA and each supplemental lender a copy of any claim submitted to an insurance company seeking recovery of loss for damage or destruction of property.

§ 1788.12 Use of insurance proceeds.

In the event of damage, loss, or destruction of property mortgaged to the government covered by insurance, the borrower shall repair or replace the damaged, lost, or destroyed property so that the property is in substantially the same condition as before the damage, loss, or destruction. Unless mortgagees direct otherwise, the proceeds of the insurance shall be used for that purpose.

§ 1788.13 Package-type policies.

REA recommends that borrowers secure broad form, package-type policies (special multi-peril, combined fire, and boiler), when possible, combining all or as many as many as possible of the various coverages into a single policy to reduce the number of policies issued by individual insurance companies and to avoid any question between the insurance companies about responsibility.

§ 1788.14 Obtaining minimum cost.

Borrowers should request proposals from several companies, both stock and mutual, for initial and renewal of insurance policies to obtain a minimum cost for their insurance. Borrowers should maintain an accurate loss record for all insurance coverages to establish trends and evaluate the effect of losses on premiums.

§ 1788.15 Type of policies.

REA recommends term policies, either 1- or 3-years, for insuring buildings, contents, stock, and equipment and reporting policies for insuring fluctuating material inventories.

§ 1788.16 Telephone building rates.

Telephone borrowers should investigate the possibility of having the building fire rate applied to both the buildings and contents in those states that permit the single rate. Buildings and contents coverages should be combined in the same policy.

§ 1788.17 Coinsurance recommended.

REA recommends coinsurance where it is available. In accepting a policy with a coinsurance clause, the insured agrees to maintain insurance in an amount equal to at least a percentage of the actual cash value stated in the coinsurance clause.

§ 1788.18 Advantageous fire rates.

To eliminate delays and costly alterations, and to secure the most advantageous fire rates for buildings (generation plants, headquarters buildings, etc.) borrowers should have plans and specifications for buildings reviewed by the state fire rating bureau, the insurance agent of record, or competent, independent consultant for their recommendations.

Subpart B—Specific REA Minimum Requirements

§ 1788.19 General

This subpart sets forth specific REA minimum requirements for insurance and fidelity coverages for electric and telephone borrowers.

§ 1788.20 Officers and employees.

Borrowers shall provide fidelity coverage for each officer and employee based on the estimated annual gross revenue of the borrower.

§ 1788.21 Types of coverage.

A new Commercial Crime Policy came into use January 1, 1986. This new policy form should be used in lieu of the Blanket Position Bond or Comprehensive 3D policies.

Under this Commercial Crime Policy the amounts of coverage required are as follows:

Annual gross revenue	Amounts of coverage
Less than $200,000	$50,000
$200,001 to 400,000	100,000
400,001 to 600,000	250,000
600,001 to 800,000	300,000
800,001 to 1,000,000	400,000
1,000,001 and over	500,000

The Rural Electrification Administration Endorsement, Exhibit A, is necessary on all separate policies or where the fidelity coverage is added to a package policy. For a municipal borrower, a public employees' blanket bond covering employees and officers responsible for activities of the REA-financed facilities is acceptable.

§ 1788.22 Collection agents.

Each collection agent of the borrower shall be included in the bond for not less than $2,500, or 10 percent of the highest amount collected annually by any one collection agent, whichever is greater. When banks are designated as collection agents, borrowers shall advise REA regarding any special arrangements for fidelity coverage.

When annual gross revenues for a previous twelve-month period exceed the limit for the amount of fidelity coverage maintained, the borrower shall increase the coverage to the required amount.

§ 1788.23 When revenues exceed $1 million.

When annual gross revenues exceed $1 million, REA recommends that borrowers obtain additional excess fidelity insurance.

§ 1788.24 Single bond provisions.

When the borrower is one of several affiliated companies and this coverage is provided by naming the borrower as one of several insureds under a single policy, the joint insured paragraph under general or insuring agreements shall be amended to include the provisions of the fidelity rider in Exhibit B.

§1788.25 Responsibilities of borrowers.

(a) *Termination of fidelity coverage.* The new Comprehensive Crime Policy provides for fidelity coverage on a term basis. Borrowers should renew on a timely basis.

(b) *Effect of fraudulent or dishonest acts.* Upon discovery by the borrower or REA of an fraudulent or dishonest act of any officer or employee, fidelity coverage for this person is automatically cancelled, but remains in effect for all other officers and employees not in collusion with this person. Therefore, borrowers must notify their fidelity insurer of the discovery.

(c) *Effect of borrower's inaction.* Upon discovery of a dishonest act, the borrower's inaction, by its failure to report such acts, whether motivated by restitution or the apparent insignificance of the amount involved, or for any other reason, can affect more than merely the validity of the present claim; it may bar some future loss of real significance caused by the same person.

(d) *Avoiding future risks.* To avoid this risk of future uninsured loss, the borrower shall obtain written assurance of continued coverage for that individual by the same or another bonding company.

(e) *Disclosure of dishonest acts.* Assurance of continued coverage, to be effective, requires the borrower to make full disclosure to the bonding company of the dishonest or fraudulent acts. This disclosure, however, need not be of the same degree required to establish a claim under a proof of loss or conviction of a false report violation.

§1788.26 Disbursement of recovered sums.

Sums recovered under any fidelity bond by the borrower for a loss of funds advanced under the notes or recovered by the government for any loss under such bond shall, unless otherwise directed by the mortgagees, be applied to the prepayment of indebtedness pro rata on the notes secured by the mortgage or to construct or acquire facilities, approved by the mortgagees, which will become part of the mortgaged property.

§1788.27 Requirements of coverage.

Workers' compensation and employers' liability insurance covering all employees of the borrower shall be maintained by borrowers in amounts required by law. If the borrower or any of its employees is not subject to the workers' compensation laws of the state, or states, in which the borrower conducts its operations, then its workers' compensation policy shall provide voluntary compensation coverage to the same extent as though the borrower and its employees were subject to such laws. The policy shall include:

(a) Occupational disease liability.

(b) Employers' liability insurance.

(c) "Additional medical" coverage of not less than $10,000 in those states where full medical coverage is not statutory.

When employers' liability insurance is provided by a separate policy issued to a cooperative or mutual organization, it shall include "Endorsement Waiving Immunity From Tort Liability." See 1788.5(c).

§1788.28 Limits required.

REA requires that public liability insurance be maintained covering the ownership liability and all operations of the borrower with limits for bodily injury or death of not less than $1 million each occurrence—$1 million aggregate per policy period and with limits for property damage of not less than $1 million per occurrence and $1 million aggregate for the policy period. Borrowers have the option to purchase a $1 million single limit coverage for bodily injury and property damage. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

§1788.29 Contractual liability insurance.

Contractual liability insurance shall be included as part of the public liability policy when the borrower executes an agreement or contract in which it assumes additional liability. The provisions of any "hold harmless" agreement should be referred to the borrower's insurance company for specific references in the policy.

§1788.30 Provision on explosives.

When explosives are used by employees of the borrower, the property damage exclusion clause for blasting shall be deleted.

§1788.31 Buried plant provision.

Borrowers contemplating construction of buried plant shall immediately obtain an endorsement from their insurance carrier deleting the exclusion in the standard public liability insurance policy which provides that the policy does not apply to injury to, or destruction of, wires, pipes, conduits, mains, sewers, or other similar property below the surface of the ground if the injury or destruction is caused by, or occurs during, the use of mechanical equipment for the purpose of excavating or drilling. For electric borrowers the rating classification includes this coverage automatically.

§ 1788.32 Appliance sales coverage.

When there are retail sales, repair, or installations of electrical appliances involved in borrowers' operations, borrowers shall purchase product liability damage.

§ 1788.33 Railroad right-of-way exclusion.

General liability policies in use contain a restriction pertaining to easement agreements involving

construction on or adjacent to a railroad which are not automatically covered. Where construction is on a railroad right-of-way under an easement, borrowers shall purchase a general liability policy that specifically includes this necessary insurance coverage.

§ 1788.34 Pollution exclusion.

Liability policy forms exclude coverage for "bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants. Borrowers may wish to discuss this exclusion with their insurance companies.

§ 1788.35 Liability requirements.

REA requires borrowers have liability insurance on all motor vehicles, trailers, semitrailers, and aircraft used in the conduct of the borrower's business, whether owned, nonowned, or hired by the borrower, with bodily injury limits of not less than $1 million for each person and $1 million for each occurrence, and property damage limits of $1 million for each occurrence; in connection with aircraft liability, also passenger bodily injury limits of $1 million per person and $1 million for each occurrence.

§ 1788.36 Comprehensive requirements.

REA requires borrowers have comprehensive or separate fire, theft, and windstorm insurance on all owned motor vehicles, trailers, and aircraft having a unit value in excess of $1,000. The amount of coverage shall not be less than the actual cash value of the property insured.

§ 1788.37 Coverage requirement.

Borrowers shall have fire insurance, including the extended coverage endorsement, on each building and its contents, and on each storage location of materials, supplies, poles, and crossarms having a value at any one location in excess of $5,000, or in excess of 1 percent of the total plant value, whichever is larger. Such coverage shall be in an amount of not less than 80 percent of the current cost to replace the property new, less depreciation. Surveys should be conducted periodically, every two years at a minimum, to establish property values on an actual cash value basis.

§ 1788.38 REA endorsement.

When the borrower is one of several affiliated companies and the coverage is provided by naming the borrower as one of several insureds under a single policy, the policy shall be amended to include the provisions of the REA Endorsement in § 1788.5(b)

§ 1788.39 Types of fire insurance policies.

A fire insurance policy may be written on the following basis:

(a) Specified amount basis.

(b) Blanket form basis.

(c) Monthly reporting form basis. The reporting type of policy should include the limit of liability for each location. Whenever it appears that the value at any one location may exceed the limit of liability included in the policy, an endorsement to the policy should be promptly secured increasing the limit of liability for that particular location.

(d) Inland Marine Floater basis. Floater form policies on an all-risk basis are recommended to provide coverage for construction equipment, radio/telephone equipment, and pay stations furnished for use by subscribers and located on their premises or vehicles, and for radio or telephone equipment installed in borrowers' vehicles, for equipment being transported, and for materials stored at various locations.

§ 1788.40 Coverage requirement.

Borrowers shall purchase and maintain flood insurance for buildings in flood hazard areas to the extent available and required under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 (Pub. L. 93–234). The insurance should cover, in addition to the building, any machinery, equipment, fixtures, and furnishings contained in the building.

§ 1788.41 Endorsements required.

The National Flood Insurance Program provides for a standard flood insurance policy; however, other existing insurance policies which provide flood coverages may be used where flood insurance is available in lieu of the standard flood insurance policy. Such policies, in order to satisfy the insurance requirements of section 102 of the Flood Disaster Protection Act of 1973, should be endorsed to provide:

(a) That the insurer give 30 days written notice of cancellation or nonrenewal to the insured with respect to the flood insurance coverage. To be effective, such notice must be mailed to both the insured and the lender or Federal agency and must include information as to the availability of flood insurance coverage under the National Flood Insurance Program, and

(b) That the flood insurance coverage offered by the insurer is at least as broad as the coverage offered by the Standard Flood Insurance Policy.

§ 1788.42 Coverage requirement.

Electric borrowers having steam generating facilities shall maintain boiler and machinery insurance. Electric borrowers having internal combustion, gas turbine or hydro-generating facilities shall maintain machinery insurance. The limit for each accident shall not be less than the actual current cash value of the property of the borrower and of the adjacent property that would be damaged by explosion or breakdown of the insured object.

§ 1788.43 Suspension notice.

The standard REA Endorsement, see § 1788.5(a), should be amended to provide written notice of suspension to REA in the event of suspension of coverage.

§ 1788.44 Annual inspection report.

Borrowers shall provide REA a copy of the annual inspection report by the insurance company's engineer.

§ 1788.45 Modifications considered.

When requested by the borrower and if loan security is not jeopardized, REA will consider modifying the boiler and machinery insurance requirements for those borrowers with special or unusual circumstances, such as limited planned annual use of generating facilities, or where the value of generating facilities at a location is less than $1 million.

Subpart C—Insurance for Contractors, Engineers and Architects

§ 1788.46 General.

This part sets forth REA policy on minimum insurance requirements for contractors, engineers, and architects performing work under contracts with borrowers, and requirements for bonds to be furnished by contractors.

§ 1788.47 Policy requirements.

(a) Contractors, engineers, and architects performing work for borrowers under construction, engineering and architectural service contracts shall obtain insurance coverage, as required in § 1788.51, and maintain it in effect until work under the contracts is completed.

(b) Contractors entering into construction contracts with borrowers shall furnish a contractors' bond, except as provided for in § 1788.52, covering all of the contractors' undertaking under the contract.

(c) Borrowers shall make sure that their contractors, engineers, and architects comply with the insurance and bond requirements of their contracts.

§ 1788.48 Contract requirements.

Contracts entered into between borrowers and contractors, engineers,

and architects shall provide that they take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million each occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

§ 1788.49 Bond requirements.

Construction contracts for facilities in amounts in excess of $100,000 shall require contractors to secure a contractors' bond on a form approved by the Administrator attached to the contract in a penal sum of not less than the contract price, which is the sum of all labor and materials including owner-furnished materials installed in the project. REA Form 168b is for use when the contract exceeds $100,000. REA Form 168c is for use when the contractor's surety has accepted a Small Business Administration guarantee and the contract is for $1 million or less. On line extension contracts under which work will be done in sections and no section will exceed a total cost of $100,000, the borrower may waive the requirement for a contractors' bond.

§ 1788.50 Acceptable sureties.

Surety companies providing contractors' bonds shall be listed as acceptable sureties in the U.S. Department of Treasury Circular No. 570. A copy of the executed bond shall be furnished REA. For construction contracts, other than buildings, amounting to $100,000 or less, the borrower shall determine whether a contractors' bond is required.

§ 1788.51 Borrower options.

For construction contracts for buildings amounting to $100,000 or less, the borrower has the option to require the contractors to furnish:

(a) A contractors' bond, as described in §§ 1788.52 and 1788.53, or

(b) A builders' risk policy.

§ 1788.52 Builders' risk policy.

The builders' risk policy shall be on a completed value form, effective from the date equipment or material is first delivered to the building site, and shall name both the borrower and the contractors as insureds.

(a) The policy shall insure against loss by fire or lightning and the named perils in the extended coverage endorsement.

(b) The amount of coverage shall be not less than the actual cash value of the property constructed, including all materials to be used in the construction and stored at the site, whether furnished by the borrower or the contractor.

§ 1788.53 Major equipment insurance.

When a borrower contracts for the installation of major equipment by other than the supplier or for the moving of major equipment from one location to another, REA recommends that these contracts require the contractor to furnish the borrower with an installation floater policy. The policy should cover all risks of damage to the equipment until completion of the installation contract.

§ 1788.54 Compliance with contracts.

It is the responsibility of the borrower to make sure, before the commencement of work, that the engineer, architect, and the contractor have insurance which complies with their contract requirements. Compliance with contract requirements should be a certificate signed by a representative of the insurance company, including a provision that no change in, or cancellation of, any policy listed in the certificate will be made without prior written notice to the borrower.

§ 1788.55 Providing REA evidence.

When REA shall specifically so direct, the borrower shall also require the engineer, the architect, or the contractor to forward to REA evidence of compliance with their contract requirements. The evidence shall be in the form of a certificate of insurance signed by a representative of the insurance company and include a provision that no change in, or cancellation of, any policy listed in the certificate will be made without the prior written notice to the borrower and to REA.

Exhibit A—RURAL Electrification Administration Endorsement

POLICY NUMBER: _____

COMMERCIAL CRIME

This endorsement applies to all forms forming part of the Commercial Crime Policy.

Employee Dishonesty Coverage Form

The Employee Dishonesty Coverage Form is amended by deleting the Cancellation As to Any Employee section and by substituting the following:

Cancellation as to any Employee

Coverage for any Employee shall be deemed cancelled (a) immediately upon discovery by you, or by any of your partners or officers thereof not in collusion with such Employee, or by the Administration of any dishonest act on the part of such Employee (b) at 12:01 a.m., standard time, upon the effective date specified in a written notice served upon you and the Administration or sent by registered mail to you and the Administration.

Crime General Provisions Form

B. General Conditions:

1. Section 4 is replaced by the following:

Duties in the Event of Loss

After you or the Rural Electrification Administration of the United States of America (the Administration) discover a loss or situation that may result in a loss of, or loss from damage to, Covered Property either you or the Administration must:

a. Notify us as soon as possible.

b. Submit to examination under oath at our request and give us a signed statement of answers.

c. Give us a detailed, sworn proof of loss within four months.

d. Cooperate with us in the investigation and settlement of any claim.

Prior discovery of loss by you shall not affect the right of the Administration to notify us of loss, and to file proof of loss even though such prior discovery by you may have occurred more than four months prior to the discovery of the loss by the Administration.

2. Section 6 is replaced by the following:

Legal Action Against Us: You or the Administration may not bring legal action against us involving loss:

a. Unless all the terms of this insurance have been complied with.

b. Until 60 days after proof of loss has been filed with us.

c. Unless brought within two years from the date the loss is discovered by you or the Administration.

3. Section 16 is replaced by the following:

Territory: This insurance covers only acts committed or events occurring within the United States of America, U.S. Virgin Islands, Puerto Rico, Canal Zone, Guam, Micronesia, or Canada.

A new section 19 is added to read as follows:

Any action, approval or consent which by the provisions of this Policy is required to be taken or signed by the Administration shall be effective if taken or signed by the Administrator of the Administration or by his authorized representative.

A new section 20 is added to read as follows:

Discovery by you shall be deemed to mean discovery by any officer or employee of the Insured not in collusion with the employee responsible for the loss discovered, and discovery by the Administration shall be deemed to mean discovery by any employee, agent or attorney of the Administration not in collusion with the employee reponsible for the loss discovered.

C. General Definitions:

"Employee" also includes non-salaried officers and collection agents in your service.

Common Policy Conditions

A. Cancellation:

1. Paragraph 2 is replaced by the following:

We may cancel this policy by mailing or delivering to the first Named Insured and to the Administration written notice of cancellation at least:

a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

b. 30 days before the effective date of cancellation if we cancel for any other reason.

A new section G is added to read as follows:

G. Notices:

1. It is agreed that settlement of any claim under this Policy shall be made check or draft payable to you, but no settlement shall be made without prior written approval of the Administration. It is further agreed if you cancel this Policy, the Administration may, within ten days after we receive such notice from you, advise us that the cancellation notice is inoperative. In such case, coverage shall continue as if such notice of cancellation had never been sent. Notices, approvals, and requests by the provisions of this Policy shall be sent as follows:

a. To us, at our home office.

b. To you, addressed to you at the city or town at which your principal office is located.

c. To the Administration, addressed to the Rural Electrification Administration, United States Department of Agriculture, South Building, Washington, DC, 20250.

Exhibit B—Rural Electrification Administration Joint Insured

This Endorsement applies to the CRIME GENERAL PROVISIONS FORM and all Crime Coverage forms forming part of the policy.

PROVISIONS

1. Section 5.a of the the CRIME GENERAL PROVISIONS FORM is amended by adding the following:

Payment by us will be made to the first named insured for the use and benefit of the insured sustaining the loss.

2. Section 5.b is amended by deleting the period at the end thereof and adding the following:

, except that in the case of a borrowing corporation from the Rural Electrification Administration knowledge of any information relevant to this insurance shall be deemed knowledge of such information by the Insured sustaining the loss.

3. Section 2.a of the EMPLOYEE DISHONESTY COVERAGE FORM is replaced by the following:

Immediately upon discovery by:

(1) The Rural Electrification Administration:

(2) The borrowing corporation employing such "employee"; or

(3) Any of the partners, officers or directors of the Administration or the borrowing corporation not in collusion with the "employee"; of any dishonest act committed by that "employee" whether before or after becoming employed by the borrowing corporation.

Dated: May 28, 1986.

Harold V. Hunter,

Administrator.

[FR. Doc. 86–16103 Filed 7–16–86; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 86–13]

Corporate Activities: Change in Bank Control

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("Office" or "OCC") is adopting this final rule which revises the disclosure policy contained in 12 CFR 5.50 and provides for announcement of notices received under the Change in Bank Control Act of 1978, 12 U.S.C. 1817(j), ("CBCA" or "Act"). An exception is provided in certain public tender offer situations and in situations where the Office determines, in its discretion, that it would not be in the public interest to require the announcement. This final rule is intended to increase the universe from which information is gathered and to encourage public comment. Moreover, the public will be able to express its views concerning proposed changes in control of national banks and the Office will benefit from the increased amount of information available in its deliberations. The Office is also adopting certain technical amendments to § 5.50.

EFFECTIVE DATE: This rule is effective August 18, 1986.

FOR FURTHER INFORMATION CONTACT: James T. Pitts, Assistant Director, Securities & Corporate Practices Division, 490 L'Enfant Plaza, SW., Washington, DC 20219, Telephone: (202) 447–1954.

SUPPLEMENTARY INFORMATION:

Background

Under the CBCA, persons seeking to acquire control of any insured bank must submit a prior written notice to the appropriate federal banking agency, describing the proposed acquisition. If that notice is not disapproved within the time set by statute, the transaction may be consummated and the change in control occur. The OCC's previous disclosure policy (12 CFR 5.50(h)) and practice kept private the receipt of such notices and the information contained therein until disposition, except in situations where the acquiror affirmatively indicated no objection to earlier release or where the existence or content of the notice otherwise became known to members of the public.

On May 7, 1985, a notice of proposed rulemaking pertaining to the § 5.50 disclosure policy was published in the **Federal Register** (45 FR 19183).

Under this final rule, which stems from the proposed rule, that policy and practice would change. Except in limited situations where the Office determines, in its discretion, that the public interest dictates a waiver of the public announcement procedure, receipt of all technically complete notices would be announced by the acquiror. The announcement would include the name of the proposed acquiror, the institution involved, the comment period closing date, and the earliest date upon which the transaction may be completed. Information and comment concerning a proposed acquiror and the contemplated transaction would thus be solicited from the general public, as was not the case under the previous policy.

Consistent with the spirit of the Williams Act Amendments to the Securities Exchange Act of 1934 ("Exchange Act"), however, the Office, in its discretion, would not require announcement for a limited period of time of notices filed in contemplation of a public tender offer if requested by a proposed bidder.

One other change in previous practice would be to release, upon request, at the conclusion of the Office's consideration

of the notice, the information collected on the Summary Fact Sheet, Part E of the notice format. That information was formerly contemplated to be published as a matter of routine in the Office's *Weekly Bulletin* on the Friday following the operative date of the transaction.

In developing the Notice of Proposed Rulemaking, the Office revisited the issues raised when it adopted the previous CBCA disclosure policy, in light of its experience in administering the Act. As stated in conjunction with that rule proposal, the Office was originally concerned that the early release of information concerning a CBCA notice filing might have an adverse and unintended affect on the ability of a proposed acquiror to consummate a contemplated transaction. It was and still is the Office's view that the CBCA, as to private parties, is to be neutral. The Office feared that persons opposed to the transaction would have opportunitites to invoke defensive measures, not otherwise available, to block the acquisition and that the price at which the transaction could be closed might be affected in material respects.

This final rule revises Office disclosure policy under the CBCA to provide for public announcement of the filing of technically complete notices of change in control and to seek public comment concerning the proposed acquiror and the contemplated transaction.

In the Notice of Proposed Rulemaking which was published on May 7, 1985, the Office solicited response to two questions:

1. To what extent would early release of the fact that a notice has been filed, the identity of the bank, the identity of the proposed acquiror, and the earliest date the transaction could be culminated, be useful in eliciting information from the community as to whether a notice of disapproval should be issued?

2. To what extent would the interest of a person filing a notice be prejudiced by the early disclosure of its existence?

Comments Received

In response to the Notice of Proposed Rulemaking, the Office received a total of six comments, three from national banks, one from a bank holding company, one from a state bankers association and one from a law firm. Three of the commenters were in favor of the proposal and three were opposed. The following summarizes the comments and suggestions received.

One commenter who opposed the proposed rule stated that OCC's concerns when adopting the previous disclosure policy are valid reasons for continuing that policy without modification.[1] Of the two remaining commenters opposed to the rule's adoption, one expressed the opinion that most, if not all, of the information received from the public would address only the competence, experience or integrity of the proposed acquiror rather than any of the other statutory considerations contained in the Act, and that such information essentially would amount to *ad hominem* attacks principally designed to prolong the regulatory process, permitting incumbent management to take defensive measures. The commenter expressed the view that the additional information would not be worth the damage done to the free transfer of bank stock due to the increased costs of change in control transactions and worse, such announcements could discourage or even stop the transactions completely, at least as to small banks.

The remaining commenter opposing the rule's adoption stated that there was no demonstrated need for a change in policy, and that the identification of persons seeking to gain control of national banks would be "patently unfair", an intrusion into normal business practices, and would erode public confidence by suggesting an impropriety in the change in control. In addition, that commenter expressed the opinion that to announce contemplated changes in control would destroy the confidentiality that now exists.

The Office also received three comments supporting adoption of the rule. One suggested that the early release of information pertinent to an acquisition would be most helpful to the community and the OCC in developing the necessary information for a decision. That commenter also observed that if an acquisition is for legitimate purposes, and the acquirors intend to operate the bank properly, no prejudice to the interests of the acquirors should occur due to the early disclosure of the information contemplated by the rule. One of the two remaining commenters expressed the view that the rule would make the disclosure requirements of the CBCA comparable to those under the Bank Merger Act and the Bank Holding Company Act, and would be compatible with the requirements of the Williams Act Amendments to the Exchange Act.

The remaining commenter contrasted the proposed receipt of information in advance of a transaction to the likelihood that adverse information would come to the attention of the Office only after consummation, as is more likely under the previous disclosure policy. The commenter observed that the OCC, by disallowing a CBCA notice rather than ordering that a consummated transaction be dissolved, would impose less cost on the persons involved and less detriment to the stability, financial well-being and public perception of the affected institution. The commenter did state, however, that the Office should provide, by regulation, for preservation of the confidentiality of third party information.

Office Action

After considering the above views, the Office determined to adopt this final rule generally as proposed, but with certain changes.

The concerns expressed by the commenters in opposition to the rule are offset by the greater public good served by the increased availability of information which will aid the Office in the administration of the Act. In addition, by providing for the expression of views by the public regarding possible changes in control of national banks, the rule gives the community an opportunity to comment on proposed acquisitions. The Office has received no information indicating that confidence in the system will erode if the identity of persons proposing to acquire national banks becomes publicly known. To the contrary, such information, when published in connection with a notice filed under federal law, will further increase confidence that the banking system is being appropriately regulated. Moreover, the fear that acquisitions will be more costly and in some instances discouraged because of the disclosure is outweighed by the public interest which will be served by protecting the system as a whole.

If dishonest or incompetent persons are discouraged from proposing to acquire national banks because of the public announcement of their CBCA notice filing, then the purposes of the Act will have been served. The Office believes that there will be a limited number of times otherwise qualified persons decline to acquire national banks because of a requirement to announce their CBCA notice filing. In addition, while some of the information coming into the possession of the agency may pertain only to the competency or integrity of the proposed acquiror and may be in the nature of emotional

[1] The Office received only one comment in response to publication of the previous disclosure policy, 45 FR 68607 (Oct 15, 1980), and that commenter expressed the view that a CBCA notice should be subject to public disclosure when filed. See, Report to the Congress on the Change in Bank Control Act of 1978, Office of the Comptroller of the Currency, n. 12 (March 9, 1981).

attacks on the acquiror's character, as feared by one commenter, the Office believes that it can give appropriate weight to all information received.

Because information submitted by the public in response to the announcement may be utilized by the Office in conducting further inquiry, there is no assurance that such information can be afforded confidential treatment. In fact, all comments may be subject to public disclosure due to the requirements of the Freedom of Information Act.

The CBCA was enacted to give the federal banking regulators the ability to review, in advance, the background of persons seeking to gain control of the nation's financial institutions. To that extent, the comment that the rule is an "intrusion into normal business practices" reflects on the Act itself. Moreover, the announcement contemplated by this final rule is not "patently unfair" as described by the same commenter. The identity of the proposed acquiror, and that of the subject bank, coupled with the earliest date on which the transaction can be consummated and the deadline for furnishing information to the Office, is the minimum amount of information necessary to allow knowledgeable public comment.

The OCC, while seeking public comment and thereby expanding the field from which data concerning a contemplated acquisition is drawn, remains sensitive to the confidential nature of much of the information contained in a CBCA notice filing. There is no change in the Office's treatment of financial and other confidential information. The Summary Fact Sheet information and the timing of its release remain unchanged. The only alteration in this area is one of administrative economy. The Summary Fact Sheet will be available and furnished upon request rather than being subject to publication as a matter or routine practice. It is the Office's view that this change, in combination with the early announcement of notices received, will give increased timely information to the public concerning changes in control while at the same time saving Office resources.

Within 10 days of receiving the Office's notification that the notice is technically complete, the proposed acquiror, and not the OCC as originally proposed, will be required to publish an announcement in a newspaper having the largest general circulation in the community in which the institution's home office is located. That announcement shall disclose: (a) The name of the acquiror; (b) the name of the subject bank; (c) the earliest date upon which the transaction can be consummated; (d) the deadline by which comments should be furnished (20 days from publication of the announcement); (3) the fact that the Office may accelerate or extend its disposition of the notice. The deadline for receiving comments, subparagraph (d) above, is an addition not found in the proposed rule but is included in this final rule to ensure timely comments.

The proposed acquiror would have 20 days from the receipt of the Office's notification that the notice was technically complete to submit proof of the above publication, including a copy of the actual newspaper announcement, to the appropriate district office.

It is the Office's view that the modification concerning the source of the public announcement does not require separate notice and comment prior to adoption. The requirement that a proposed acquiror publish the announcement is consistent with other Office procedures relating to charter applications and mergers and is a logical outgrowth of the notice filing. The significant change in the CBCA disclosure policy is to publicly announce the receipt of technically complete notices filed. That change was embodied in the proposed rules that was subject to public comment, and is being adopted without revision. Moreover, the increased cost to the proposed acquiror beyond that incurred in connection with the notice filing is minimal. The Office will carefully monitor compliance with the public announcement requirement, especially the time frames, to determine if adjustments are required.

Tender Offers

The Office continues to be concerned, as it was when the previous disclosure policy was adopted, that persons opposing a hostile takeover might seek to utilize the CBCA to invoke defensive measures not otherwise available. The Office is also concerned that a bidder complying with the Williams Act requirements might be disadvantaged because of delays imposed by the CBCA review period. Therefore, this final rule provides a procedure to avoid that unfairness.

Under the previous disclosure policy, the receipt of a CBCA notice was held confidential and was not announced by the Office or the proposed acquiror. A bidder could file a CBCA notice, wait the statutory period for Office review, and if not disapproved, commence the tender offer. Under this final rule, however, if there were no exception for public tender offers, the bidder would have to announce the CBCA notice when filed. That announcement would force the bidder simultaneously to commence the offering to avoid giving persons opposed to the acquisition additional time to take defensive measures. In addition, because no shares can be purchased by the bidder during the OCC's CBCA review period, shareholders could withdraw deposited shares well after the time the offer is required to be open.

The Office wants to avoid that result and still solicit public comment regarding a contemplated change in control. Therefore, the final rule includes an exception to the announcement requirement. In its discretion, the Office may permit the acquiror to delay publication for a period of up to 34 days, if the acquiror certifies that the notice is filed in anticipation of a public tender offer and requests that the announcement be delayed. Publication is then required on or before the 34th day with proof of publication furnished to the appropriate district office within 10 days of publication.

The tender offer regulations, 12 CFR 11.601 through 11.630, 50 FR 45276, require than an offer remain open for at least 20 business days from the date the tender offer is first published, sent or given to security holders.[2] Shares tendered or deposited pursuant to the offer, however, may be withdrawn by a depositing shareholder at any time within the first 15 business days of the offering.[3] Thereafter, deposited shares may also be withdrawn up to the 60th day, but only if a competing tender offer is made and the shares have not yet been accepted for payment by the bidder. After the 60th day, any shares not purchased may be withdrawn.[4]

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[2] 12 CFR 11.610(a). The announcement required by the OCC of the filing of a technically completed CBCA notice would not constitute a bidder's "first publication to security holders" within the meaning of Exchange Act section 14(d) and 12 CFR 11.602(a)(5), nor would it be the "public announcement" described in 12 CFR 11.602(b) triggering the five-business-day period in which an offering must commence. The announcement would be required by regulation and to that extent would be involuntary and in effect would be made by or on behalf of the Office rather than by or on behalf of the bidder. In any event, the announcement would not contain all of the information required by 12 CFR 11.602(b)(3). (See 12 CFR 11.602(c); see also Securities Exchange Act Release No. 16623 (March 5, 1980).)

[3] Exchange Act section 14(d)(5) limits the time period for withdrawal to the first seven days after the offer is commenced but also specifically grants the Securities and Exchange Commission ("SEC") authority to promulgate rules modifying the statutory time limits. In response, the SEC adopted Exchange Act Rule 14d–7(a)(1), 17 CFR 240 14d–7(a)(1), which increased the seven day time period to 15 business days. The OCC, pursuant to Exchange Act section 12(i), adopted section 11.607, containing the same language.

[4] See Exchange Act section 14(d)(5), 15 U.S.C. 78n(d)(5) and 12 CFR 11.607.

Because of the CBCA requirements, a bidder would not be allowed to purchase deposited shares in amounts exceeding the CBCA thresholds defining control [5] until after disposition of the notice, which could take 60 days plus extensions. The bidder would remain vulnerable to having deposited shares withdrawn for a significant time beyond the 20-business day offering period contemplated by the tender offer regulations. Opposing parties would thus have advantages they would not otherwise have.

After considering the purposes of both the CBCA and the Williams Act Amendments to the Exchange Act, the Office created an exception to the general disclosure policy. The 34-day period of non-disclosure provided by the exception allows the Office time to begin its internal review, but still leaves 26 of the 60 days provided for agency review remaining after the notice is publically announced. The 34-day period during which announcement will not be required expands the 30-day period in the proposed rule. This change more closely aligns the expiration of the 60-day period for agency review under the CBCA with the expiration of the required 20-business day (or 26-calendar day) offering period under the Williams Act. The Office thus has the last 26 days of the review period to receive comments rather than 20 days near the beginning as in other acquisitions that are subject to the Act. It is the Office's view, however, that a careful balancing between the tender offer regulations and the CBCA, requires that result.

Historically, few CBCA notices have been filed in connection with hostile tender offers. Most transactions which trigger CBCA notices are the result of privately negotiated sales or friendly takeovers; thus few requests for this exception are anticipated. Further, the Office would still have 26 days to receive public comment and consider the notice. This amount of time in connection with a hostile tender offer with its attendant publicity and disclosure requirements, appears sufficient. In any event, the Office may, under the Act, extend its consideration of the notice for additional periods.

To emphasize its view that the CBCA should remain neutral as between private parties, the Office is also adopting the statement that no private right of action is created by this final rule. Moreover, no person, including the affected institution, is given standing to intervene or otherwise contest the notice or appear before the Comptroller.

[5] 12 U.S.C. 1817(j)(8)(B) and 12 CFR 5.50(d)(1).

The previous disclosure policy required the Office to maintain the confidentiality of notices filed. Unless otherwise authorized by the filing person, the Office would neither admit nor deny that a notice had been received. Upon Office disposition, however, certain summary information was released to the public.

Under the rule as proposed, the Office would have announced receipt of notices filed and identified the filing person, the affected national bank and the date upon which the transaction could have been consummated. Public comment would thus have been solicited. Announcement of notices filed in connection with contemplated tender offers would have been delayed 30 days. Upon Office disposition, the summary information would have been released as before.

Under this final rule, the filing person is required to make the announcement and a 20-day comment period is established.

The period of non-disclosure in tender offer situations is expanded from 30 to 34 days to more closely align the Williams Act requirements with the 60-day CBCA review period. The same summary information is made publicly available upon agency disposition.

Technical Amendments

This final rule also includes several technical amendments to § 5.50. The technical amendments make accurate titles of Office organizational segments and subtitute "technically complete" for the term "substantially complete" to describe a change in bank control filing acknowledged as accepted for processing.

This final rule contains other technical changes and corrects certain cross-references within § 5.50.

Regulatory Flexibility Act

The Comptroller of the Currency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact Analysis

This final rule does not meet the criteria for a major rule as defined in E.O. 12291.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1980, the information collection requirements of 12 CFR 5.50 were submitted to and approved by the Office of Management and Budget under control number 1557–0015.

List of Subjects in 12 CFR Part 5

National banks, Change in bank control.

12 CFR PART 5—[AMENDED]

For the reasons set forth in the preamble, Part 5 Subpart D, Chapter I of Title 12 of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for 12 CFR Part 5 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. In § 5.50, paragraphs (d)(3), (f)(2) introductory text, (g)(1)(iii), (g)(1)(v), (g)(2), (g)(3)(iv), (g)(4)(i) introductory text, and (h) are revised, and an OMB control number is added at the end of § 5.50, to read as follows:

§ 5.50 Change in bank control.

* * * * *

(d) * * *

(3) An acquiring person may request an opportunity to contest the presumption established in paragraph (d)(1) of this section with respect to a proposed transaction. The Office will afford the person an opportunity to present views in writing or, when appropriate, orally before its designated representatives.

* * * * *

(f) * * *

(2) The acquisition of additional shares of a national bank by a person who, under paragraph (c) of this section, would be deemed to have controlled that institution continuously since March 9, 1979, if:

* * * * *

(g) * * *

(1) * * *

(iii) The Act describes the factors that the Office and the other Federal banking agencies are to consider in determining whether a transaction covered thereby should be disapproved. These factors include the financial condition, competence, experience and integrity of the acquiring person (or persons acting in concert) and the effect of the transaction on competition. The Office's objectives in its administration of the Act are to enhance and maintain public confidence in the banking system by preventing identifiable serious adverse effects resulting from anticompetitive combinations of interests, inadequate financial support, and unsuitable management in these institutions. The Office will review each notice to acquire control of a national bank and will disapprove transactions that would have serious harmful effects.

* * * * *

(v) Forms for filing a Notice under the Act will be available from the district

office for the district in which the affected institution is located. When a technically complete notice is received by the district office, a letter of acknowledgment will be sent to the acquiring person indicating the date of receipt. The transaction may be completed 61 days or more after that date unless notice has been given to the acquiring person that the acquisition has been disapproved by the Office or that the 60-day period has been extended as provided for in the Act. To avoid undue interference with normal business transactions, the Office may issue a notice of its intention not to disapprove a proposed acquisition of control.

(2) *Information to be contained in a Notice.* The Act requires that the Notice contain personal and biographical information, detailed financial information, details of the proposed change in control, information on any structural or managerial changes contemplated for the institution, and other relevant information required by the Office. The elements of a Notice are set forth in 12 U.S.C. 1817(j)(13). In order to be filed properly in accordance with the Act, a Notice must be technically complete and responsive to every item specified in paragraph 6 of the Act. When the acquiring person is an individual, or group of individuals acting in concert, the requirement for five years' personal financial data is deleted in favor of a current statement of assets and liabilities, a brief income summary, and a statement of any material changes since the date thereof, but the Office specifically reserves the right to require up to five years of financial data from any acquiring person.

(3) * * *

(iv) Persons contemplating an acquisition that would result in a change in control of a national bank should request appropriate forms and instructions from the district office for the District in which the affected institution is located. If there is any doubt whether a proposed transaction requires a Notice, the acquiring person should consult the district office for guidance. The Act places the burden of providing notice on the prospective acquiring person and substantial civil money penalties can be imposed for willful violations.

(4) *Certain control transactions exempt from prior notice requirements.* (i) Under paragraph (f)(3) of this section the following transactions are exempt from the prior notice requirement of the Act:

* * * * *

(h) *Disclosure Policy.*—(1) *Notice Announcement.* Except as provided in paragraphs (h)(1) (i) and (ii) of this section, within 10 days of receiving the Office's notification that the Notice is technically complete, the filing party shall publish or cause to be published in the newspaper having the largest general circulation in the community in which the affected national bank's home office is located, a public announcement containing the following information: The name of the affected national bank; the identity of the person proposing to acquire the national bank; a statement to the effect that comments should be furnished to the appropriate district office (identifying the office by name and address) within 20 days of publication of the announcement; and the date upon which the statutory period for Office review expires. The announcement must also state that: a letter of nondisapproval can be issued in advance of the statutory period; the Office may extend the period of review consistent with the provisions of 12 U.S.C. 1817(j); and the information in the Notice will be kept confidential until the Office has acted, but at that time, certain additional summary information will be released and made available for public inspection and copying, upon the request of any person, consistent with the Freedom of Information Act (FOIA), 5 U.S.C 552 and paragraph (h)(2) of this section. Within 20 days of receiving the Office's notification that the Notice is technically complete, the filing party must file with the district office before which the notice is pending, proof of the above publication. That proof should include a copy of the actual announcement published, and a publisher's certification or affidavit from the newspaper.

(i) Notices filed in contemplation of a public tender offer subject to the requirements of the Williams Act Amendments to the Securities Exchange Act of 1934 may be excepted from the public announcement requirement for up to 34 days after the technically complete notice is filed if: (A) The filing person requests such confidential treatment and represents that a public announcement of the tender offer and the filing of appropriate forms with either the Securities and Exchange Commisssion or the appropriate Federal banking agency, as applicable, will occur within 34 days from the filing of the Notice; and (B) the Office determines, in its discretion , that it is in the public interest to grant such confidential treatment. The public announcement described in paragraph (h) of this section is required upon first publication to security holders or on the 34th day after filing the technically complete Notice, whichever occurs first. The filing person shall send proof of the publication of the announcement to the district office before which the Notice is pending within 10 days of the date of the announcement. In other cases of requests for confidential treatment, the Office will be guided by the presumption that the filing of such Notices should be announced immediately, but may, in its discretion, authorize delayed announcement if the announcement would not be in the public interest.

(ii) Notwithstanding any of the other provisions of paragraph (h) of this section, the Office may, in its discretion, waive the requirement that a public announcement be made in connection with a filing if it determines that such announcement is not in the public interest.

(2) *Release of Summary Information.* In order to facilitate the Office's release of summary information, Part E of the Notice format consists of a summary ("Summary Fact Sheet") which the person subject to the statute and regulation is required to complete as part of the Notice filing. The information provided in the Summary Fact Sheet will be released and made available for public inspection and copying, upon the request of any person, in accordance with the specified time sequence described below. In addition, public announcement of the disposition of the Notice and the consummation date of the transaction, if applicable, will be made in the *Weekly Bulletin* published by the Office.

(i) The instructions to the Summary Fact Sheet portion of the Notice indicate that when the person filing the Notice affirmatively indicates no objection to public release of the information contained in the Summary Fact Sheet, public release normally will be made as soon as practicable after acceptance of the Notice for filing.

(ii) When the Office has not disapproved an acquisition of control within the statutory period (and any extensions thereof), the Office normally will release the information contained in the Summary Fact Sheet upon completion of such acquisition of control.

(iii) When the Office has issued a written disapproval of a proposed acquisition of control, it normally will release the information set forth in the Summary Fact Sheet upon the filing of an appeal with the U.S. Court of Appeals for the appropriate circuit, or upon the expiration of time within which any appeal must be taken.

(iv) When a Notice under the Act is filed, but withdrawn prior to agency action or expiration of the statutory

waiting period, the Office normally will not release the Summary Fact Sheet. The filing of the Notice, the identity of the person on whose behalf the Notice was filed and the time frames within which the Notice was to be considered by the Office, normally would have been announced previously.

(v) If the information contained in the Summary Fact Sheet becomes known to members of the public, the Office may release the Summary Fact Sheet in its discretion.

(vi) The information contained in the Notice that is not included in the Summary Fact Sheet will continue to be held confidential by the Office subject to the requirements of the FOIA and other applicable law.

(3) *Private Right of Action.* Nothing contained herein shall create a private right of action on behalf of any person, nor shall any person, including the affected institution, have standing to intervene or otherwise contest the Notice or appear before the Comptroller in the deliberations regarding notices filed under the Act.

* * * * *

(Approved by the Office of Management and Budget under control number 1557-0015)

Dated: May 15, 1986.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 86-15994 Filed 7-16-86; 8:45 am]

BILLING CODE 4810-33-M

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12 CFR Parts 7 and 21

[Docket No. 86-14]

Interpretive Rulings and Minimum Security Devices and Procedures and Reports of Crimes and Suspected Crimes

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("OCC") is eliminating Interpretive Ruling § 7.5225, 12 CFR 7.5225, regarding reports by a national bank in the event of known or suspected crimes and is replacing it with a regulation that amends the requirements of the interpretive ruling. This final rule references two new report forms, eliminates a requirement to send a report to the bank's bonding company, establishes threshold dollar amounts for the filing of Criminal Referral Forms, and extends the time for filing reports to 30-calendar days. This final rule modifies a reporting system that was unduly burdensome on banks and had limited practical utility to the government agencies involved. The final rule is intended to make report filing more efficient for the banks and more useful for law enforcement agencies in identifying patterns of criminal activity and apprehending persons who commit crimes involving national banks. This final rule also clarifies the responsibilities of a national bank in reporting and maintaining records of known or suspected crimes.

EFFECTIVE DATE: September 15, 1986.

ADDRESS: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219.

FOR FURTHER INFORMATION CONTACT: Joel Miller, Attorney, Enforcement and Compliance Division, Office of the Comptroller of the Currency, Washington, DC 20219 (202) 447-1818.

SUPPLEMENTARY INFORMATION:

Background

The OCC is charged with safeguarding the safety and soundness of national banks and pursuant to that authority is responsible for ensuring that national banks apprise law enforcement authorities of any actual or potential violations of criminal statutes. Employee fraud, abusive insider transactions, check kiting schemes, and the like, can be serious threats to a bank's security and may undermine the confidence and trust that individuals and businesses place in the banking industry. The OCC's primary concerns are losses sufficient in size or number to impact the safety and soundness of the bank, patterns of criminal offenses, crimes committed by bank officials, and the adequacy of the bank's security systems and internal controls.

The law enforcement community is concerned with receiving reports, shortly after a crime or suspected crime has been discovered, containing sufficient information to determine whether the matter warrants investigation and prosecution.

A Working Group was formed in December 1984 to address problems and promote cooperation toward the goal of improving the federal government's response to white collar crime in federally-regulated financial institutions. The Working Group is composed of senior officials of the financial institution regulatory agencies and the Justice Department. The Working Group recommended improving the referral system for suspected bank fraud through a uniform Criminal Referral Form for use by all federally-insured financial institutions and the regulatory agencies.

On August 28, 1985, the OCC published for comment in the **Federal Register** (50 FR 34857) a notice of proposed rulemaking pertaining to 12 CFR Part 7—Interpretive Rulings and 12 CFR Part 21—Minimum Security Devices and Procedures for National and District Banks. The proposed amendments to Parts 7 and 21 were issued pursuant to 12 U.S.C. 1 *et seq.*, 93a, 1818, as amended, and 1881-1884. As stated in the notice of proposed rulemaking, the proposal is part of an effort by the OCC, in cooperation with the other federal financial institution regulatory agencies and the Department of Justice, to enhance the effectiveness of methods of discovering and prosecuting fraud and other crime in financial institutions.

The goal of this final rule is to enhance the information quality of criminal referrals, thereby making the referrals more useful, and to provide a standard format for the reporting of criminal referrals, thereby making the reporting process more efficient and economical for the banks. These changes facilitate the assessment and investigation of possible criminal matters, aid in the identification of patterns of criminal misconduct, and improve the OCC's ability to track the disposition of criminal referrals.

Criminal Referral Forms (Short and Long)

Section 21.11 requires a bank to file a Criminal Referral Form to report known or suspected crimes to the OCC. The OCC Criminal Referral Form has two formats—a short form (CC-8010-08) and a long form (CC-8010-09). It is estimated that the short form will be used for 95% of the reports submitted.

The short form requires a bank to report the basic facts of the suspected crime: the approximate date and dollar amount of loss, the type of crime (embezzlement, check kiting, etc.), a brief summary of the violation, and where known, the identity of any person suspected. The "long form," an expanded and more detailed report, is required only in those situations where the loss of violation exceeds $10,000, or for any loss involving a bank insider (i.e., an executive officer, director, or principal shareholder).

Submission of Criminal Referral Forms

Threshold Amounts

New § 21.11 requires that a national bank submit a Criminal Referral Form upon the discovery of any known or suspected theft, embezzlement, check-kiting operation, misappropriation, or other defalcation involving bank personnel and bank funds. A report must be filed where bank personnel are

believed to be involved regardless of the dollar amount of bank funds involved.

Section 21.11 also sets forth more general guidelines for the reporting of known or suspected criminal violations of the U.S. Code, or regulations promulgated thereunder, where a violation is committed against the bank and the bank believes, in good faith, that it is the actual or potential victim of the violation. The bank must report all such violations of $1,000 or more where it has a substantial basis for identifying a possible suspect or group of suspects.

For a criminal violation not involving bank personnel and involving $1,000 or less of bank funds or other assets, a bank must only file a report where that loss is part of a pattern of criminal activity committed by one or more identifiable individuals and the aggregated loss totals $1,000 or more. For example, a series of forged signatures appearing on credit card purchase receipts must be reported if the bank has reason to believe one identifiable individual, or a group of individuals acting in concert, has perpetrated the forgeries, and the aggregate dollar loss is $1,000 or more. Similarly, a series of $20 ATM losses, aggregating $1,000 or more, must be reported when the bank has reason to suspect one or more identifiable individuals have committed the criminal actions.

In those situations where there is no substantial basis for the bank to identify a possible suspect or group of suspects, a bank must only report a known or suspected criminal violation involving $2,500 or more. In addition, § 21.11 provides that a bank must report only those mysterious disappearances or unexplained shortages of bank funds or other assets of $2,500 or more.

Reporting Deadline

This final rule imposes a 30-calendar day period, commencing from the date of detection, during which a bank must report a criminal violation, mysterious disappearance or an unexplained shortage of bank funds. In those situations were the loss requires immediate attention or where the violation is ongoing, a bank is encouraged to notify the appropriate law enforcement agencies and the appropriate OCC District Office by telephone. The bank's oral notification shall be followed by a timely written report.

The 30-calendar day reporting deadline is longer than the seven-business day period originally proposed. The 30-calendar day period should allow a bank sufficient time to resolve most mysterious disappearances and unexplained shortages, thereby eliminating the filing of reports which prove unnecessary after additional facts come to light.

In those situations where a bank is not obligated to file a report, e.g. an unexplained shortage of less than $2,500, but facts subsequently come to light revealing information identifying the individual(s) known or suspected of having committed or attempted to commit a criminal act, the 30-calendar day reporting period commences from the date reportable information is first identified.

Failure to Report

Willful or careless disregard reflected by a failure to file those reports required by § 21.11 may form the basis for the assessment of civil money penalties against the bank, its officers, and/or its directors.

If a question exists as to whether to report an incident, the OCC recommends that a report be submitted. For example, where a bank has a substantial basis to believe a pattern of criminal conduct aggregating at least $1,000 has occurred, such as a series of similar check or credit card frauds, the bank should report that pattern of criminal conduct on the short form. Additionally, banks are encouraged to report suspected violations, regardless of amount, to either state or local law enforcement authorities, whenever a violation of state or local law is suspected.

Exceptions to Reporting Requirements

Section 21.11(f) provides two exceptions to the reporting requirements: one for robberies and burglaries and the second for lost or missing securities. These exceptions are provided because of the OCC's recordkeeping requirement in § 21.5(c) and the Security and Exchange Commission's ("SEC") reporting requirements set forth at 17 CFR 240.17f–1 dealing with lost and missing securities.

Under § 21.5(c), as amended by this final rule, a national bank must maintain a record of each robbery or burglary committed or attempted at any of its banking offices. The record may be a copy of a police, insurance or similar report, or the bank's own record. The phrase "non-employee larceny" formerly used in § 21.5(c) has been deleted because it was subject to overbroad interpretation. The recordkeeping requirements of § 21.5(c) are limited to those situations where a crime is committed using physical violence, threats, or weapons. Section 21.5(c) recordkeeping requirements do not include larcenies involving the use of a check, credit card, computer, or other access device.

SEC Rule 17f–1, 17 CFR 240.17f–1, provides that every bank with deposits insured by the Federal Deposit Insurance Corporation shall report to the SEC, or its designee, and to the appropriate law enforcement agency the discovery of the theft or loss of any security where there is a substantial basis for believing that criminal activity was involved. In addition, lost or missing securities, where criminal actions are not suspected, are also to be reported to the SEC or its designee. In light of the SEC Rule, OCC has determined that known or suspected criminal violations involving securities, and the mysterious disappearance or unexplained absence of a security need not be reported to OCC on the Criminal Referral Forms.

Reporting Forms

Section 21.11(e) authorizes a bank to file its reports on either the appropriate OCC form, a legible photocopy thereof, or a facsimile, such as a computer generated form. In order to ensure prompt processing of Criminal Referral Forms and to maximize their usefulness, it is critical that a bank use Criminal Referral Forms identical to those issued by the OCC and that the bank provide as much information on the form as is known. Supplemental Criminal Referral Forms should be filed when significant developments are discovered. A supplemental form should be plainly marked as such and should refer to, or include as an attachment, a copy of the original Criminal Referral Form.

Discussion of Comments

The OCC received 24 comments on the proposed rule: Eighteen from national banks and bank holding companies; four from bank trade associations; and two from interested law firms. Nearly all commenters requested some change or clarification in the proposed regulation. The most frequently received comments (a) requested clarification as to the nature of those occurrences which would necessitate the filing of a Criminal Referral Form; (b) recommended that reports be required only if the losses resulting from known or suspected criminal violations exceeded some threshold amount; (c) recommended that the period for filing reports be longer than seven business days; and (d) recommended that banks, bank officers and directors be protected in some manner from both indeterminate OCC civil money penalties where a good faith

effort is made by a bank to report all violations, and from private actions where information reported by a bank might be perceived as warranting a claim under the Right to Financial Privacy Act, state law or common law.

While most commenters expressed concern about criminal activities associated with or involving their institutions, many stated the filing requirement was overly burdensome and unnecessary. One commenter was pleased that the proposal removed the requirement to report all suspected losses to the institution's bonding company.

What Triggers The Reporting Requirement

Numerous commenters requested clarification concerning what constitutes a crime, suspected crime, or nonemployee larceny as used in the proposed rule. Several commenters expressed concern that bank personnel would not be capable of determining whether or not a crime or suspected crime had occurred and that this might result in a civil money penalty being assessed against an individual or the bank for failure to file a report.

In order to reduce the uncertainty concerning what constitutes a known or suspected criminal violation, the OCC will incorporate into its Criminal Referral Forms (CC–8010–08 and 8010–09) a listing and description of the most common federal crimes involving financial institutions, their personnel, or their customers' accounts. Using this list as a base, bank personnel should, in most instances, be able to determine whether a particular situation gives rise to the reporting requirement. If bank personnel are unsure if a report is required, they should file a report.

The OCC has clarified the phrase "known or suspected criminal violations of the United States Code or applicable state statutes involving the affairs of the bank" which was contained in the proposed rule. This final rule eliminates the requirement to report known or suspected criminal violations of state statutes because the OCC is most concerned with violations of federal statutes and regulations and because the OCC seeks to minimize, where possible, the reporting requirements imposed upon banks. A bank is encouraged by § 21.11(d) to report state or local law violations to the appropriate state and local law enforcement authorities.

This final rule requires that a bank report known or suspected criminal violations only where the bank believes, in good faith, that it is the actual or potential victim of the crime. This replaces a proposed requirement for the bank to file reports in those situations where the "affairs of the bank" are involved. That change eliminates the potential ambiguity mentioned by several commenters that the proposed regulation might be interpreted to require a bank to report criminal incidents having no relationship to the financial status of the bank.

The OCC believes the phrase "known or suspected criminal violations" does not require further clarification. Section 21.11(b)(5) limits "suspected" criminal violations to those matters for which there is a known factual basis for a belief that a crime has been or may have been committed. Although one commenter was confused by the phrase, a bank employee need only evaluate whether a criminal violation potentially has occurred—if so, and if the threshold amounts are met, a Criminal Referral Form must be filed. If a transaction has no appearance of criminal involvement—no form is required.

Threshold Amounts for Filing Reports

Several commenters, especially from regional and multinational institutions, were concerned with the volume of reports that will have to be filed involving mysterious disappearances and unexplained shortages of bank funds or other assets of less than $1,000. Teller differences, ATM shortages, and misplaced negotiable instruments were cited as examples of non-criminal situations that generally are investigated in-house and need not be reported for law enforcement purposes. Several commenters asked that OCC not require referrals for low dollar value crimes involving check and credit card forgeries and access device fraud.

Many commenters stated there should be a minimum dollar limit placed on all reporting categories. The minimum amount proposed by most commenters was $1,000. Several commenters recommended that the minimum reportable level be pegged to a varying minimum based upon the level at which the local federal law enforcement agencies (FBI and U.S. Attorney's Office) undertake investigations and enforcement actions. One commenter urged that the long form should be used only to report matters in excess of $25,000, instead of the $10,000 proposed.

The OCC has no desire to place unnecessary reporting burdens on national banks, however, it is interested in furthering the goal of crime detection and prevention in cooperation with other federal law enforcement agencies. The OCC has determined, that where a bank has no apparent basis for identifying a possible suspect or group of suspects involved with a known or suspected criminal violation, a minimum reporting amount of $2,500 is appropriate.

The OCC has further determined that where the bank has a reasonable basis for identifying a possible suspect or group of suspects, every crime of $1,000 or more should be reported. In addition, those crimes of less than $1,000 are to be reported where a bank has reason to believe that one or more identifiable individuals have committed a series of crimes which, when aggregated, total $1,000 or more. Where a bank employee is suspected of criminal activity however, all bank related crimes must be reported regardless of the dollar amount involved.

The OCC is reluctant to set an arbitrary minimum dollar amount for criminal referrals, below which banks would not be required to file reports, as such a floor amount may tend to encourage multiple non-reportable criminal violations. For example, individuals engaged in "money laundering" operations utilizing financial service institutions have been detected engaging in repeated transactions of less than $10,000 each. The amount of each such transaction may be based upon the $10,000 threshold reporting requirement set forth in the Currency and Foreign Transactions Reporting Act, 31 U.S.C. 5311 *et seq.*, and regulations promulgated thereunder at 31 CFR 103. Such transactions are not necessarily reported by the facilitating institution. Therefore, in order to avoid nonreporting of criminal violations, in this final rule the OCC has established threshold amounts which require the filing of Criminal Referral Forms whenever significant criminal activity, or a pattern of criminal activity, is detected and suspects are identified.

The OCC has also determined that a bank must report only mysterious disappearances of unexplained shortages of bank funds or other assets of $2,500 or more. The proposed rule included a $1,000 threshold amount for those kinds of losses.

Period for Filing Reports

The OCC has extended the reporting period for all criminal referrals from seven business days to 30-calendar days. Thirty calendar days will provide the bank with a sufficient period of time to resolve shortages, locate missing documents, and otherwise resolve mysterious disappearances of bank funds or other assets. In addition, it will enable bank staffs to provide more detailed information concerning known or suspected crimes, and ideally will

provide sufficient opportunity to identify a possible suspect or group of suspects. The OCC assumes that each bank will monitor each disappearance and loss it detects and will not allow a pattern of such activity to continue. A bank is encouraged to file its reports as soon as it collects the data requested on the Criminal Referral Form.

Right to Financial Privacy Act Concerns

Eight commenters expressed concern that a bank might violate the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. 3400–3422, in its attempt to comply with the reporting requirements of § 21.11. OCC believes that the RFPA does not impose restrictions on the information which is expected to be contained in the Criminal Referral Forms. Section 1103(c) of the RFPA, 12 U.S.C. 3403(c), states that nothing in the Act precludes a financial institution: "from notifying a Government authority that such institution . . . has information which may be relevant to a possible violation of any statute or regulation." The legislative history of the RFPA indicates that under this provision "a bank could, and should, report to appropriate officials information pertaining to the cashing of a forged check, the passing of counterfeit currency or bonds, or the use of its services to facilitate a fraudulent scheme." H.R. Rep. No. 1383, 95th Cong., 2d Sess. 218 (1978), reprinted in 1978 U.S. Code Cong. & Ad. News 9273, 9348. Moreover, section 1113(d), 12 U.S.C. 3413(d), states that nothing in the RFPA authorizes withholding "information required to be reported in accordance with any Federal statute or rule promulgated thereunder." As clarification, H.R. Rep. No. 1383, *supra* at 226, reprinted in 1978 U.S. Code Cong. & Ad. News 9273, 9356, provides that Congress intended this provision to apply to reports required under statutes such as the Federal Deposit Insurance Act. Section 21.11 is being promulgated by OCC under the authority of several statutes, among them the Federal Deposit Insurance Act.

Because the RFPA encourages notification of law enforcement authorities of criminal activity and provides for exceptions from its requirements for reports required under the Federal Deposit Insurance Act, or regulations promulgated thereunder, it is the opinion of the OCC that referrals made pursuant to this regulation will be in compliance with the RFPA.

When referrals are made, it is necessary that the bank have a known factual basis for the referral. Whether or not the bank knows who committed the crime, it must first accumulate verifiable circumstances that provide a substantial basis to indicate that a crime was committed. Where a known crime or suspected criminal violation has occurred, it must be reported (assuming all other factors are met). However, mere suspicion of an individual's criminal involvement based on behavior unrelated to the known or suspected crime is not sufficient to justify naming that person as a suspect. Where the perpetrator of the known or suspected crime is unknown, that category on the Criminal Referral Form should so state.

The OCC stresses that those persons preparing Criminal Referral Forms are not expected to conclude that the matters referred will result in a criminal prosecution or conviction. Appropriate law enforcement authorities will determine on a case-by-case basis whether a referral warrants further investigation.

Further, so long as the bank and those involved with the submission of a Criminal Referral Form comply with the "good faith" requirement of § 21.11, they may raise their good faith compliance with the regulation as a legal defense against civil suits for defamation where, for example, an individual, named in a Criminal Referral Form as a suspect, is ultimately exonerated and initiates an action against the referring bank. *See* W. Prosser and W. Keeton, *Law of Torts* section 115 (4th ed. 1984); *Wilson* v. *Retail Credit Co.*, 438 F.2d 1043, 1045 (5th Cir. 1971).

Purview of State Privacy Laws and Federal Preemption of Inconsistent State Laws

Six commenters stated that a bank may violate a state constitution or privacy statute in its effort to comply with the reporting requirement. Article one of the California Constitution, CAL. CONST. Art. 1, section 1, which includes the right to privacy in its recitation of inalienable rights, and the California Right to Financial Privacy Act, West's Ann. Cal. Gov. Code sections 7460 *et seq. ("CRFPA")*, were cited by several commenters as examples of state privacy laws which may be violated by a bank attempting to comply with the OCC's reporting requirement.

The CRFPA, like the federal RFPA, restricts the information which may be obtained by a government agency from a financial institution concerning the financial records of its customers. The CRFPA however, unlike the federal RFPA, only restricts the disclosure of customer account information to state and local agencies; disclosure to federal agencies is not addressed by the CRFPA.

The commenters were particularly concerned with private actions being filed against a bank in situations where it was believed a bank would violate a state law in an effort to comply with an apparently contradictory federal regulation. Responding only to the comments submitted, and without professing to provide a legal opinion concerning California or other state privacy laws, the OCC believes the commenters are concerned with a nonissue.

First, insofar as the CRFPA is concerned, section 7480(a) of the CRFPA explicitly provides, as an exception to its restrictions on the disclosure of customer financial records to state and local agencies, that "[n]othing in [the CRFPA] prohibits . . . [t]he dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer." The reporting requirements of § 21.11 deal, to a large extent, with bank funds or other assets not identified with or derived from a particular customer's account. For example, most employee defalcations and most mysterious disappearances or unexplained shortages of bank funds or other assets of $2,500 or more will fall within the exception to the CRFPA cited above.

Second, section 7471(c) of the CRFPA, the "bank as victim" exception (*Burrows* v. *Superior Court*, 13, Cal. 3d 238, 245, 118 Cal. Rptr. 166, 529 P.2d 590 (1974); *People* v. *Hole*, 139 Cal. App. 3d 431, 438, 188 Cal. Rptr. 693 (5th Dist. 1983)), provides: "This section shall not preclude a financial institution, in its discretion, from initiating contact with, and thereafter communicating with and disclosing customer financial records to, appropriate state or local agencies concerning suspected violation of any law." Section 21.11(d) of this final rule, which encourages a bank to contact federal, state and local law enforcement authorities, particularly where the facts indicate a potential violation of law has occurred, is consistent with the disclosure exceptions to the CRFPA cited above. Similarly, where the bank is a victim of a known or suspected criminal violation, the California Supreme Court has held that the state constitutional right to privacy is not breached by the disclosure of relevant customer records to state or local law enforcement agencies. *Burrows* v. *Superior Court, supra.*

Undoubtedly due to the pre-emption doctrine, which is based upon the Supremacy Clause of the United States Constitution, U.S. CONST. Art. VI, cl. 2,

the CRFPA does not address disclosure of customer financial records to the OCC and other federal financial regulatory and law enforcement agencies by California banks. The disclosure restrictions underlying the CRFPA are limited by their very terms to state and local agencies.

Federal pre-emption of state law may be conferred by Congress either in the express language of a federal statute or may be implicitly contained in the structure and purpose of that statute. *Fidelity Federal* v. *De La Cuesta*, 458 U.S. 141, 152–53 (1982), citing *Jones* v. *Rath Packing Co.*, 430 U.S. 519, 525 (1977). Section 708 of the Depository Institutions Deregulation and Monetary Control Act of 1980, 12 U.S.C. 93a, and section 202 of the Financial Institutions Supervisory Act of 1966, 12 U.S.C. 1818(n), (which amends the Federal Deposit Insurance Act), provide the Comptroller with express authority "to prescribe rules and regulations to carry out the responsibilities of the office," and empower the Comptroller to "make rules and regulations" with respect to matters arising under the Act. Because one of the Comptroller's primary responsibilities, as delegated by Congress, is to insure the safety and soundness of the national banking system under 12 U.S.C. sections 481, 1813(q) and 1818(b), (*See Conference of State Bank Supervisors* v. *Conover*, 710 F.2d 878, 881, 885 (D.C. Cir. 1983)), the Comptroller has the authority pursuant to 12 U.S.C. 93a and 1818(n) to prescribe the necessary rules and regulations to effectuate those objectives. *See Independent Bankers Association* v. *Heimann*, 613 F.2d 1164, 1168–69 (D.C. Cir. 1979) cert. den. 449 U.S. 823 (1980). Section 21.11 is being promulgated as part of the OCC's efforts to safeguard the safety and soundness of national banks.

As the Court of Appeals for the D.C. Circuit recently concluded in discussing OCC's authority:

> [T]he entire legislative scheme [governing national banks] is one that contemplates the operation of state law only in the absence of federal law and where such state law does not conflict with the policies of the National Banking Act. So long as [the Comptroller] does not authorize activities that run afoul of federal laws governing the activities of the national banks, . . . the Comptroller has the power to preempt inconsistent state law. *Conference of State Bank Supervisors* v. *Conover*, 710 F.2d at 885.

This final rule is consistent with both the express and implied guidelines for the regulation of national banks delegated by Congress to OCC. In light of the recent Supreme Court decision in *Fidelity Federal*, state laws that conflict with the reporting obligations set forth in this final rule may be determined to be preempted by this final rule. *See Fidelity Federal* v. *De La Cuesta*, 458 U.S. at 153.

Notifying the Board of Directors of All Criminal Referrals

Two commenters suggested that the final rule include a threshold amount for reports below which the board of directors need not be notified of a violation occurring at their bank.

The OCC believes that awareness of criminal acts and disappearances or shortages of bank funds is of sufficient importance to require each director's attention as soon as reasonably possible. Notification need not be time-consuming; it requires no more than a summary recitation, written or oral, of the basic facts known, with a copy of the Criminal Referral Forms and other documents being made available for more detailed review by the board members. Notification to the board of the filing of any report must be made no later than at their next meeting.

Notifying The Bonding Company of Criminal Referrals No Longer Required

Interpretive Ruling 7.5225, now removed, provided that written reports of known or suspected employee thefts, embezzlements, misappropriations, or defalcations, known or suspected criminal violations, and mysterious disappearances or unexplained shortages of bank funds or other assets of $1,000 or more were to be reported to the bank's bonding company. The OCC stated in the proposed rule that it is not the role of a federal regulator to interfere with the contractual relationship between a bank and its bonding company. Accordingly, the regulatory requirement to report to the bonding company is eliminated in favor of any contractual commitments between the bank and its bonding company.

Exemptions From Filing Reports

This final rule sets forth two exemptions at § 21.11(f) which describe criminal events which need not be reported by a bank on a Criminal Referral Form. Robberies and burglaries are already recorded by a bank under § 21.5(c) and are reported to local law enforcement authorities. Similarly, a bank must report lost, missing, counterfeit or stolen securities under 17f CFR 240.17f–1. That regulation was promulgated by the SEC and requires a bank to notify the SEC or its designee of lost, missing, counterfeit or stolen securities.

Penalty for Failure To File Reports

This final rule identifies when a civil money penalty may be assessed against a bank, its officers or its directors for failure to file a report. Penalties may be assessed where the violation is willful or demonstrates a careless disregard for compliance with § 21.11. Assessments are likely to be made where it has been established that a bank officer, director or other employee has intentionally attempted to cover up a defalcation or significant loss or has intentionally failed to file reports.

In response to a commenter's query, the statutory authority for the imposition of civil money penalties for failure to comply with the reporting requirement of § 21.11 is located at 12 U.S.C. 93(b)(1) and 93a. Civil money penalties may be imposed by the Comptroller against a national banking association or any officer, director, employee, or agent thereof, who violates the National Banking Act or any regulation issued pursuant thereto. H.R. Rep. No. 95–1383, *supra* at 9310, reprinted in 1978 U.S. Code Cong. & Ad. News 9273, 9310.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexible Act (Pub. L. 96–354m, 5 U.S.C. 601) the Comptroller of the Currency has certified that this final rule will not have a significant economic impact on a substantial number of small banks or other small entities.

Executive Order 12291

The OCC has determined that this final rule is not a "major rule" and therefore does not require a regulatory impact analysis.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1980, the reporting and recordkeeping requirements of 12 CFR Part 21 were submitted to and approved by the Office of Management and Budget under control number 1557–0069.

List of Subjects in 12 CFR Parts 7 and 21

National Banks, Criminal referrals, Insider abuse, Theft, Embezzlement, Check kiting, Defalcations.

Authority and Issuance

For the reasons set out in the preamble, Parts 7 and 21 of Chapter I of Title 12 of the Code of Federal Regulations are amended as follows:

PART 7—INTERPRETIVE RULINGS

1. The authority citation for 12 CFR Part 7 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, unless otherwise noted.

§ 7.5225 [Removed]

2. Part 7 is amended by removing § 7.5225.

PART 21—[AMENDED]

3. The authority citation for 12 CFR Part 21 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a, 1818, as amended, and 1881–1884.

4. The title of Part 21 is revised to read as follows:

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES AND REPORTS OF CRIMES AND SUSPECTED CRIMES

5. Sections 21.0 through 21.7 are designated as Subpart A to read as follows:

Subpart A—Minimum Security Devices and Procedures.

6. The title of § 21.0 is revised to read as follows:

§ 21.0 Purpose and scope of Subpart A.

7. Paragraph (c) of § 21.5 is revised to read as follows:

§ 21.5 Filing by banks of reports and maintenance of records.

* * * * *

(c) *Records of external crime.* After a robbery or burglary is committed or attempted at a banking office of a bank, the bank shall keep a record of the incident at its main office. The record may be a copy of a police, insurance or similar report of the incident.

Alternatively, the bank may wish to develop its own record indicating the office at which the incident occurred, the type of crime, when the crime occurred and the amount of any loss; whether operational or mechanical deficiencies might have contributed to the crime; and what has been or will be done to correct any deficiencies.

* * * * *

8. New Subpart B consisting of § 21.11 is added to read as follows:

Subpart B—Reports of Crimes and Suspected Crimes

§ 21.11 Reports of crimes and suspected crimes.

(a) *Purpose.* This section applies to known or suspected crimes against national banks. This section ensures that the appropriate parties are notified when unexplained losses and known or suspected criminal acts are discovered. Based on these reports, the OCC maintains a data base for monitoring the types and extent of crimes against banks.

(b) *Reports Required.* A national bank shall file Criminal Referral Form (CC–8010–08 or CC–8010–09) in accordance with the instructions on the form, in case of:

(1) Any mysterious disappearance or unexplained shortage of bank funds or other assets of $2,500 or more.

(2) Any known or suspected theft, embezzlement, check kiting operation, misapplication, or other defalcation, involving bank funds or other assets in any amount, where the bank has a substantial basis for identifying responsible bank personnel.

(3) Any known or suspected criminal violation, or pattern of criminal violations, of any section of the United States Code, or regulation promulgated thereunder, committed against the bank and involving or aggregating $1,000 or more in bank funds or other assets, where the bank believes, in good faith, that it is an actual or potential victim of a criminal violation, or series of criminal violations, and the bank has a substantial basis for identifying a possible suspect or group of suspects.

(4) Any known or suspected criminal violation of any section of the United States Code, or regulation promulgated thereunder, committed against the bank and involving or aggregating $2,500 or more in bank funds or other assets, where the bank believes, in good faith, that it is an actual or potential victim of a criminal violation, or series of criminal violations, even though there is no substantial basis for identifying a possible suspect or group of suspects.

(5) As used in paragraphs (b)(2), (3), and (4), of this section, the term "suspected" refers to all matters, including unexplained losses, for which there is a known factual basis for a belief that a crime has been or may have been committed.

(c) *Time for Reporting.* (1) A national bank shall file, no later than 30 calendar days after the date of detection of the loss or violation, any report required pursuant to paragraph (b) of this section. Where a report becomes necessary because a possible suspect or group of suspects are finally identified, the 30-calendar day reporting period commences with the identification of the suspect or group of suspects.

(2) Where a pattern of crimes committed by an identifiable individual is detected by a bank, a report shall be filed no later than 30 calendar days after the aggregate amount of the crimes exceeds $1,000.

(3) In situations involving violations requiring immediate attention or where a reportable violation is ongoing, the bank should immediately notify, by telephone, the Offices set forth on the forms. Banks shall timely file, after telephone notification, the required written reports.

(d) *Reporting to Federal, State and Local Authorities.* Nothing in this section shall preclude a bank from filing appropriate reports or otherwise reporting crimes or suspected criminal activity to federal, state and local law enforcement authorities where the facts indicate a potential violation of law has occurred.

(e) *Manner of Reporting.* A bank may elect to file its reports on either the appropriate OCC Criminal Referral Form, a legible photocopy thereof, or on a facsimile of the appropriate OCC form.

(f) *Exemptions.* (1) Banks need not file Criminal Referral Forms for those robberies and burglaries explicitly covered by the recordkeeping requirements of § 21.5(c), committed or attempted at a banking office of a bank.

(2) Banks need not file Criminal Referral Forms for lost, missing, counterfeit or stolen securities if a report is filed pursuant to the reporting requirements of 17 CFR 240.17f–1.

(g) *Notification of Board of Directors.* The Bank shall have effective procedures ensuring that the board of directors of the bank is notified, not later than at their next meeting, of the filing of any report hereunder.

(h) *Penalty.* Willful failure to file or careless disregard in filing reports may subject the bank, its officers, and/or its directors to civil money penalties.

(Approved by the Office of Management and Budget under Control Number 1557–0069)

Dated: May 16, 1986.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 86–16166 Filed 7–16–86; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–74–AD; Amdt. 39–5363]

Airworthiness Directives; Avions Marcel Dassault-Breguet Aviation Falcon 10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires the installation of brackets on the left-hand and right-hand rudder

servo actuator pressure reducer on certain Falcon 10 airplanes to prevent improper installation of the hydraulic lines. This action also requires the addition of identification marks to the hydraulic lines to prevent improper installation. Improper installation of hydraulic lines in one system and a failure of the other hydraulic system could result in a hazardous condition if an engine failed during takeoff.

EFFECTIVE DATE: August 25, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the AMD-BA Representative, c/o F.J.C., Teterboro Airport, Teterboro, New Jersey 07608. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires the installation of brackets on the rudder servo actuator hydraulic system on certain AMD Falcon 10 airplanes to prevent improper line installation, was published in the **Federal Register** on August 29, 1985 (50 FR 35099).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The first commenter agreed with the proposed rule.

The second commenter stated that an AD was unnecessary since the maintenance manual is clear as to the proper installation of the pressure reducers. The one instance cited in the NPRM of improper valve installation is believed by the commenter to have occurred at the factory, and the lines were improperly routed to it. The FAA does not agree. It is impossible to determine, at this date, where the valve was installed improperly. The addition of the brackets is a simple modification, which is estimated to take only three hours to perform. The FAA has determined that the modification required by the rule will reduce the likelihood of improper valve installation, and is justified.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 158 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $18,960.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Avions Marcel Dassault-Breguet Aviation

Applies to AMD Falcon 10 series airplanes, serial numbers 1 thru 196 inclusive, and 198 thru 201 inclusive, certificated in any category. Compliance is required within 60 days after the effective date of this AD. To ensure the proper installation of the rudder servo actuator hydraulic lines, accomplish the following, unless already accomplished:

A. Modify the rudder servo actuator system in accordance with AMD-BA Service Bulletin F10-27-028 (0237), dated June 24, 1983.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive, who have not already received the appropriate service bulletin from the manufacturer, may obtain copies upon request to the AMD-BA Representative, c/o F.J.C., Teterboro Airport, Teterboro, New Jersey 07608. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective August 25, 1986.

Issued in Seattle, Washington, on July 10, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-16069 Filed 7-16-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-167-AD; Amdt. 39-5361]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes, Fuselage Numbers 1 Through 1242

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC-9 and C-9 (Military) series airplanes, that requires inspection of the elevator boost cylinder rod end nut. This amendment is necessary to revise the fuselage number applicability and provide a modification that constitutes terminating action for repetitive inspection requirements of this AD.

DATES: Effective August 21, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L,

FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to amend Airworthiness Directive (AD) 85-11-02, Amendment 39-5068 (50 FR 20896; May 21, 1985), to require inspection of the elevator boost cylinder rod end nuts on certain McDonnell Douglas DC-9 and C-9 (Military) series airplanes, was published in the **Federal Register** on February 12, 1986 (51 FR 5204). The comment period for the proposal closed April 6, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The first commenter queried as to why airplanes, fuselage numbers 1196 through 1242, would be subject to the initial inspection, since McDonnell Douglas has inspected those airplanes prior to delivery. The FAA has determined that there is no documentation which indicates that those serial-numbered fuselages have been inspected or checked and found in compliance to the McDonnell Douglas DC-9 Service Bulletin (S/B) 27-262, dated November 27, 1985, or other approved documentations.

The second commenter suggested that the initial compliance period for the recently added airplanes be 2,500 flight hours or 12 months since last inspection (delivery), or 300 flight hours after the effective date of the proposed amendment, whichever is later. The effect of this suggestion would be to permit newly delivered airplanes to accumulate 2,500 flight hours before inspection. In light of the lack of documentation to prove that these airplanes were inspected prior to delivery, this extension would not be appropriate.

It is estimated that 1,125 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of the new part is $195. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $534,375.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, DC-9 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

2. By amending AD 85-11-02, Amendment 39-5068 (50 FR 20896; May 21, 1985), as follows:

A. Revise applicability statement to read:

"**McDonnell Douglas:** Applies to McDonnell Douglas DC-9-10, -20, -30, -40, -50, -80, and C-9 (Military) series airplanes (Fuselage Numbers 1 through 1242), certificated in any category."

B. Add paragraph H. to read as follows:

"H. Modification of elevator hydraulic boost cylinder attach rod ends in accordance with the Accomplishment Instructions of McDonnell Douglas DC-9 Service Bulletin 27-262, dated November 27, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, constitutes terminating action for the repetitive inspection requirements of this AD."

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective August 21, 1986.

Issued in Seattle, Washington, on July 9, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-16070 Filed 7-16-86; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release Nos. 33-6653; 34-23421; IC-15199; File Nos. S7-34-85, S7-35-85, S7-01-86]

Amendments to Tender Offer Rules: All-Holders and Best-Price

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today announced the adoption of amendments to its issuer and third-party tender offer rules. The amendments provide that a bidder's or issuer's tender offer must be open to all holders of the class of securities subject to the tender offer and that any security holder must be paid the highest consideration paid to any other security holder during the tender offer. In addition, the Commission is amending existing rules concerning minimum offering periods and withdrawal rights. With respect to minimum offering periods, a tender offer would be required to remain open for ten business days upon the announcement of an increase or decrease in (i) the percentage of securities being sought or (ii) the consideration offered by the offeror. With respect to withdrawal rights, the amendments provide that withdrawal rights extend throughout the offering period and that the extension of withdrawal rights upon commencement of a competing bid is eliminated.

EFFECTIVE DATES: The all-holders requirement of new Rule 14d-10(a)(1) and amended Rule 13e-4(f)(8)(i), (i.e. 240.14d-10(a)(1) and 240.13e-4(f)(8)(i)), and amended Rules 30-1 and 30-3, (i.e. 200.30-1 and 200.30-3) are effective July 17, 1986. The other provisions of new Rule 14d-10 and amended Rules 13e-4, 14d-7, and 14e-1(b), (i.e. 240.14d-10, 240.13e-4, 240.14d-7, and 240.14e-1(b)), are effective on August 18, 1986, except that a tender offer commenced after that date in

competition with an offer that commenced prior to that date would be permitted to rely on the rules in effect prior to such date.

FOR FURTHER INFORMATION CONTACT: For information regarding Rules 14d-7, 14d-10 and 14e-1(b), contact Joseph G. Connolly, Jr. or Gregory E. Struxness, (202) 272–3097, Office of Tender Offers, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. For information regarding Rule 13e–4, contact Nancy J. Burke, (202) 272–2848, or Deren E. Manasevit, (202) 272–7494, Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is amending Rule 13e-4 [1] and Regulations 14D [2] and 14E [3] pertaining to tender offers.

I. Executive Summary

In July 1985, the Commission proposed a new rule to require a bidder making a tender offer under section 14(d) of the Securities Exchange Act of 1934 ("Exchange Act"):[4] (1) To extend the offer to all security holders who own shares of the class of securities subject to the offer ("all-holders requirement"); and (2) to pay every tendering security holder the highest consideration offered to any other security holder at any time during the tender offer ("best-price provision").[5] At that same time, the Commission proposed corresponding amendments to Rule 13e–4 which made the all-holders requirement and best-price provision applicable to issuer tender offers.[6]

The Commission also proposed to require that both third-party and issuer tender offers remain open for at least ten business days from the announcement of an increase in the amount of securities being sought by the offeror. The Commission proposed that such amended offers remain open for the same period of time currently required for increases in the consideration offered or the dealer's soliciting fee in order to allow time for security holders to consider the offer as amended.

The July 1985 releases generated 76 comment letters from 68 commentators.[7] Commentators were about equally divided in their position on the all-holders requirement for third-party tender offers, while a substantial majority of commentators opposed adoption of the all-holders requirement for issuer tender offers. With respect to the July 1985 best-price proposal, a substantial majority of commentators supported adoption of the best-price proposal for third-party tender offers while commentators were about equally divided on the best-price provision for issuer tender offers. The majority of those commentators who opposed the all-holders requirement and best-price provision for issuer and third-party tender offers did so based upon their belief that the Commission lacked authority to promulgate the proposals. Commentators who supported the proposals did so for a variety of policy reasons, including the need to protect security holders from discriminatory tender offers.

With respect to the best-price provision, three commentators suggested revising the best-price proposal to require than all security holders to whom a tender offer is made must be paid the highest consideration paid, rather that offered, to any other security holder. This would permit a bidder to reduce the consideration offered without having to terminate the initial offer and commence a new offer, as has previously been required. The Commission agreed with the suggested reformulation of the best-price provision and in January 1986 proposed, *inter alia*, a revised best-price provision.[8]

The revised best-price proposal also necessitated the proposal of amendments to extend withdrawal rights and to require the offering period to remain open for ten business days upon an increase or decrease in the amount of securities sought or consideration offered.

Specifically, the Commission proposed to amend Rules 13e–4(f)(1)(ii)[9] and 14e–1(b)[10] to provide that a tender offer must remain open for ten business days upon the announcement of an increase or decrease in the percentage of securities being sought or in the consideration offered by the offeror. The Commission proposed two alternatives to extend withdrawal rights. Under the first alternative, additional withdrawal rights would attach for ten business days upon the announcement of a decrease in the percentage of securities being sought or consideration offered. The second alternative provided that withdrawal rights would extend throughout the offer, and that the current requirement to extend withdrawal rights upon the commencement of a competing bid would be eliminated.

Thirteen comment letters were received in response to the Commission's release proposing the reformulated best-price rule.[11] Commentators generally supported the proposal revising the best-price provision from *offered* to *paid*. Further, the commentators who addressed the proposal to require that the offering period remain open for ten business days upon an increase or decrease in the consideration offered or percentage of securities sought generally supported such an amendment. With respect to the two proposals regarding withdrawal rights, commentators generally favored the proposal to extend withdrawal rights throughout the offering period over the proposal to require additional withdrawal rights for ten business days upon the announcement of a decrease in the percentage of securities sought or consideration offered.

The Commission continues to believe that it has the requisite rulemaking authority to adopt the all-holders requirement and best-price provision and, accordingly, is adopting those amendments substantially as proposed. In addition, the Commission is adopting, substantially as proposed, the amendments to Rules 13e–4(f)(1)(ii) and 14e–1(b) regarding the extension of the offering period for changes in the consideration offered or the amount of securities sought. Finally, the Commission is adopting the amendments to Rules 13e–4(f)(2)[12] and

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[1] 17 CFR 240.13e-4.

[2] 17 CFR 240.14–1—14d-10.

[3] 17 CFR 240.14e-1—14e-3.

[4] 15 U.S.C. 78n(d).

[5] Release No. 33–6595 (July 1, 1985) [50 FR 27976].

[6] Release No. 33–6596 (July 1, 1985) [50 FR 28210]. This release also included proposed amendments to the applicable time periods for issuer tender offers in order to bring the provisions governing the conduct of issuer tender offers into conformity with third-party tender offers, to eliminate the advantages afforded defensive issuer tender offers, and to alleviate the confusion that may arise from disparate time periods. On January 9, 1986, the Commission adopted these amendments. *See* Release No. 33–6618 (January 14, 1986) [51 FR 3031].

[7] The letters of comment, as well as a copy of the summary of the comment letters prepared by the staff, are available for public inspection and copying at the Commission's Public Reference Room. (*See* File Nos. S7–34–85, S7–35–85.)

[8] Release No. 33–6619 (January 14, 1986) [51 FR 3186].

[9] 17 CFR 240.13e–4(f)(1)(ii).

[10] 17 CFR 240.14e–1(b).

[11] The letters of comment, as well as a copy of the summary of the comment letters prepared by the staff, are available for public inspection and copying at the Commission's Public Reference Room. (*See* File No. S7–01–86.)

[12] 17 CFR 240.13e–4(f)(2).

14d-7 [13] to provide that withdrawal rights extend until the expiration of the offering period. These amendments also eliminate the extension of withdrawal rights upon the commencement of a competing bid.

II. Authority

The Commission proposed the all-holders and best-price requirements for issuer and third-party tender offers pursuant to statutory authority vested in it by, *inter alia*, Sections 3(b), 13(e), 14(d), 14(e) and 23(a)[14] of the Exchange Act.[15] Section 23(a) authorizes the Commission to adopt such rules and regulations "as may be necessary or appropriate to implement the provisions of [the Exchange Act]." So long as the rule promulgated pursuant to such general rulemaking authority is "reasonably related to the purposes of the enabling legislation it will be sustained." [16] Sections 13(e), 14(d) and 14(e), added to the Exchange Act as part of the Williams Act amendments (Sections 13 (d)[17] and (e), and 14 (d), (e) and (f)[18] of the Exchange Act), were designed: (1) to promote investor protection by requiring full and fair disclosure in connection with cash tender offers, and (2) to eliminate discriminatory treatment among security holders who may desire to tender their shares.[19] These purposes are implemented through disclosure requirements, substantive provisions and antifraud protections. As discussed below, the all-holders and best-price requirements further the purposes of the Williams Act by assuring fair and equal treatment of all holders of the class of securities that is the subject of a tender offer and are an appropriate exercise of the Commission's general rulemaking authority.

The all-holders and best-price rules are "necessary or appropriate" to implement the Williams Act. They expressly preclude bidders from discriminating among holders of the class of securities that is the subject of the offer, either by exclusion from the offer or by payment of different consideration. Without the all-holders and best-price requirements, the investor protection purposes of the Williams Act would not be fully achieved because tender offers could be extended to some security holders but not to others. Such discriminatory tender offers could result in the abuses inherent in "Saturday Night Specials," "First-Come First Served" offers and unconventional tender offers since security holders who are excluded from the offer may be pressured to sell to those in the included class in order to participate, at all, in the premium offered. These excluded security holders would not receive the information required by the Williams Act, would have their shares taken up on a first-come first-served basis and would have no withdrawal rights. There is nothing in the Williams Act or its legislative history to suggest that Congress intended to permit such selective protection of target company security holders.

Consistent with the disclosure objectives of the Williams Act, section 14(d) is "designed to make the relevant facts known so that shareholders have a fair opportunity to make their [investment] decision" to tender, sell or hold their securities.[20] Specifically, section 14(d)(1) requires bidders at the time a tender offer is made to provide investors, as well as the Commission, with information concerning, among other things, the terms of the offer and the bidder's plans or proposals with respect to the target company. In addition, section 14(d)(1) specifically grants to the Commission the authority to prescribe other disclosure requirements for bidders "as [may be] necessary or appropriate in the public interest or for the protection of investors." Congress also provided the Commission with this same broad grant of rulemaking authority in section 14(d)(4) which authorizes the Commission to specify "as necessary or appropriate in the public interest or the protection of investors" the information to be included in any recommendation by the management or others in favor of or in opposition to a tender offer.

Consistent with that intent, the Commission has used its rulemaking authority to promulgate regulations designed to ensure that security holders have adequate information about a tender offer. For example, Rule 14d-2 [21] provides that a tender offer will commence upon publication or public announcement of the tender offer. That rule does not contemplate that notification of the tender offer will be made to only certain security holders, but rather operates on the assumption that all holders will be adequately informed about the tender offer. Similarly, Rule 14d-4 [22] provides for dissemination of tender offer materials to all security holders.

The all-holders requirement complements these rules and serves as a means of effecting the purposes of the Williams Act. The all-holders requirement would realize the disclosure purposes of the Williams Act[23] by ensuring that all members of the class subject to the tender offer receive information necessary to make an informed decision regarding the merits of the tender offer. If tender offer disclosure is given to all holders, but some are barred from participating in the offer, the Williams Act disclosure objectives would be ineffective.

Further, the specific language of the Williams Act contemplates tender offers made for a "class" of equity security.[24] That language reflects Congress' understanding that all security holders were to have the opportunity to participate in a tender offer for a target's securities. In addition to section 14(d)(1)'s references to tender offers for "any class of any equity security," section 14(d)(6), which governs proration of securities tendered, discusses tender offers "for less than all the outstanding equity securities of a class." By using the term "class" of equity security,[25] it can be inferred that Congress intended that, when a tender offer is made, it will be made to all holders of the outstanding securities of such class.

The substantive provisions of the Williams Act also support the Commission's rulemaking authority to

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[13] 17 CFR 240.14d-7.

[14] 15 U.S.C. 78c(b), 78m(e), 78n(d), 78n(e) and 78w(a).

[15] The Commission also proposed and is adopting these amendments under Section 23(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-23(c), and Sections 9(a)(6) and 10(b) of the Exchange Act, 15 U.S.C. 78i(a)(6) and 78j(b).

[16] *Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 369 (1973).

[17] 15 U.S.C. 78m(d).

[18] 15 U.S.C. 78n(f).

[19] *Full Disclosure of Corporate Equity Ownership and in Corporate Takeover Bids, Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency*, 90th Cong. 1st Sess. 17 (1967) (statement of Manuel F. Cohen, Chairman, Securities and Exchange Commission) (hereinafter *Senate Hearings*); *Takeover Bids, Hearings on H.R. 14475, S. 510 Before The Subcomm. on Commerce and Finance of the House Comm. on Interstate and Foreign Commerce*, 90th Cong., 2d Sess. 11 (1968) (statement of Manuel F. Cohen, Chairman, Securities and Exchange Commission) (hereinafter *House Hearings*); S. Rep. No. 550, 90th Cong., 1st. Sess. 10 (1967); H.R. Rep. No. 1711, 90th Cong., 2d. Sess. 11 (1968).

[20] *Id.*

[21] 17 CFR 240.14d-2.

[22] 17 CFR 240.14d-4.

[23] *See, e.g.*, S. Rep. No. 550, *supra* at 3 ('The bill is designed to make the relevant facts known so that shareholders have a fair opportunity to make their decision.").

[24] *See, e.g.*, section 14(d)(1) which refers to tender offers made for "any class of any equity security."

[25] Pursuant to the authority vested in it by sections 3(b) and 23(a) to define terms, the Commission, by promulgating the all-holders provision, is defining the term "class" of equity security.

require that all security holders subject to a tender offer be treated alike. For example, in promulgating both the pro rata and equal price provisions of sections 14(d)(6) and (d)(7), Congress intended, *inter alia*, to assure fair treatment among security holders who may desire to tender their shares. The pro rata provisions of section 14(d)(6) were promulgated in order to give all security holders an equal opportunity to participate in a tender offer for less than all the outstanding shares of the target.[26] Specifically, that section provides that where a greater number of securities are deposited than the offeror is bound or willing to take up, the securities deposited must be taken up pro rata according to the number of securities deposited by each person. Although section 14(d)(6) recognizes that a tender offeror may accept less than all the securities of a particular class, that section does not authorize tender offers to be made to less than all security holders of the particular class of securities sought.

Similarly, section 14(d)(7) assures equality of treatment among all security holders who tender their shares by requiring that any increase in consideration offered to security holders be paid to all security holders whose shares are taken up during the offer. One of Congress' purposes in promulgating the provisions was "to assure equality of treatment among all shareholders who tender their shares." [27] These substantive provisions assume that offers will be made to all security holders and not just to a select few, and that offers will not be made to security holders at varying prices. Without the all-holders requirement and best-price provision, the specific protections provided by sections 14(d)(6) and (d)(7) would be vitiated because an offeror could simply address its offer either to a privileged group of security holders who hold the desired number of shares or to all security holders but for different considerations. The all-holders requirement and best-price provision both are consistent with Congressional intent and complement the pro rata and equal price protections of the Williams Act.

That the substantive provisions of the Williams Act are intended to assure equal treatment of tendering security holders does not detract from the fact that the Williams Act is designed to protect all security holders regardless of whether they tender their shares. Courts and commentators alike have stated that "nontendering shareholders are within the class for whose protection the Williams Act was specifically designed." [28] The all-holders and best-price amendments implement the purpose of the Williams Act to protect all tendering and non-tendering security holders.

Thus, under sections 14(d) and 23(a) of the Exchange Act, the Commission has the requisite authority to promulgate the all-holders requirement and best-price provision for third-party tender offers. Section 13(e) of the Exchange Act provides additional authority for the all-holders and best-price requirements in connection with issuer tender offers.[29]

When it adopted section 13(e), Congress determined that, notwithstanding that share repurchases by an issuer were regulated by state corporation law, there was a need for federal regulation. Those who argue that adoption of the all-holders rule would preempt state corporation law fail to recognize that Congress made that decision when it enacted section 13(e). Regulation of issuer tender offers in the same manner as third-party tender offers is entirely consistent with Congressional intent.

In addition, many commentators have asserted that the Commission's authority under this provision is limited to regulating disclosure. It is clear, however, that in adopting the Williams Act, Congress granted to the Commission broad rulemaking authority in section 13(e) to determine the most appropriate regulatory scheme for issuer tender offers, and that the exercise of this authority could include adoption of substantive regulations.[30] For example, the Commission stated during Congressional consideration that the rulemaking authority in section 13(e) could be used to apply the substantive provisions of section 14(d) to issuer tender offers: "If the Commission is given rulemaking power with respect to issuers' purchases as provided in the bill, it could, and presumably would, provide separately for tender offers by issuers following provisions of [Section 14(d)] to the extent appropriate." [31]

In conformity with this mandate, the Commission adopted Rule 13e–4 to regulate issuer tender offers. Rule 13e–4 extends to issuer tender offers many of the protections in the Williams Act pertaining to third party offers, including disclosure (Rule 13e–4(d)), withdrawal (Rule 13e–4(f)(2)), proration (Rule 13e–4(f)(3)), and equal price (Rule 13e–4(f)(4)). Thus, it is entirely appropriate that the all-holders requirement and best-price provision apply equally to issuers and third-parties.

While section 14(d) is only applicable to third-party tender offers, Congress nevertheless intended that the Williams Act's statutory purpose of investor protection was to be accomplished in a neutral manner. In implementing this policy of neutrality, the Commission has avoided favoring either management or the takeover bidder. There is no reason to provide different treatment for issuers with respect to the all-holders and best-price amendments. A tender offer, whether made by a bidder that is a third party or an issuer, puts the same pressure on target company security holders. Security holders have no less need in an issuer tender offer for the protections provided by the disclosure requirements and the substantive protections of proration and withdrawal. Similarly, Congress' intent to ensure equal treatment of holders of the same class of securities is equally applicable. Consistent with that policy, the all-holders requirement and best-price provision must be applied equally to issuer and third-party tender offers to avoid tipping the balance in favor of either party.[32]

Further, sections 13(e) and 23(a) of the Exchange Act provide ample statutory authority for the Commission to promulgate the all-holders requirement and best-price provision for issuer tender offers. Indeed, the Commission believes that ensuring that the fundamental policy of neutrality in the Williams Act is implemented through an equivalent all-holders requirement and best-price provision for issuer tender offers is the kind of use for which the general rulemaking authority in section 23(a) is appropriate.

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[26] S. Rep. No. 550, supra, at 10; H.R. Rep. No. 1711, *supra*, at 11.

[27] *Id.*

[28] *Hundahl* v. *United Benefit Life Insurance Co.*, 465 F. Supp. 1349, 1368 (N.D. Tex. 1979); *see also Plaine* v. *McCabe*, [Current] Fed. Sec. L. Rep. (CCH) ¶ 92,749 (9th Cir. 1986); *Wellman* v. *Dickinson*, 475 F. Supp. 783, 817 (S.D. N.Y. 1979), *aff'd on other grounds*, 682 F.2d 355 (2d Cir. 1982), *cert. denied*, 469 U.S. 1069 (1983); *In re Com Oil/Tesoro Petroleum Corp. Sec. Litig.*, 467 F. Supp. 227, 241–43 (W.D. Tex. 1979); A. Bromberg, *Securities Law: Fraud* § 6.3 (1974).

[29] Section 13(e)(1) authorizes the Commission "(A) to define acts and practices which are fraudulent, deceptive, or manipulative, and (B) to prescribe means reasonably designed to prevent such acts and practices . . . ."

[30] *See Schreiber* v. *Burlington Northern, Inc.*, 105 S. Ct. 2458, 2463 n.8 (1985).

[31] Senate Hearings, at 202 (Supplemental Memorandum of the Securities and Exchange Commission with Respect to Certain Comments on S. 510). Others at the Senate Hearings also noted that the substantive provisions in Section 14(d) "should be equally applicable to issuers' offers." *Id.* at 248 (statement by Milton Cohen).

[32] *See, e.g.*, S. Rep. No. 550, *supra*, at 3; H.R. Rep. No. 1711, *supra*, at 4.

The Commission believes it has ample authority under, *inter alia*, sections 3(b), 13(e), 14(d) and 23(a) of the Exchange Act to adopt amendments to Rule 13e–4 and new Rule 14d–10. While not essential to the adoption of the Rules, section 14(e) of the Exchange Act provides additional authority to adopt these rules. As illustrated by the potential of such exclusionary offers to give rise, particularly in the case of partial bids, to the types of abuses presented by unconventional tender offers, the Commission believes that these rules are "means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative" and to effect the disclosure purposes of the Williams Act, as do the requirements of Rule 14e–1.[33]

III. Discussion

A. The All-Holders Requirement

New Rule 14d-10 and amended Rule 13e-4(f) [34] make explicit the Commission's position that the Williams Act requires that third-party as well as issuer tender offers be open to all holders of the class of securities sought. The all-holders requirement does not prohibit tender offers for fewer than all outstanding securities of a class, but provides that all security holders must be able to accept the tender offer if they so choose.[35]

1. State Statutes

In the proposing release, [36] the Commission discussed state takeover statutes and the effect of the Supreme Court's decision in *Edgar* v. *MITE Corp.* on the ability of a state to regulate a nationwide tender offer.[37] The Commission also stated its view that, to the extent post-*MITE* takeover statutes unlawfully burden interstate commerce or conflict with Federal law, they are invalid. The Commission also sought comment on the impact of the all-holders requirement on otherwise valid state takeover statutes and the actions that the Commission could take, consistent with the purposes of the Williams Act, to ameliorate such effects.

In response, some commentators stated that the Commission should not put an offeror in the position of being forced by federal law either to abandon its offer completely because state law would prohibit the offer from being made to residents of a particular state or to violate the law of that particular jurisdiction. A few of these commentators opined that the Commission should provide a state law exception from the all-holders requirement.[38]

The Commission recognizes that, as proposed, the all-holders requirement could have raised constitutional issues with respect to state statutes that are otherwise constitutionally valid under the *MITE* analysis. In adopting the rule, the Commission has sought to minimize the impact of the all-holders rule on otherwise constitutionally valid state statutes.

Rules 14d-10(b)(2) and 13e-4(f)(9)(ii),[39] as adopted, provide that, notwithstanding the all-holders requirement, a bidder or issuer will not be prohibited from excluding security holders in a particular state from a tender offer if the bidder or issuer is prohibited from making the offer in the state by administrative or judicial action taken pursuant to a statute enacted by that state.

A bidder or issuer, of course, would not have to comply with a constitutionally invalid state statute. Where the statute is constitutional, the bidder or issuer will not have to proceed with its offer in that state if it has attempted in good faith to comply with the statute but has been barred from making the offer in the state by administrative or judicial action [40] (This procedure is consistent with current practice). If an offeror fails to attempt in good faith to comply with an unconstitutional state antitakeover statute, the offeror will violate the rule if he proceeds with the tender offer.

In adopting the all-holders requirement the Commission does not intend to cause the invalidation of otherwise constitutional state statutes by preempting such statutes. Nor does the Commission intend to interfere with the later adoption of state statutes that, but for conflicting with the all-holders requirement, would be constitutional. Where, however, judicial authority indicates that a state statute is unconstitutional, the bidder could proceed with its offer in the state and have no need for the exception.[41]

2. Dissemination of Tender Offers

While a tender offer subject to Sections 13(e) and 14(d) of the Williams Act must be held open to all holders of the subject class of securities, including foreign persons, Rules 14d–10(b)(1) and 13e–4 (f)(9)(i)[42] make clear that the all-holders requirement does not affect the required dissemination of tender offers. Under Rules 13e–4(e)[43] and 14d–4,[44] which govern dissemination of tender offers, adequate publication of an offer may include publication in a newspaper of national circulation. The Commission has not interpreted these provisions as requiring dissemination of tender offer materials outside of the United States, and the adoption of the all-holders requirement is not intended to impose any additional requirements in this regard.

3. Foreign Offers

As proposed, the amendments to Rule 13e–4(f) and new Rule 14d–10 each included a provision which specified that the all-holders requirement would not affect a tender offer in which the bidder was not a citizen or resident of the United States and did not use the mails or any means or instrumentalities of interstate commerce or any facility of a national securities exchange. The Commission's intent in including these provisions was to make it clear that the all-holders requirement was not intended to cause a tender offer which, for lack of use of jurisdictional means, would not otherwise be subject to the requirements of section 13(e) or 14(d) of the Exchange Act, to become subject to such requirements. As a result of the decision in *The Plessey Company plc* v.

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[33] *See Schreiber* v. *Burlington Northern, Inc., supra*, 105 S. Ct. at 2464 (1985) (Section 14(e) "gives the Securities and Exchange Commission latitude to regulate nondeceptive activities as a 'reasonably designed' means of preventing manipulative acts, without suggesting any change in the meaning of the term 'manipulation' itself.").

[34] 17 CFR 240.13e-4(f).

[35] In this regard it should be noted that "security holder" means both record holders and beneficial owners of the class of securities subject to the offer. Accordingly, a tender offer directed only to holders of record would not comply with the all-holders requirement.

[36] Release No. 33–6595, *supra*.

[37] In *Edgar* v. *MITE Corp.*, 457 U.S. 624 (1984), the Supreme Court held that the Illinois Business Takeover Act was an impermissible burden upon interstate commerce in violation of the Commerce Clause.

[38] In contrast, however, one commentator stated that the all-holders requirement would not alter present practice significantly in that offerors interested in achieving success by making an offer in a particular state which has a statute that poses potential conflicts with federal law must seek to enjoin enforcement of that law or risk violating it.

[39] 17 CFR 240.14d-10(b)(2) and 13e-4(f)(9)(ii).

[40] In connection with qualifying securities in certain states, see discussion *infra* at § III.B.3.

[41] In this regard, the Commission notes that in addition to the "first-generation" state statutes invalidated by *MITE*, several "second-generation" statutes have either been held unconstitutional or are of questionable validity as a result of judicial decisions with respect to similar statutes in other states. *See, e.g., Fleet Aerospace Corp.* v. *Holderman*, No. 86–3533 (6th Cir. June 25, 1986) (Ohio); *Dynamics Corp. of America* v. *CTS Corp.*, No. 861–601 (7th Cir. May 28 1986, amended June 7, 1986) (Indiana); *Terry* v. *Yamashita*, Civ. No. 84–1436 (D. Hawaii June 13, 1986) (Hawaii); *APL Limited Partnership* v. *Van Dusen, Inc.*, 622 F. Supp. 1216 (D. Minn. 1985) (Minnesota); *Icahn* v. *Blunt*, 612 F. Supp. 1400 (W.D. Mo. 1985) (Missouri).

[42] 17 CFR 240.14d–10(b)(1) and 13e–4(f)(9)(i).

[43] 17 CFR 240.13e–4(e).

[44] 17 CFR 240.14d–4.

The General Electric Company plc,[45] a decision with which the Commission concurs, the Commission believes the law is clear with respect to the application of section 14(d) of the Exchange Act to tender offers by bidders who are not citizens or residents of the United States and who do not employ the jurisdictional means of the United States. Accordingly, the Commission reiterates its position that the all-holders requirement is not intended to affect tender offers not otherwise subject to the Williams Act and has deleted, as no longer necessary, the specific proposed provisions from the rules.

B. Best-Price Provision

1. Best-Price Paid

In Release No. 33–6619, the Commission proposed to revise the best-price provision in proposed Rules 13e–4(f)(8)(ii) and 14d–10(a)(2)[46] to provide that "[t]he consideration paid to any security holder pursuant to the tender offer is the highest consideration paid to any other security holder. . . ." Under this proposal, both issuer and third-party bidders could reduce the consideration offered to security holders during the tender offer.[47] The highest price paid to any tendering security holder, however, would need to be paid to any other tendering security holder. Commentators generally endorsed the best-price provision, as revised, and, accordingly, the Commission is adopting it substantially as proposed.

2. Alternative Types of Consideration

As proposed in Release No. 33–6619, where more than one type of consideration is offered, the types of consideration offered need not be substantially equivalent in value.[48] Security holders, however, must be afforded the right to elect among all types of consideration offered.

Two commentators suggested that the Commission make clear that the requirement that each alternative form of consideration must be offered to each security holder is not intended to prohibit a bidder or issuer from imposing limitations on the amount of each type of consideration that will be available for payment, if such limitations are disclosed and if a proration mechanism is employed in the case of oversubscription. For example, commentators suggested that when alternative forms of consideration, such as cash and securities, are offered to all security holders, the bidder or issuer should be permitted to establish a limit on the amount of cash available for payment and, if the majority of security holders elect to receive cash for their tendered shares, the bidder or issuer should be permitted to pay cash to security holders on a pro rata basis.

The Commission agrees with these commentators. The imposition of a requirement that bidders and issuers who choose to offer alternative types of consideration must plan for a potential over-allotment of each type of consideration by arranging to have, on hand, 100% of each type of consideration is unnecessary for the protection of investors. Where the limitations on the availability of each type of consideration and the proration protections afforded in the event of oversubscription are fully disclosed at the commencement of the offer, security holders will be adequately protected by the substantive protections mandated by the Williams Act.[49]

3. Blue Sky Laws

In Release No. 33–6619, the Commission stated that, although each alternative type of consideration generally must be offered to each security holder, it will not object if an offeror offers cash or other qualified securities in a state where Blue Sky law issues are involved.[50] A few commentators addressed this issue and suggested that the Commission incorporate such an exception into the rules.

The Commission agrees that it is appropriate to clarify the application of these provisions in situations where the offer and sale of securities in a tender offer is prohibited under a state's Blue Sky laws. Accordingly, Rules 13e–4(f)(11) and 14d–10(d)[51] specify that where the offer and sale of securities constituting consideration offered in a tender offer is prohibited by the appropriate authority of a state after a good faith effort by the bidder or issuer to register or qualify the offer and sale of such securities in such state, the bidder or issuer may offer an alternative form of consideration to security holders in that state. The offeror is not, however, required to do so and instead may elect to exclude security holders in that state from the offer. To meet the good faith requirement, an offeror must only make the required filing and pay the required fee; the offeror need not modify the terms of the consideration or the offer.

For example, an offeror offers only securities in exchange for the securities of the target company. After a good faith effort to qualify the offered securities in State X, the offeror is nonetheless barred from offering the securities in that state. The offeror may then, under Rules 13e–4(f)(11) and 14d–10(d), offer an alternative form of consideration, such as cash, to residents of State X. The offeror may determine, in its discretion, the value of the alternative form of consideration.

To ensure that a bidder or issuer that offers an alternative form of consideration to certain security holders is not unfairly disadvantaged through the application of certain provisions of the all-holders and best-price rules, the Commission has adopted Rules 13e–4(f)(11)(ii) and 14d–10(d)(2).[52] These rules specify that the requirements imposed by Rules 13e–4(f)(10) and 14d–10(c)[53] (*i.e.*, to afford each security holder the right to elect among each of the types of consideration offered and to pay each security holder the highest consideration of each type paid to any other security holder electing that type

[45] [Current] Fed. Sec. L. Rep. (CCH) ¶92486 (D. Del. Jan. 16, 1986). The Court noted that: (1) the offering circular stated that "[t]he offer is not being made directly or indirectly in, or by use of the mails or by any means or instrumentality of inter-state or foreign commerce or of any facilities of a national securities exchange of, the U.S.A."; (2) to accept the offer, all individuals were required to certify that they either were not U.S. persons or that they satisfied certain special conditions; and (3) no Form of Acceptance received in an envelope postmarked in, or which otherwise appeared to have been sent from, the U.S.A. would be treated as valid.

[46] 17 CFR 240.13e–4(f)(8)(ii) and 14d–10(a)(2).

[47] *See* amendments to Rules 13e–4(f)(1) and 14e–1(b) (minimum offering period) *infra* at § III.D.

[48] In Release Nos. 33–6595 and 6596, the Commission had proposed that alternative types of consideration would be allowed so long as the various types of consideration were substantially equivalent, and all security holders had the same choice among the types of consideration offered. In light of several commentators' remarks that it is unnecessary to require alternative forms of consideration to be substantially equivalent in value, provided security holders have the same choice among the forms of consideration offered, the Commission revised the best-price provision accordingly.

[49] The disclosure with respect to the proration mechanism should specify the limitations on the availability of each type of consideration as well as the type and amount of consideration to be paid to security holders in the event of an oversubscription. The Commission will not object if an offeror affords security holders an opportunity to elect to receive only one type of consideration in lieu of proration or to have "all or none" of their shares accepted for payment. The imposition of limitations on the availability of consideration or changes in the proration mechanism after commencement of the offer, in the Commission's view, would be substantially equivalent to an increase or decrease in the consideration offered and, accordingly, would require that the offer remain open for a minimum period of ten business days following such a change in the terms of the offer.

[50] Release No. 33–6619, *supra*, at n.10.

[51] 17 CFR 240.13e–4(f)(11) and 14d–10(d). In connection with state takeover statutes, see discussion *supra* at § III.A.1.

[52] 17 CFR 240.13e–4(f)(11)(ii) and 14d–10(d)(2).

[53] 17 CFR 240.13e–4(f)(10) and 14d–10(c).

of consideration) do not apply in situations where the bidder or issuer offers an alternative form of consideration to certain security holders in accordance with the rule. Thus, under the above example, if the offeror offers $10.00 in cash to holders residing in State X, the offeror will not be required under Rules 13e–4(f)(11)(ii) and 14d–10(d)(2) [54] to offer cash to security holders in any other state.

Similarly, Rules 13e–4(f)(10) and 14d–10(c) will not operate to require a bidder who chooses to offer an alternative form of consideration to security holders in State X to offer an alternative form of consideration that is equal to the highest consideration paid to any other security holder during the tender offer. The offeror may determine, in its discretion, the value of the alternative form of consideration.[55]

In this connection, a few commentators suggested that the Commission also should provide for exceptions from the requirement that all alternative forms of consideration be offered when: (1) A foreign bidder makes an exchange offer to non-resident non-United States security holders but wishes to offer only cash to United States security holders; and (2) a United States bidder makes an exchange offer to United States security holders but wishes to offer only cash to non-resident foreign security holders. In both situations, the bidder wants to avoid registering the offered securities in two countries. In view of the very limited number of such offers, the Commission does not believe a specific exemption is necessary or appropriate. The Commission, however, will consider an application for exemptive relief under Rules 13e–4(g)(7) or 14d–10(e) [56] in such situations.[57]

C. Exemptions

1. General Exemptive Authority

Paragraph (e) of rule 14d–10 and redesignated paragraph (g)(7) of Rule 13e–4 [58] permit the Commission to grant relief from the all-holders requirement and best-price provision on a case-by-case basis. These paragraphs provide that the Commission, upon written request or its own motion, may determine that the all-holders requirement or best-price provision, either conditionally or unconditionally, need not apply to a particular transaction.

2. Specific Exemptions from Rule 13e–4

Rule 13e–4(g) codifies those few special and recurring circumstances where relief from the all-holders requirement for issuer repurchases through tender offers is warranted. The Commission has adopted an amendment to paragraph (g)(5) of Rule 13e–4,[59] providing that issuers are permitted to make odd-lot offers without complying with the general all-holders provision of Rule 13e–4(f)(8)(i). An odd-lot tender offer contemplates that the issuer will make a tender offer only to security holders who own an aggregate of not more than a specified number of shares that is less than one hundred. Generally, the purpose of an odd-lot offer is to reduce the high costs to the issuer of servicing large numbers of small security holder accounts, and to enable those security holders to dispose of their shares without incurring the brokerage fees that normally attend odd-lot transactions. Because odd-lot offers present "minimal potential for fraud and manipulation," [60] the Commission is adopting that exception as proposed.[61]

The Commission, however, cautions issuers contemplating an odd-lot offer that the all-holders and best-price provisions would apply within the context of an odd-lot offer. Specifically, an issuer making an odd-lot offer would continue to be required to extend the offer to all security holders holding the specified number, or fewer, shares. Paragraph (g)(5) has been amended to provide that an odd-lot offer must comply with the all-holders requirement of paragraph (f)(8) of Rule 13e–4, except that, as currently permitted, an issuer could exclude participants in an issuer's plan as that term is defined in Rule 10b–6(c)(4).[62]

Similarly, the best-price provision would apply to require the issuer to pay to all security holders who tender pursuant to the odd-lot offer the highest consideration paid to any other security holder during the odd-lot offer. However, in the special context of issuer odd-lot offers, the Commission believes that an exception is appropriate to allow an issuer to use a formula to determine the amount that will be paid to a particular security holder, provided that formula is based on the market price for the securty and is applied uniformly.[63] Accordingly, paragraph (g)(5) has been amended to provide that an issuer odd-lot offer must comply with the best-price requirement of paragraph (f)(8)(ii) or the issuer must pay an amount of consideration based on a uniformly applied formula that, in turn, is based on the market price for the security.

In Release No. 33–6596, the Commission indicated that it may be appropriate to except modified "dutch auction" issuer tender offers from application of the best-price provision.[64] The revised best-price provision would require that all security holders whose securities are accepted in a modified dutch auction issuer tender offer be paid the highest consideration paid to any other security holder whose securities are accepted. Accordingly, there would no longer be any need to except these transactions from the operation of the best-price provision.

The Commission proposed to except, under Rule 13e–4, issuer rescission offers from the all-holders and best-price provisions. Under that exception, issuers would be permitted to offer to repurchase securities only from certain security holders whose securities may have been issued in violation of state law or the registration provisions of the Securities Act of 1933 ("Securities Act"). The offer to purchase may be made at varying prices equal to the price paid by each such security holder plus legal interest. In most cases, issuers would not make rescission offers if they were required to extend the offer to all holders of the class of securities that is the subject of the rescission offer, or if they were required to pay to every

[54] 17 CFR 240.13e-(f)(11)(ii) and 14d–10(d)(2).

[55] Rule 13d–4(f)(8)(ii) and 14d–10(a)(2) would require the alternative form of consideration to be paid to all security holders in State X.

[56] 17 CFR 240.13e–4(g)(7) or 14d–10(e).

[57] *See* discussion *infra* at section III.C.1.

[58] The reference in 17 CFR 200.30–3(a)(35), delegating exemptive authority to the Director of the Division of Market Regulation pursuant to Rule 13e–4, has been revised to refer to paragraph (g)(7).

[59] 17 CFR 240.13e–4(g)(5).

[60] Release No. 34–19988 (July 21, 1983) [48 FR 34251].

[61] No corresponding exceptions have been adopted for third-party tender offers as the corporate interest in reducing servicing costs is not present.

[62] 17 CFR 240.10b–6(c)(4).

[63] *See, e.g.*, Letter regarding Great American Industries, Inc. [letter dated April 6, 1983].

[64] Under current staff interpretation, issuers have been permitted to make modified "dutch auction" issuer tender offers, although pure issuer "dutch auction" tender offers currently are not permitted under Rule 13e–4. In a pure dutch auction cash tender offer, the bidder invites security holders to tender securities to it at a price to be specified by the tendering security holder, rather than at a price specified by the bidder. Securities are accepted, beginning with those for which the lowest price has been specified, until the bidder has purchased the desired number of securities. Modified issuer dutch auction tender offers have been permitted under Rule 13e–4 subject to several conditions: (i) Disclosure in the tender offer materials of the minimum and maximum consideration to be paid; (ii) pro rata acceptance throughout the offer with all securities purchased participating equally in prorationing; (iii) withdrawal rights throughout the offer; (iv) prompt announcement of the purchase price, if determined prior to the expiration of the offer; and (v) purchase of all accepted securities at the highest price paid to any security holder under the offer. The staff has not addressed defensive modified issuer dutch auction tender offers.

security holder the highest consideration paid to any other security holder pursuant to the rescission offer. Accordingly, the Commission is adopting that exception under Rule 13e-4(g)(6) [65] as proposed.

One commentator suggested that the Commission expand the rescission offer exception for issuer tender offers to offerees not registered under the Securities Act. Typically, rescission offers are made because there may have been violations of section 5 of the Securities Act,[66] and in an attempt to remedy these violations a Securities Act filing is undertaken.[67] The Commission has determined not to expand the rescission offer exception. An issuer seeking to make an unregistered rescission offer may request an exemption from the provisions of the all-holders and best-price rule pursuant to redesignated paragraph (g)(7) of Rule 13e-4.[68]

D. Minimum Offering Period

Rules 14e-1(b) and 13e-4(f)(1)(ii) currently provide that a tender offer must remain open for ten business days upon an increase in the offered consideration or the dealer's soliciting fee.[69] In Release Nos. 33-6595 and 6596, the Commission proposed to add, as an additional trigger for the ten business day period, an increase in the amount of securities sought pursuant to a tender offer.

In Release No. 33-6619, the Commission proposed to further revise Rules 14e-1(b) and 13e-4(f)(1)(ii) to provide that a decrease in consideration offered or amount of securities sought would also trigger the ten business day extension. These proposed amendments were intended to ensure that security holders receive information pertaining to the amended offer and have additional time to analyze that offer and withdraw tendered shares.

In addition, the Commission proposed to revise the language in Rules 14e-1(b) and 13e-4(f)(1)(ii) from "amount of securities sought" to "percentage of securities sought." This proposed revision recognized those circumstances where an increase in the number of shares sought does not increase the percentage of shares ultimately sought. This situation may occur in a partial tender offer where a bidder, in the face of an issuance of securities by the issuer, continues to offer for the same desired percentage of outstanding securities even though the total number of securities sought increases.[70]

The ten business day time period will only be triggered as a result of changes in the offer effected by the bidder. Thus, if the target company increases the number of shares outstanding and the bidder does nothing, the ten business day time period will not be triggered despite the fact that the percentage of securities sought by the bidder has decreased. Only if the bidder's own actions cause a decrease or increase in the consideration offered or percentage of securities sought will the ten business day time period be triggered.

The majority of commentators who addressed these proposed amendments supported them, and, accordingly, the Commission is adopting them substantially as proposed. Other commentators suggested that the Commission clarify whether *de minimis* purchases of securities in addition to the amount initially sought would trigger the additional time period. The Commission agrees that such a clarification is necessary and has amended Rules 13e-4(f)(1)(ii) and 14e-1(b) to provide that if at the expiration of the offer, the offeror accepts for payment an additional amount of securities that is less than two percent of the class of securities that is the subject of the tender offer [71] the tender offer will not be required to remain open for an additional time period. For example, under Rule 13e-4(f)(1)(ii) and 14e-1(b), if an offer were made for 51% of the class and 52.9% were tendered in response to that offer, the offeror could purchase the entire amount tendered without triggering the requirement to extend the offering period for ten business days. Conversely, the exercise of a reservation of a right to acquire an additional amount of securities tendered that is greater than two percent of the amount outstanding will trigger the requirement.

E. Withdrawal Rights

In Release No. 33-6619, the Commission proposed amending Rules 13e-4(f)(2) and 14d-7 in one of two alternate ways. The first alternative would provide for additional withdrawal rights for ten business days from the date that notice of a decrease in the consideration offered or percentage of securities sought is first communicated to security holders.[72] This proposal was intended to ensure that security holders who tendered prior to the decrease have the ability to reconsider their tender in light of the disclosure.

The Commission also proposed, as a second alternative, a broader approach to withdrawal rights. In light of the existing offering period framework, the Commission, as an alternative proposal, sought comment on a rule amendment that would extend withdrawal rights until the expiration of the tender offer. This proposal would protect security holders through a system that provides for prorationing and withdrawal throughout the offering period.[73] In this connection, the Commission pointed out that if the proposal to extend withdrawal rights throughout the offer is adopted no additional withdrawal rights

[65] 17 CFR 240.13e-4(g)(6).

[66] 15 U.S.C. 77e.

[67] It should be noted, however, that the making of a rescission offer does not eliminate the prior securities law violation. In addition, neither the acceptance nor the rejection of such an offer necessarily extinguishes the security holders' rights to sue for the violation.

[68] The Commission may also use its exemptive authority under Rule 13e-4 to allow issuers to exclude officers and directors from the general all-holders requirement in those instances where the exclusion is not contrary to the purposes of the all-holders provision.

[69] In this regard, the Commission notes that in a recent tender offer the bidder publicly announced that it was prepared to increase the consideration offered if a specified number of shares were tendered prior to the expiration of the offer. In the Commission's view, such a public announcement constitutes an increase in the consideration offered, requiring the filing of an amendment to the Schedule 14D-1 and the extension of the offering period for ten business days.

[70] The minimum period during which an offer must remain open following material changes in the terms of the offer or information concerning the offer, other than a change in price or percentage of securities sought, will depend on the facts and circumstances, including the relative materiality of the terms or information. As a general rule, the Commission is of the view that, to allow dissemination to shareholders "in a manner reasonably designed to inform [them] of such change" (17 CFR 240.14d-4(c)), the offer should remain open for a minimum of five business days from the date that the material change is first published, sent or given to security holders. If material changes are made with respect to information that approaches the significance of price and share levels, a minimum period of ten business days may be required to allow for adequate dissemination and investor response. Moreover, the five business day period may not be sufficient where revised or additional materials are required because disclosure disseminated to security holders is found to be materially deficient. Similarly, a particular form of dissemination may be required. For example, amended disclosure material designed to correct materially deficient material previously delivered to security holders would have to be delivered rather than disseminated by publication.

[71] The standard of less than two percent is consistent with the exemptions provided by sections 13(d)(6) and 14(d)(8) of the Exchange Act, 15 U.S.C. 78m(d)(6) and 78n(d)(8). For purposes of Rules 13e-4(f)(1)(ii) and 14e-1(b), the percentage of a class of securities will be calculated in accordance with Section 14(d)(3) of the Exchange Act.

[72] *See* 17 CFR 240.13e-4(e) and 240.14d-4(c).

[73] The Commission has previously expressed a view that there should be coextensive withdrawal periods. *See, e.g.*, Statement of John S.R. Shad, Chairman of the Securities and Exchange Commission, before the House Subcommittee on Telecommunications, Consumer Protection, and Finance, March 28, 1984.

will attach in the event of the commencement of a competing offer.[74]

Commentators generally favored the proposal to extend withdrawal rights throughout the offer over the proposal to require additional withdrawal rights for ten business days from the date that notice of a decrease in consideration or percentage of securities sought is announced. Commentators were opposed, however, to linking withdrawal rights throughout the offering period with abolishing the extension of additional withdrawal rights upon commencement of a competing third party offer. The Commission, however, believes that given the significant extension of withdrawal rights there is no need to continue to require the additional withdrawal rights upon commencement of a competing bid.

The amendments also have the advantage of significantly simplifying the process. As a result of these amendments, security holders will have only one date to be concerned with—the expiration date. Proration and withdrawal rights will exist throughout the offer. A bidder will be the master of its own bid; timing will not be altered by actions of a competing bidder. This should reduce the potential for gamesmanship in commencing competing bids. Accordingly, the Commission is adopting, as proposed, the alternative requiring withdrawal rights to extend throughout the offer. By requiring withdrawal rights to extend throughout the offer, there is no longer a need to require under paragraph (f)(7) of Rule 13e–4 that the computation of withdrawal rights be done on a concurrent as opposed to a consecutive basis. Accordingly, paragraph (f)(7) of Rule 13e–4 has been amended to delete any references to withdrawal rights.

V. Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis, which relates to Rule 13e–4 and Regulations 14D and E, has been prepared in accordance with 5 U.S.C. 604. The corresponding Initial Regulatory Flexibility Analyses are contained in the proposing releases.[75]

The Need for and Objectives of the All-Holders and Best-Price Requirements

The Commission has recognized a need to provide clarity and certainty in the regulatory scheme applicable to tender offers with respect to equal treatment of security holders. The all-holders and best-price provisions are necessary to achieve the investor protection purposes of the Exchange Act. Without these provisions, discriminatory tender offers could be effected by extending the offers to some security holders but not others or by making offers to security holders at varying prices. The objective of the all-holders requirement and best-price provision is to make explicit the requirement that issuers and bidders alike must extend their tender offers to all holders of the class of securities being sought in the tender offer and must pay every tendering security holder the highest consideration paid to any other security holder.

The best-price provision also necessitates that the Commission adopt amendments to Rules 13e–4 and 14d–7 regarding withdrawal rights and to Rules 13e–4 and 14e–1(b) that would require the offering period to remain open for ten business days upon announcement of an increase or decrease in the percentage of securities being sought or consideration offered by the offeror. In addition, the amendments to Rule 14e–1(b) would implement, *inter alia*, a recommendation of the Advisory Committee on Tender Offers.[76]

Issues Raised by Public Comment

No commentators commented on the Initial Regulatory Flexibility Analyses contained in the proposing releases.

Significant Alternatives

Very few, if any, small issuers would be affected by Rule 14d–10 and the amendments to Rule 14d–7. Accordingly, the Commission does not believe that other alternatives, including use of a performance rather than a design standard, or exempting small entities from all or part of the all-holders requirement and best-price provision would accomplish the Commission's statutory mandate to protect investors.

With respect to the amendments to Rules 13e–4 and 14e–1(b), an alternative would be to impose fewer requirements on tender offers by small issuers, such as exempting from the rule affected small entities or limiting the rules' applicability to those tender offers that meet certain standards, such as tender offers for the securities of issuers subject to section 15(d) of the Exchange Act [77] or tender offers made to residents of no more than one state. The Commission does not believe that such alternative proposals would be consistent with the Commission's statutory mandate of investor protection. Similarly, the Commission does not consider the use of performance rather than design standards to be a significant alternative because a performance standard would be inconsistent with the Commission's statutory mandate.

VI. Statutory Basis and Text of Amendments

The Commission hereby proposes to amend Rule 13e–4 and Regulations 14D and 14E pursuant to sections 3(b), 9(a)(6), 10(b), 13(e), 14(d), 14(e) and 23(a) of the Exchange Act, Section 23(c) of the Investment Company Act of 1940 and the Delegation of Functions Act, 15 U.S.C 78d–1.[78]

List of Subjects in 17 CFR Parts 200 and 240

Reporting and recordkeeping requirements, Securities, Tender Offers, Issuers, Administrative practice and procedures, Freedom of information, Privacy.

VII. Text of Amendments

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION: CONDUCT AND ETHICS: INFORMATION AND REQUESTS

1. The authority citation for Part 200 continues to read in part:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C 77s, 78w, 79t, 77sss, 80a–37, 80b–11 * * *

2. By adding paragraph (f)(12) to § 200.30–1 to read as follows:

§ 200.30–1 Delegation of authority to Director of Division of Corporation Finance.

* * * * *

(f) * * *

(12) To grant exemptions from Rule 14d–10 (Section 240.14d–10 of this Chapter) pursuant to Rule 14d–10(e) (Section 240.14d–10(e) of this Chapter.

* * * * *

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[74] *See* Report of Recommendations of Advisory Committee on Tender Offers at 28–29 (July 8, 1983). The Advisory Committee's recommendation to eliminate the extension of withdrawal rights upon commencement of a competing bid was premised on the idea "that each bidder should control its own bid" and that the other recommendations concerning withdrawal periods "provide[ ] shareholders protections comparable to those under the current system." *Id.* at 29.

[75] Release No. 33–6595 (July 1, 1985) [50 FR 27976]; Release No. 33–6596 (July 1, 1985) [50 FR 28210].

[76] *See* Report of Recommendations of the Advisory Committee on Tender Offers, *supra*, Recommendation 18.

[77] 15 U.S.C. 78o(d).

[78] 15 U.S.C 79c(b), 78i(a)(6), 78j(b), 78m(e), 78n(d), 78n(e), 78w(a) and 15 U.S.C. 80a–23(c).

3. By revising paragraph (a)(35) of § 200.30–3 to read as follows:

§ 200.30–3 Delegaton of Authority to the Director of the Division of Market Regulation.

* * * * *

(a) * * *

(35) To grant exemptions from Rule 13e–4 (Section 240.13e–4 of this chapter) pursuant to Rule 13e–4(g)(7) (Section 240.13e–4(g)(7) of this chapter).

* * * * *

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

4. The authority citation for Part 240 is amended by adding the following citations: (Citations before * * * indicate general rulemaking authority).

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C 78w. * * * §§ 240.13e–4, 14d–7, 14d–10 and 14e–1 also issued under secs. 3(b), 9(a)(6), 10(b), 13(e), 14(d) and 14(e), 15 U.S.C. 78c(b), 78i(a)(6), 78j(b), 78m(e), 78n(d) and 78n(e) and sec. 23(c) of the Investment Company Act of 1940, 15 U.S.C 80a–23(c).

5. By revising paragraph (f)(1)(ii) of §240.13e–4 to read as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(f) * * *

(1) * * *

(ii) At least ten business days from the date that notice of an increase or decrease in the percentage of the class of securities being sought or the consideration offered or the dealer's soliciting fee to be given is first published, sent or given to security holders.

Provided, however, That, for purposes of this paragraph, the acceptance for payment by the issuer or affiliate of an additional amount of securities not to exceed two percent of the class of securities that is the subject of the tender offer shall not be deemed to be an increase. For purposes of this paragraph, the percentage of a class of securities shall be calculated in accordance with section 14(d)(3) of the Act.

* * * * *

5. By revising paragraph (f)(2)(i), removing paragraph (f)(2)(ii) and redesignating paragraph (f)(2)(iii) as (f)(2)(ii) of § 240.13e–4 to read as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(f) * * *

(2) * * *

(i) At any time during the period such issuer tender offer remains open; and

* * * * *

6. By revising paragraphs (f)(7) and (g)(5), redesignating paragraph (g)(6) as (g)(7), and adding new paragraphs (f)(8), (f)(9), (f)(10, (f)(11) and (g)(6), of § 240.13e–4 to read as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(f)* * *

(7) The time periods for the minimum offering periods pursuant to this section shall be computed on a concurrent as opposed to a consecutive basis.

(8) No issuer or affiliate shall make a tender offer unless:

(i) The tender offer is open to all security holders of the class of securities subject to the tender offer; and

(ii) The consideration paid to any security holder pursuant to the tender offer is the highest consideration paid to any other security holder during such tender offer.

(9) Paragraph (F)(8)(i) of this section shall not:

(i) Affect dissemination under paragraph (e) of this section; or

(ii) Prohibit an issuer or affiliate from making a tender offer excluding all security holders in a state where the issuer or affiliate is prohibited from making the tender offer by administrative or judicial action pursuant to a state statute after a good faith effort by the issuer or affiliate to comply with such statute.

(10) Paragraph (F)(8)(ii) of this section shall not prohibit the offer of more than one type of consideration in a tender offer, provided that:

(i) Security holders are afforded equal right to elect among each of the types of consideration offered; and

(ii) The highest consideration of each type paid to any security holder is paid to any other security holder receiving that type of consideration.

(11) If the offer and sale of securities constituting consideration offered in an issuer tender offer is prohibited by the appropriate authority of a state after a good faith effort by the issuer or affiliate to register or qualify the offer and sale of such securities in such state:

(i) The issuer or affiliate may offer security holders in such state an alternative form of consideration; and

(ii) Paragraph (f)(10) of this section shall not operate to require the issuer or affiliate to offer or pay the alternative form of consideration to security holders in any other state.

(g)* * *

(5) Offers to purchase from security holders who own as of a specified date prior to the announcement of the offer an aggregate of not more than a specified number of shares that is less than one hundred: *Provided, however,* That: (i) the offer complies with paragraph (f)(8)(i) of this section with respect to security holders who own a number of shares equal to or less than the specified number of shares as of the specified date, except that an issuer can elect to exclude participants in an issuer's plan as that term is defined in Rule 10b–6(c)(4) under the Act [§ 240.10b–6(c)(4)], and (ii) the offer complies with paragraph (f)(8)(ii) of this section or the consideration paid pursuant to the offer is determined on the basis of a uniformly applied formula based on the market price of the subject security;

(6) An issuer tender offer made solely to effect a rescission offer: *Provided, however,* That the offer is registered under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), and the consideration is equal to the price paid by each security holder, plus legal interest if the issuer elects to or is required to pay legal interest; or

* * * * *

7. By revising paragraph (a), removing paragraphs (b) and (c) and redesignating paragraph (d) as (b) of § 240.14d–7 to read as follows:

§ 240.14d–7 Additional withdrawal rights.

(a) *Rights.* In addition to the provisions of sectioin 14(d)(5) of the Act, any person who has deposited securities pursuant to a tender offer has the right to withdraw any such securities during the period such offer request or invitation remains open.

* * * * *

8. By adding a new § 240.14d–10 to read as follows:

§ 240.14d–10 Equal treatment of security holders.

(a) No bidder shall make a tender offer unless:

(1) The tender offer is open to all security holders of the class of securities subject to the tender offer; and

(2) The consideration paid to any security holder pursuant to the tender offer is the highest consideration paid to any other security holder during such tender offer.

(b) Paragraph (a)(1) of this section shall not:

(1) Affect dissemination under Rule 14d–4 (§ 240.14d–4); or

(2) Prohibit a bidder from making a tender offer excluding all security holders in a state where the bidder is prohibited from making the tender offer by administrative or judicial action pursuant to a state statute after a good

faith effort by the bidder to comply with such statute.

(c) Paragraph (a)(2) of this section shall not prohibit the offer of more than one type of consideration in a tender offer, provided that:

(1) Security holders are afforded equal right to elect among each of the types of consideration offered; and

(2) The highest consideration of each type paid to any security holder is paid to any other security holder receiving that type of consideration.

(d) If the offer and sale of securities constituting consideration offered in a tender offer is prohibited by the appropriate authority of a state after a good faith effort by the bidder to register or qualify the offer and sale of such securities in such state:

(1) The bidder may offer security holders in such state an alternative form of consideration; and

(2) Paragraph (c) of this section shall not operate to require the bidder to offer or pay the alternative form of consideration to security holders in any other state.

(e) This section shall not apply to any tender offer with respect to which the Commission, upon written request or upon its own motion, either unconditionally or on specified terms and conditions, determines that compliance with this section is not necessary or appropriate in the public interest or for the protection of investors.

9. By revising paragraph (b) of § 240.14e–1 to read as follows:

240.14e–1 Unlawful tender offer practices.

* * * * *

(b) Increase or decrease the percentage of the class of securities being sought or the consideration offered or the dealer's soliciting fee to be given in a tender offer unless such tender remains open for at least ten business days from the date that notice of such increase or decrease is first published or sent or given to security holders.

Provided, however, That, for purposes of this paragraph, the acceptance for payment by the bidder of an additional amount of securities not to exceed two percent of the class of securities that is the subject of the tender offer shall not be deemed to be an increase. For purposes of this paragraph, the percentage of a class of securities shall be calculated in accordance with section 14(d)(3) of the Act.

* * * * *

By the Commission. Commissioners Peters and Fleischman dissenting in part. The separate written views of any individual Commissioner will be published forthwith in Release Nos. 33–6653 A, 34–23421 A and IC–15199 A.

Jonathan G. Katz,

Secretary.

July 11, 1986.

[FR Doc. 86–16144 Filed 7–16–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority by adding a new delegation to the Director and Deputy Director of the Center for Devices and Radiological Health from the Commissioner of Food and Drugs. The authority being added relates to registration and testing of cardiac pacemaker devices and pacemaker leads.

EFFECTIVE DATE: July 17, 1986.

FOR FURTHER INFORMATION CONTACT: Marjorie J. Shandruk, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending the regulations under Part 5 to delegate to the Director and Deputy Director, Center for Devices and Radiological Health, the authorities to perform the functions that have been delegated to the Commissioner of Food and Drugs under section 1862(h)(1), (2)(A), and (3) of the Social Security Act (42 U.S.C. 1395y(h)(1), (2)(A), and (3)), as amended.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

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

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552; 7 U.S.C. 2217; 15 U.S.C. 638, 1451 et seq.; 21 U.S.C. 41 et seq., 61–63, 141 et seq., 301–392, 467f(b), 679(b), 801 et seq., 823(f), 1031 et seq., 35 U.S.C. 156; 42 U.S.C. 219, 241, 242(a), 242a, 242l, 242o, 243, 262, 263, 263b through 263m, 264, 265, 300u et seq., 1395y and 1395y note, 3246b(b)(3), 4831(a), 10007, and 10008; Federal Caustic Poison Act (44 Stat. 1406); Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1241); Federal Advisory Committee Act (Pub. L. 92–463); E.O. 11490, 11921.

2. Subpart B is amended by adding new § 5.28 to read as follows:

§ 5.28 Cardiac pacemaker devices and pacemaker leads.

The Director and Deputy Director, Center for Devices and Radiological Health (CDRH), are authorized to perform all the functions of the Commissioner of Food and Drugs with regard to a registry of all cardiac pacemaker devices and pacemaker leads for which payment was made under the Social Security Act (42 U.S.C. 1395y(h)(1), (2)(A), and (3)), as amended.

Dated: July 10, 1986

James W. Swanson,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–16064 Filed 7–16–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval of Permanent Amendments for the State of Ohio Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of certain amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

By letter dated October 26, 1985, the Ohio Department of Natural Resources

(ODNR) submitted amendments consisting of proposed changes to the Ohio regulations at 1501:13–3–05, 1501:13–4–04, 1501:13–4–13, and 1501:13–9–04. The amendments allow registered surveyors to prepare and certify maps for permit applications and to design and certify construction of drainage control systems jointly with a registered professional engineer. The amendments also add informational and mapping requirements to permit applications for cultural and historic resources eligible for listing on the National Register of Historic Places.

OSMRE published a notice in the **Federal Register** on February 7, 1986, inviting public comment on the adequacy of the proposed amendments (51 FR 4765). The comment period closed on March 10, 1986.

After providing an opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSMRE has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments. The Federal rules at 30 CFR Part 935 which codify decisions on the Ohio program are being amended to implement these rules.

This final rule is being made effective immediately to expedite the State program amendment process and encourage States to bring their programs into conformity with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: July 17, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by a notice published in the August 10, 1982 **Federal Register**. The approval was conditioned on the correction of 28 minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

II. Discussion of Amendments

By letter dated October 26, 1985, Ohio submitted proposed program amendments consisting of:

1. Revisions to 1501:13–3–05 to add cultural and historic resources eligible for listing on the National Register of Historic Places to the definition of "historic lands";

2. Revisions to 1501:13–4–04 to allow registered surveyors to prepare the maps necessary for surface coal mining permit applications; to add requirements for permit information and maps showing cultural and historic resources eligible for listing on the National Register of Historic Places, and to redefine prime farmland exemptions to include land that has not been historically used for cropland;

3. Revisions to 1501:13–4–13 to allow registered surveyors to prepare supplementary maps, cross-sections and plans necessary for underground coal mining permit applications; to add requirements for permit information and maps showing cultural and historic resources eligible for listing on the National Register of Historic Places, and to allow the preparation of detailed design plans and maps by registered professional engineers only; and

4. Revisions to 1501:13–9–04 that allow the design and certification of construction of drainage control systems and sedimentation ponds by either a registered professional engineer or a registered professional engineer and a registered surveyor to the extent joint certification is required or permitted by the regulatory authority.

On February 7, 1986, OSMRE published in the **Federal Register** a notice of receipt of the amendments and invited public comments on the adequacy of the proposal (51 FR 4765). The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, one was not held. The comment period closed on March 10, 1986, and one late comment was received from the Advisory Council on Historic Preservation.

III. Director's Findings

The Director finds, in accordance with SMCRA 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on October 26, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed in the findings below.

Ohio Administrative Code

Section 1501:13–3–05(A)(2) amends the definition of historic lands to include cultural and historic resources that are eligible for listing on a State or National Register of Historic Places. This definition is no less effective than the Federal definition found at 30 CFR 762.5.

Section 1501:13–3–04(A)(2) adds to the permit application requirements the identification and description of cultural and historic resources that are eligible for listing on the National Register of Historic Places. This rule is no less effective than the Federal rule at 30 CFR 779.12(b). This change was also made for the maps required in 1501:13–4–04(I)(6) which is no less effective than 30 CFR 779.24(i).

Section 1501:13:4–04(I) sets forth the general requirements for maps accompanying permit applications. It was amended to allow registered professional surveyors or registered professional engineers or registered professional engineers and registered professional surveyors to jointly prepare and certify maps, to the extent such joint certification is required by State law. This section of the Ohio rule is no less effective than the Federal regulations at 30 CFR 779.25(b). This change is also reflected in 1501:13–4–04 (J) and (L).

Section 1501:13–4–04(K)(2) has been amended to exclude land that has not been historically used for cropland from consideration as prime farmland. This rule is no less effective than the Federal definition at 30 CFR 701.5.

Section 1501:13–9–04 (B)(5) and (G)(15) has been amended to allow the design and certification of construction of drainage control systems and sedimentation ponds by either a registered professional engineer or a registered professional engineer and a registered professional surveyor to the extent joint certification is required or permitted by the regulatory authority. This rule is no less effective than the Federal requirements at 30 CFR 780.25(a)(1), 784.16(a)(1), and 816.49(a)/817.49(a).

Section 1501:13–4–13 sets forth the permit application requirements for underground mines. An amendment to 1501:13–4–13(A)(2) adds to the underground permit application requirements the identification and description of cultural and historic resources that are eligible for listing on the National Register of Historic Places. This rule is no less effective than the Federal rule at 30 CFR 783.12(b). Section 1501:13–4–13(I)(6), was changed to include cultural and historic resources

eligible for listing on the National Register of Historic Places on permit application maps; it is no less effective than the Federal regulations at 30 CFR 783.24(i).

Section 1501:13–4–13 (I), (J) and (L) sets the general requirements for maps accompanying underground permit applications. It was amended to allow registered professional engineers or registered professional surveyor or registered professional engineers and registered professional surveyors to jointly prepare and certify maps, to the extent such joint certification is required by State law. This section of the Ohio rule is no less effective than the Federal regulations at 30 CFR 784.23(c) and 783.25(b).

IV. Public Comments

One public comment was received from the Advisory Council on Historic Preservation (ACHP).

The ACHP expressed concern about the proposed amendments creating confusion over what constitutes a historic property and what an applicant's responsibilities are to identify such properties. Ohio's rules are essentially the same as the Federal regulations. OSMRE does not believe that confusion will result from approving these regulations.

The ACHP objected to the insertation of "eligible for listing" into the definition of "historic lands" OAC 1501:13–3–05(A)(2), because it ". . . conveys the sense that properties eligible for listing are different from those for which 'historic designation is pending,' suggesting in fact that properties become eligible only through a designation process." The ACHP also suggested some editorial changes be made in the definition. OSMRE does not agree that Ohio's definition of "historic lands" is confusing when it addresses properties that are eligible for listing or pending designation. In fact, the language in the Ohio definition reflects similar wording in the Federal definition at 30 CFR 762.5.

The ACHP also objects to the insertion of "eligible for listing" into OAC 1501:13–4–04(A)(2) as confusing. They suggest that this would limit the information required of operators to that which is available from preservation organizations and further suggest that the phrase "known archeological features" is redundant. Once again the Ohio regulatory language is similar to that of the Federal regulations at 30 CFR 779.12(b). OSMRE has not found that this regulatory language causes confusion among State regulatory authorities or operators. The ACHP raises similar concerns for OAC 1501:13–4–13(A)(2) which sets forth the requirements for underground mining permit applications. Again, OSMRE has not found the wording to be confusing and the Ohio regulations reflect those found at 30 CFR 783.12(b). The ACHP also suggests that the phrase "known archeological features" is redundant in OAC 1501:13–4–04(I)(6) and 1501:13–4–13(I)(6) general requirements for maps. OSMRE does not agree that the wording is redundant. Moreover, the Ohio rules reflect the language of the Federal regulations.

The ACHP does not feel that the Ohio rules are adequate to inform the operator of his/her responsibility to identify historic properties. It also disagrees with the State's analysis of the estimated cost of this rule to coal operators. It suggests that the State provide detailed guidance for investigating the existence of historical properties. Ohio has, with these rules, set forth the basic requirements for information on cultural resources. OSMRE believes they are adequate. Ohio may prepare and/or give additional guidance to coal operators if it perceives a need to do so. Ohio has met its requirements under SMCRA and implementing regulations.

Lastly, the ACHP contends that this regulatory change by Ohio places an additional burden on OSMRE to follow the ACHP's procedural regulations (36 CFR Part 800). Ostensibly, this is because the Ohio regulations may affect historical properties. The programmatic memorandum of agreement (PMOA) between OSMRE and the ACHP states in paragraph V. that consultation between the two agencies will take place pursuant to section 503(b) of SMCRA. Therefore, OSMRE believes that the regulations at 30 CFR Part 935 Chapter VII are germane and not those found at 36 CFR Part 800. Hence, proper consultation has taken place pursuant to the PMOA.

V. Director's Decision

The Director, based on the above findings, is approving the October 26, 1985 amendments. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the State program amendments.

VI. Procedural Matters

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: July 7, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 935—OHIO

30 CFR Part 935 is amended as follows:

1. The authority citation for Part 935 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. In Part 935, § 935.15 is amended by adding a new paragraph (v) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(v) The following amendments submitted to OSMRE on October 26, 1985, are approved effective July 17, 1986. Ohio Administrative Code, Sections 1501:13–3–05, 1501:13–4–04, 1501:13–9–04, and 1501:13–4–13.

[FR Doc. 86–16131 Filed 7–16–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 86-14]

Regatta; Blessing of the Fleet and Water Show, Hudson River, Albany, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Blessing of the Fleet and Water Show which is sponsored by the City of Albany Tricentennial River Festival Committee. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATE: This regulation becomes effective on July 20, 1986 at 11:00 a.m. and terminates the same day at 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668-7974.

SUPPLEMENTARY INFORMATION: On June 5, 1986, the Coast Guard published a notice of proposed rule making in the **Federal Register** for this regulation (51 FR 20534-20535). Interested persons were invited to submit comments. No comments were received. This regulation is being made effective in less than 30 days from the date of publication. There was not sufficient time remaining in advance of the event to provide for a delayed effective date.

Drafting Information: The drafters of this notice are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations: The Blessing of the Fleet and Water Show is an event sponsored by the City of Albany Tricentennial River Festival Committee as part of the City of Albany's three hundredth anniversary celebration. The event is comprised of two parts. The first part is the blessing of the fleet during which the participating vessels will parade on the Hudson River from the southern end of the Port of Albany, north to the area in the vicinity of the Corning Preserve. After rounding the swing railroad bridge at mile 146.2 on the Hudson River, they will proceed back downstream and anchor near the east bank in the area between the Dunn Memorial bridge (river mile 145.4) and the swing railroad bridge to the north. The river between the railroad bridge and the I-90 highway bridge (river mile 147.2) will serve as a staging area for the parade and water show activities which form the second part of this tricentennial event. The sponsor expects some 300 vessels ranging in size from 14 feet to 140 feet to participate in the blessing of the fleet parade which is scheduled to begin on Sunday, July 20, 1986 at 11:00 a.m. and last until noon that same day. A variety of activities on and over the water will make up the water show which is scheduled to take place from 12:00 noon (following the blessing of the fleet parade) to 7:00 p.m. The sponsor will provide several vessels from the Albany Police, Albany County Sheriff's and New York State Parks, Recreation and Historic Preservation Departments to assist the Coast Guard Patrol Commander in providing for the safety of the event and spectator craft. The Coast Guard intends to restrict vessel movement within the above outlined sections of the Hudson River during this event to provide for the safety of the participants and spectators on navigable waters. Vessels not participating in this marine event will not be allowed to pass through the regulated area during the effective period of this regulation except at the discretion of the Coast Guard Patrol Commander. Spectator vessels including those which participated earlier in the blessing of the fleet parade but not part of the water show activities will be directed to spectator areas near the east bank of the Hudson River prior to start of the water show. Any vessels wishing to transit the regulated area during the effective period of these regulations shall make this intention known to the Coast Guard Patrol Commander via one of the patrol craft. These vessels will be directed to waiting areas south and north of the regulated area. This regulation will be published in the Local Notice to Mariners to advise the general public and commercial users on the Hudson River of the event.

Discussion of Comments: No comments were received.

Economic Assessment and Certification: This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. This event is expected to draw a large number of spectator craft and shore spectators into the area for the duration of the celebration. This should have a favorable impact on commerical facilities providing services to the spectators. Since the Port of Albany is participating in this event, this commercial facility will not be adversely affected by this regulation. In addition, the regulated area includes the Port of Albany waterfront only for about one hour during the Blessing of the Fleet parade. As part of the Albany Tricentennial celebration this event will receive wide publication in the local news media. General marine navigation will be notified in advance through the Third Coast Guard District Local Notice To Mariners. Any vessels still wishing to transit the area will be allowed to do so at the discretion of the Coast Guard Patrol Commander when this can be safely accomplished.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Final Regulation: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—(AMENDED)

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35-324 to read as follows:

§ 100.35-324 Blessing of the Fleet and Water Show, Albany, New York

(a) *Regulated Area:* During the Blessing of the Fleet parade (11 a.m. to approximately 12 noon), the regulated area includes that section of the Hudson River between the southern end of the Port of Albany turning basin and the I-90 Highway bridge at river mile 147.2. After the Blessing of the Fleet parade is completed (approximately noon) the regulated area is shortened to include only that section of the Hudson River from the Dunn Memorial Bridge, north to the I-90 highway bridge.

(b) *Effective Period:* This regulation is effective from 11:00 a.m. to 7:00 p.m. on July 20, 1986.

(c) *Special Local Regulations:* (1) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators.

(2) No person or vessel may enter or remain in the regulated area unless participating in the event, or authorized to be there by the sponsor or Coast Guard patrol personnel.

(3) Spectator vessels must be at anchor within a designated spectator

area or moored to a waterfront facility within the regulated area prior to the start of the Blessing of the Fleet parade and water show activities as directed by the sponsor or Coast Guard Patrol Command.

(4) All persons and vessels shall comply with the instruction of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Member of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: July 8, 1986.

D.C. Thompson,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 86-16127 Filed 7-16-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3050-3]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by 10 petitioners to exclude their wastes from the hazardous waste lists. Seven of the petitioners currently have temporary exclusions; we, therefore, are also revoking the temporary exclusions for these facilities. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Our basis for denying these petitions is that all of these petitions are incomplete (*i.e.*, the Agency does not have sufficient information to determine the hazardous or non-hazardous nature of the waste). The effect of this action is that all of this waste must be handled as hazardous in accordance with 40 CFR Parts 262–266, and Parts 270, 271, and 124.

EFFECTIVE DATE: For those petitioners who have a temporary exclusion, the effective date of this decision is November 8, 1986; for the other petitioners, the effective date of the decision is July 17, 1986.

ADDRESS: The RCRA Regulatory public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW. (Sub-basement), Washington, DC, 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–10DF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information, contact Ms. Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION:

I. Background

On January 17, 1985, EPA proposed to deny 23 petitions to exclude certain wastes from the hazardous waste lists (see 51 *FR* 2526–2529). These petitions were submitted by various companies pursuant to 40 CFR 260.20 and 260.22.

Throughout the course of the Agency's review of a petition, additional or supplemental information, other than that included in the initial submission, is normally required to enable the Agency to conduct a complete and informed evaluation of the petition. The acquisition and analysis of this additional information is necessary before a tentative determination (*i.e.*, a proposal to exclude or deny a petition) can be made for the petitioned wastes. Most of this information was requested because of the Hazardous and Solid Waste Amendments of 1984 (HSWA) (*i.e.*, the Agency now must consider all factors, including additional constitutents, if there is a reasonable basis to believe that these factors could cause the waste to be hazardous).

In all of these cases, the Agency has made a number of requests for information from these facilities. The Agency made at least two written requests for information indicating the specific information the petitioner was to supply in order for the Agency to consider the petition complete. In addition, the Agency published a notice in the **Federal Register** of its intent to collect this information (see 49 FR 4802–4803, February 8, 1984). The proposed denial notice, published on January 17, 1985, provided yet another notification of the information required. The 30-day comment period for that notice provided another opportunity for additional information to be submitted to the Agency.

In many cases, the Agency has not heard from these petitioners in over a year; in some cases, it has been almost two years. In several instances, the Agency has held discussions with petitioners, again reviewing the information that must be submitted. In a few cases, some information has been received from petitioners. This information, however, is still insufficient for the Agency to make a tentative decision. Waiting for this information has resulted in delays that have disrupted the continuity of the petition review process, and has created a backlog of petitions awaiting review. The Agency believes that we have given these petitioners an adequate period of time to provide this information. The Agency, therefore, is making final the denials of 10 petitions, as incomplete, since all the additional information requested has not been provided within a reasonable period of time.

II. Petition Denials

A. Proposed Denials

EPA proposed to deny 23 petitions requesting an exclusion for certain wastes. Our basis for this decision is that the additional information needed had not been provided within a reasonable period of time. The petitions were not complete and, consequently, the Agency could not determine whether the wastes are hazardous. (See 51 FR 2526–2529, January 17, 1985, for a more detailed explanation of why EPA proposed to deny these petitions.)

Neither comments nor additional information were provided for eight of the petitions. We, therefore, are making final our decision to deny these eight petitions as incomplete. Facilities which had previously been granted temporary exclusions are denoted by an asterisk

(*) in the table below. Today's final rule, therefore, also revokes these temporary exclusions.

Petition No.	Petitioner's name
*0069	Miller Brewing Company, Milwaukee, WI;
*0153	Thermex Energy Corporation (formerly Gulf Oil Chemical Company) Brooksville, FL; Casper, WY; Parish, AL; Hollowell, KS; McLeansville, NC; Biwabik, MN;
*0183	Hewlett-Packard Company, Loveland, CO;
*0187	Bethlehem Steel Corporation, Chesterton, IN;
*0225	Miller Brewing Company, Milwaukee, WI;
0557	Hewlett-Packard, Colorado Springs, CO;
0561	Mountain View Fabricating, Mountain View, MO;
0574	Production Plated Plastics, Inc., Richland, MI.

For the 15 other petitions, either additional information was provided, comments on the proposal were received, or the petition was withdrawn during the comment period. The remainder of this section will discuss the comments received, and the Agency's response to these comments. All comments received were petition-specific.

B. Agency's Response to Public Comments

Four commenters provided the additional information needed to complete their petitions. The Agency is now reveiwing these petitions to determine whether they should be granted. The Agency, therefore, is not taking action on the following petitions in today's final rule:

Petition No.	Petitioner's name
0212	Continental Can Company, Olympia, WA;
0229	Ford Motor Company, Lima, OH;
0244	Murphy Oil Corporation, Superior, WI;
0235B	Charter Oil Company, Houston, TX.

Three of the petitioners submitted additional information during the comment period. For two of these petitions, the information received is currently being reviewed by the Agency to determine whether the petitioners have satisfied all of the requirements for a complete petition. The following petitions, therefore, do not appear among the petitions for which a final denial is being announced today:

Petition No.	Petitioner's name
0045	Michelin Tire Corporation, Sandy Springs, SC;
0440	Union Carbide, Sistersville, WV.

The Agency has completed its review of the information submitted by the third petitioner. Based upon this review, the Agency has determined that the petitioner has not satisfied all of the requirements for a complete petition. The Agency, therefore, is denying the following petition as incomplete:

Petition No.	Petitioner's name
[1] 0288	Aluminum Company of America (ALCOA), Tifton, GA.

[1] ALCOA was granted a temporary exclusion on January 3, 1983. This exclusion was not published in the FEDERAL REGISTER. Since the Assistant Administrator for Solid Waste and Emergency Response approved the decision, however, we have concluded that ALCOA was granted a temporary exclusion. Today's final notice, which denies ALCOA's petition as incomplete, also revokes their temporary exclusion.

Five of the petitioners sent the Agency letters requesting that their petitions be withdrawn. The following petitions, therefore, do not appear among the petitions for which a final denial is being announced today:

Petition No.	Petitioner's name
[1] 0033	Woodstock Die Casting, Woodstock, IL;
[2] 0111	Pratt & Whitney Aircraft Group, West Palm Beach, FL;
[3] 0125	Chem-Clear, Incorporated, Cleveland, OH;
0211	Charter International Oil Company, Houston, TX;
0280	Ball Metal Container Corp., Westminster, CO.

[1] Woodstock Die Casting was granted a temporary exclusion on March 18, 1981. (See 46 FR 17198.) By withdrawing their petition, Woodstock's temporary exclusion is no longer valid; therefore, the previously petitioned waste must now be handled as hazardous.

[2] Pratt & Whitney was granted a temporary exclusion on December 16, 1981. (See 46 FR 61272.) They submitted a letter to the Agency prior to the proposed denial notice (published on January 17, 1986) informing the Agency that the petitioned waste would no longer be generated after March of 1986, and that a final exclusion would not be needed. Since Pratt & Whitney had not submitted the additional information necessary to make their petition complete and since they were still generating the waste (despite future plans to cease generation), the Agency included their petition in the proposed denial of January 17, 1986, based on an incomplete petition. Since that time, however, Pratt & Whitney has withdrawn their petition. By withdrawing their petition, Pratt & Whitney's temporary exclusion is no longer valid.

[3] Chem-Clear, Inc. was granted a temporary exclusion on August 6, 1981. (See 46 FR 40165.) By withdrawing their petition, Chem-Clear's temporary exclusion is no longer valid; therefore, the previously petitioned waste must now be handled as hazardous.

One commenter, representing a petition that had been submitted for a can-making facility, requested that the Agency extend its temporary exclusion to allow the development of a generic rulemaking decision for electroplating wastes generated from all can-making facilities. The Agency had previously notified this petitioner that a final decision on this generic question would not be issued by November 8, 1986, the date by which the Agency must make final decisions on those petitions with temporary exclusions or those temporary exclusions will cease to be in effect. In addition, this petitioner was notified that in order for the Agency to make a final decision on its petition, the additionally requested information must be submitted to the Agency. The requested information was not submitted to the Agency and, therefore, the following petition is being denied as incomplete:

Petition No.	Petitioner's name
[1] 0050	Reynold's Aluminum, Woodbridge, VA.

[1] Reynold's Aluminum was granted a temporary exclusion on December 31, 1980. (See 45 FR 86547.) Today's final notice, which denies Reynold's petition as incomplete, also revokes their temporary exclusion.

Two petitioners submitted letters requesting that the Agency conduct hearings regarding EPA's proposed decision to deny their petitions as incomplete. The Agency has informed both of these petitioners that requests for hearings must be made pursuant to, and contain the information cited in, 40 CFR 260.20(d). The Agency is currently waiting for these petitioners to respond and provide the requisite justification before deciding whether the hearings are warranted. The following petitions, therefore, do not appear among the petitions for which a final denial is being announced today:

Petition No.	Petitioner's name
0162	Gulf Oil Company, Cleves, OH;
0237	Rock Island Refining Corp., Indianapolis, IN.

C. Final Agency Decision

The Agency believes that it has given more than sufficient time and notification to the following petitioners to provide the needed additional information to complete their petitions and, consequently, enable them to be reviewed. The Agency, therefore, is announcing today the final denial of the following 10 petitions as incomplete. Facilities which had previously been granted temporary exclusions are denoted by an asterisk (*) in the table below. Today's final rule revokes these temporary exclusions.

Petition No.	Petitioner's name
*0050	Reynold's Aluminum, Woodbridge, VA.
*0069	Miller Brewing Company, Milwaukee, WI.
*0153	Thermex Energy Corporation (formerly Gulf Oil Chemical Company) Brooksville, FL; Casper, WY; Parish, AL; Hollowell, KS; McLeansville, NC; Biwabik, MN.
*0183	Hewlett-Packard Company, Loveland, CO.
*0187	Bethlehem Steel Corporation, Chesterton, IN.
*0225	Miller Brewing Company, Milwaukee, WI.
*0288	Aluminum Co. of America (ALCOA), Tifton, GA.
0557	Hewlett-Packard, Colorado Springs, CO.
0561	Mountain View Fabricating, Mountain View, MO.
0574	Production Plated Plastics, Inc., Richland, MI.

III. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case for three of

the petitions included in today's notice since this rule does not change the existing requirements for the handling of their wastes, since these facilities were already obligated to treat their wastes as hazardous prior to and during the Agency's review of their petition. This rule, therefore, will become effective immediately for these three petitions being denied.

For the seven petitioners having their temporary exclusions revoked and their petitions denied, these facilities will be required to revert back to handling their wastes as they did before being granted these exclusions (*i.e.*, they must handle their wastes as hazardous). The Agency must make a final decision to grant or deny those petitions which were temporarily granted by November 8, 1986, or the temporary granting of the petition will cease to be in effect. See RCRA section 3001(f)(2)(B). The Agency is attempting to make a final decision on all such petitions before November 8, 1986. The petitions denied today are being denied because the petitions either have not responded at all to the Agency's requests for additional data or have responded incompletely. These petitioners should have known of the statutory deadline at least since November 1984, and yet have not pursued their exclusion petitions. In such cases, the Agency believes that these petitioners do not need more time to come into compliance than they would have had under the statute period. See RCRA section 3010 (b)(1), (3). Accordingly, the effective date of the revocation of the temporary exclusions and denial of these petitions is November 8, 1986.

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This final denial, which would revoke temporary exclusions and would deny the exclusion petitions submitted by certain facilities, is not major. The effect of this final rule would increase the overall costs for the facilities which currently have a temporary exclusion. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of the waste that is generated by the seven petitioners (representing 12 facilities) that currently have temporary exclusions and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $30 million, well under the $100 million level constituting a major regulation. In addition, many of these companies are large and therefore, the impact of this rule will be relatively small. This final denial is not a major regulation; therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

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

This amendment will have the effect of increasing overall waste disposal costs for those facilities which currently have temporary exclusions. A few of these facilities may be considered small entities; however, this rule only effects seven petitioners (representing 12 facilities) across wide industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this final regulation will not have a significant impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: July 9, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–16104 Filed 7–16–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 261

[SW–FRL–3050–8]

Identification and Listing of Hazardous Waste; Final Exclusion for Waterloo Industries

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a final exclusion for the solid waste generated at a particular generating facility from the list of hazardous wastes contained in 40 CFR 261.31. This action responds to a delisting petition received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific basis" from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at this facility from listing as hazardous waste under 40 CFR Part 261.

EFFECTIVE DATE: July 17, 1986.

ADDRESS: The RCRA regulatory docket for this final exclusion is located at U.S. Environmental Protection Agency, 401 M Street, SW. (Sub-basement), Washington, DC 20460, and is available for public inspection from 9:30 a.m. to 3:30 p.m, Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The public may copy a maximum of 50 pages of materials from any regulatory docket at no cost. Additional copies cost $.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Mr. David Topping, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–4690.

SUPPLEMENTARY INFORMATION: On November 27, 1985, EPA proposed to exclude wastes generated by several petitioners, including Waterloo Industries, located in Pocahontas, Arkansas (see 50 FR 48943).[1] The proposal to exclude Waterloo's waste was in response to a petition submitted by that company, pursuant to 40 CFR 260.20 and 260.22, to exclude their waste from hazardous waste control. In their petition, Waterloo contended that their waste is non-hazardous based upon the factors for which waste was originally

[1] The November 27, 1985 notice also includes proposed exclusions for Eli Lilly and Company in Clinton, Indiana and General Electric Company in Shreveport, Louisiana, as well as the Agency's proposed procedure for estimating the leachate concentrations of organic compounds. These two petitions have not yet been made final since the Agency is still in the process of addressing comments relating to these petitions and the proposed procedure for estimating leachate concentrations of organic compounds. Since changes to the proposed procedure for estimating leachate concentrations as a result of these comments may effect the Agency's final decision on Eli Lilly's and G.E.'s petitions, they cannot be made final until these comments are incorporated. For Waterloo's waste, however, the constituent concentrations of the Appendix VIII hazardous organic compounds are sufficiently low so as to produce compliance point concentrations that are well below the levels of regulatory concern. The proposed estimation procedure is, therefore, not required for the evaluation of the waste. That is, if the leachate concentration was assumed to be equal to the constituent concentration (as it was for formaldehyde in the proposed exclusion due to its high solubility), the compliance point concentrations of the organic toxicants would all be less than the Agency's level of regulatory concern.

listed. Waterloo also submitted additional information which enabled the Agency to determine whether any other toxicants are present in the waste at levels of regulatory concern, and whether any other factors are present which could cause the waste to be hazardous. The purpose of today's notice is to make final the proposed exclusion for Waterloo's waste and to make that exclusion effective immediately. More specifically, today's rule allows this facility to manage the waste as non-hazardous. This exclusion will remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment processes). In addition, Waterloo still is obligated to determine whether the waste exhibits any of the characteristics of a hazardous waste.

The Agency notes that the petition for which a final exclusion is granted in today's **Federal Register** has been reviewed for both the listed and expected non-listed constituents. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the waste for all factors which reasonably cause the waste to be hazardous. The petitioner has demonstrated, through the submission of a raw materials list, data on the four hazardous waste characteristics, *etc.*, that the waste does not exhibit any of the hazardous waste characteristics and does not contain any other toxicants at levels of regulatory concern. The Agency, in its proposal to exclude the waste covered by this rule, provided the information necessary to evaluate these factors.

Limited Effect of Federal Exclusion

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

As a result of the enactment of the Hazardous and Solid Waste Amendments of 1984, no State delisting programs are presently authorized. Any states which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] The final exclusion granted today, therefore, is issued under the Federal program. States, however, can still decide whether to exclude this waste under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their waste under State law.

The exclusion made final here involves the following petitioner: Waterloo Industries, Pocahontas, Arkansas.

I. Waterloo Industries

A. Proposed Exclusion

Waterloo Industries (Waterloo) has petitioned the Agency to exclude their electroplating wastewater treatment sludge from EPA Hazardous Waste No. F006 based upon their demonstration that the constituents of concern are only present in essentially immobile forms. In addition, Waterloo submitted data on other, non-listed constituents which indicates that no other hazardous constituents are present in the waste at levels of regulatory concern. (See 50 FR 48951–48952, November 27, 1985 for a more detailed explanation of why EPA proposed to grant Waterloo's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments on the proposal to grant an exclusion to Waterloo for the waste that was identified on their petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Waterloo's electroplating sludge is non-hazardous and, as such, should be excluded from hazardous waste control. It should be noted that we are making this decision despite the fact that Waterloo's waste was evaluated for the presence of organics compounds and our proposed approach for estimating leachate concentrations of organic compounds has not yet been made final. We, nevertheless, believe that we have a sufficient basis for making final our decision. In particular, the Appendix VIII organic compounds expected to be present in Waterloo's waste were toluene and formaldehyde. Maximum constituent analysis of the waste for these compounds revealed concentrations of <0.2 ppm and <0.5 ppm, respectively. This toluene concentration is less than the Agency's regulatory standard of 10 ppm. For formaldehyde, it was assumed that the concentration in the leachate would be equal to the concentration in the waste. This would result in a compliance-point concentration of <0.015 ppm, which the Agency believes would not present a hazard to human health or the environment. (The Agency specifically solicited comments on this conclusion and none were received. The Agency continues to believe, therefore, that this conclusion is sound.) The Agency is, therefore, granting a final exclusion to Waterloo Industries for their electroplating wastewater treatment sludge, listed as EPA Hazardous Waste No. F006, generated at its facility in Pocahontas, Arkansas.

II. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioner by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

III. Regulatory Impact

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

[2] RCRA Reauthorization Statutory Intepretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

IV. Regulatory Flexibility Act

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

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

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

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: July 8, 1986.

Eileen Claussen,

Acting Director, Office of Solid Waste.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

Appendix IX—[Amended]

2. In Appendix IX, add the following wastestream in alphabetical order to Table 1 as indicated:

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	*
Waterloo Industries.	Pocahontas, AR.	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after dewatering and held on-site on July 17, 1986 and any such sludge generated (after dewatering) after July 17, 1986.

[FR Doc. 86-16109 Filed 7-16-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Nurse Practitioner Traineeship Programs

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: These regulations set forth requirements for grants to schools of nursing, medicine, and public health, to public or nonprofit private hospitals, and to other public or nonprofit private entities to meet the costs of traineeships for training nurse practitioners. The purpose of these regulations is to respond to the comments on the interim-final regulations published in the **Federal Register** of August 1, 1984 (49 FR 30702).

EFFECTIVE DATE: These regulations are effective July 17, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Jo Eleanor Elliott, Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20856; telephone number 301 443–5786.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 1, 1984 (49 FR 30702), the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, added a new Subpart AA to Part 57 of Title 42 of the Code of Federal Regulations, entitled "Grants for Nurse Practitioner Traineeship Programs."

Although proposed rulemaking procedures were omitted, interested persons were invited to submit comments about the interim-final regulations on or before October 1, 1984. The Department received one letter responding to the interim-final regulations. The respondent supported the provisions of the regulations but raised three areas of concern which are discussed below along with the Department's response. The final regulations have not been changed as a result of the comments.

The respondent was concerned about § 57.2613(c) which states that the trainee must begin the required practice within 3 months of the completion of the training program. Acknowledging the Secretary's awareness of the variation in State laws and the complexities of the certification process, the response suggested the requirement be extended to 6 months. The respondent noted that a trainee could request a suspension as outlined in § 57.2615, but felt this procedure would be overly burdensome in time and paper work.

Section 822(b) of the Public Health Service Act aims at training nurses to practice as nurse practitioners in primary care shortage areas designated under section 332 of the Public Health Service Act. The majority of trainees supported between 1979 and 1981 understood the commitment and were able to enter into approvable employment arrangements within the time provided by the regulations. Trainees are expected to familiarize themselves with State requirements for practice, and in instances where professional certification is mandatory for practice, to initiate the certification process as soon as possible. A request for suspension of the commitment for reasons related to meeting State requirements involves only a letter from the trainee stating the circumstances which support the request. Such a letter serves not only to inform the Secretary of the problems a trainee is encountering, but also provides information about a trainee's address and possible name change in instances of marriage. Because the legislation is quite specific about pay back, tracking of trainees is important. For the above reasons, the Secretary has retained § 57.2613(c) as proposed.

The respondent also commented that the obligation of the trainees to pay back the traineeship support if they fail to complete training or fail to start or complete the period of practice as cited in § 57.2614 must be clearly understood by the institutions allocating the traineeships and the individual trainees. The respondent urges the Secretary to assist grantees to develop the procedures to assure such notice. The Department agrees it is important that grantees and trainees understand the commitments and conditions of award related to this traineeship program. Technical assistance, including site visits, will be given to participating schools to facilitate understanding of the program requirements.

Lastly, the respondent was concerned that the conditions for waiving financial payback might be "unduly harsh" for those nurse practitioner trainees who are women with families to support.

The regulations provide that the Secretary may waive the practice or payment obligation whenever the Secretary finds that compliance is impossible or would involve extreme hardship to such individual and would be against equity and good conscience. Several factors are listed as considerations in making this

determination, including circumstances beyond the trainee's control and the extent of the trainee's good faith efforts to secure appropriate employment. The documentation provided by the trainee in support of the request for waiver will be carefully reviewed on a case-by-case basis to assure that enforcement will not be against equity and good conscience. The Secretary feels that this standard is general enough to encompass all instances in which waiver would be appropriate and has, therefore, retained this provision as proposed.

The Department has made a technical amendment to clarify § 57.2614, concerning repayment for failure to begin or complete service. This revision sets forth the Department's practice of charging the debtor with the administrative costs of collecting repayment, as well as a penalty charge of six percent a year if the repayment is more than ninety days overdue. This practice is in accordance with the Federal Claims Collection Standards, codified at 4 CFR 102.13.

Paperwork Reduction Act of 1980

The Department is required under the Paperwork Reduction Act of 1980 to submit to the Office of Management and Budget (OMB) for review and approval those sections of the regulations which deal with reporting and/or recordkeeping requirements. The following sections were submitted as required, approved and assigned OMB control number 0915–0083: § 57.2610, which requires the grantee to make each trainee sign a commitment to work as a nurse practitioner in a designated shortage area and to retain the statement of the appointment for 3 years; § 57.2613, which requires that the trainee sign a commitment to practice following completion of training and to keep the Secretary informed of changes of name and address and place of employment until traineeship obligations are met; and § 57–2615, which requires the trainee to request application for a waiver or suspension of payment and to supply documentation as needed.

No grant cycle is proposed for Fiscal Year (FY) 1985. The application forms and instructions for this grant program would be subject to approval by OMB if a future grant cycle is planned.

Regulatory Flexibility Act and Executive Order 12291

The requirements of the Regulatory Flexibility Act of 1980 do not apply to these regulations since the interim-final regulations were published prior to January 1, 1981, the effective date of the Act.

The Department has also determined that a regulatory impact analysis is not required under E.O. 12291, because any cost will not approach the threshold criteria for a major rule. Since 1978, awards under this program have totaled less than $4 million. Further there were no grant cycles in FY 1982, 1983, and 1984, and none is anticipated in 1985.

List of Subjects in 42 CFR Part 57

Grant Programs—nursing, Health manpower shortage area, Health professions, Medical and dental schools, Nursing advanced training, Nurse practitioner, Nurse practitioner traineeship program, Primary care health manpower shortage area, Student aid.

Accordingly, Subpart AA of 42 CFR Part 57 is revised and adopted as set forth below.

Dated: July 3, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Dated: July 9, 1986.

Otis R. Bowen,

Secretary.

(Catalog of Federal Domestic Assistance No. 13.298, Nurse Practitioner Traineeships)

PART 57—[AMENDED]

Subpart AA—Grants for Nurse Practitioner Traineeship Programs

Sec.

57.2601 To what programs do these regulations apply?
57.2602 Definitions.
57.2603 Who is eligible to apply for a grant?
57.2604 How will applications be evaluated?
57.2605 How long does grant support last?
57.2606 How is the amount of the award determined?
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57.2609 Who is eligible for financial assistance as a trainee?
57.2610 What are the requirements for traineeships and the appointment of trainees?
57.2611 Duration of traineeships.
57.2612 Termination of traineeships.
57.2613 What must a trainee do in return for traineeship support?
57.2614 What are the consequences if the trainee fails to comply with the terms of the commitment?
57.2615 When can the practice or payment obligation be waived or suspended?
57.2616 What additional Department regulations apply to grantees?
57.2617 Additional concerns.

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 822(b) of the Public Health Service Act, 91 Stat. 393; as amended by 95 Stat. 930 (42 U.S.C. 296m).

Subpart AA—Grants for Nurse Practitioner Traineeship Programs

§ 57.2601 To what programs do these regulations apply?

These regulations apply to grants awarded to schools of nursing, medicine, and public health or nonprofit private hospitals, and other public or nonprofit private entities to meet the costs of traineeships under section 822(b) of the Public Health Service Act.

§ 57.2602 Definitions.

"Act" means the Public Health Service Act, as amended.

"Health manpower shortage area" means a geographic area, population group, public or nonprofit private medical facility, or other public facility which has been determined by the Secretary to have a shortage of health manpower under section 332 of the Act and its implementing regulation (42 CFR Part 5).

"National of the United States" means a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in 8 U.S.C. 1101(a)(22), the Immigration and Nationality Act).

The term "nonprofit" as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Nurse practitioner" means a registered nurse who has successfully completed a formal program of study designed to prepare registered nurses to perform in an expanded role in the delivery of primary health care, including the ability to:

(a) Assess the health status of individuals and families through health and medical history taking, physical examination, and defining health and developmental problems;

(b) Institute and provide continuity of health care to clients (patients), work with the client to insure understanding of and compliance with the therapeutic regimen within established protocols, and recognize when to refer the client to a physician or other health care provider;

(c) Provide instruction and counseling to individuals, families, and groups in the areas of health promotion and maintenance, including involving these persons in planning for their health care; and

(d) Work in collaboration with other health care providers and agencies to provide and, where appropriate, coordinate services to individuals and families.

"Nurse practitioner training program" means a full-time educational program for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meets the guidelines prescribed by the Secretary in 42 CFR Part 57, Subpart Y, Appendix. The objective of this program is the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in this program, be qualified to perform effectively in an expanded role in the delivery of primary health care, including care in homes, and in ambulatory and long-term care facilities, and in other health care institutions.

"Primary health care" means care which may be initiated by the client or provider in a variety of settings and which consists of a broad range of personal health care services, including:

(a) Promotion and maintenance of health;

(b) Prevention of illness and disability;

(c) Basic care during acute and chronic phases of illness;

(d) Guidance and counseling of individuals and families; and

(e) Referral to other health care providers and community resources when appropriate.

"School of medicine" or "school of public health" means a school of medicine or school of public health as defined in section 701(4) of the Act.

"School of nursing" means a collegiate, associate degree, or diploma school of nursing, as defined in section 853 of the Act.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"Trainee" means a student who is receiving a traineeship from a grant under this subpart.

§ 57.2603 Who is eligible to apply for a grant?

Any school of nursing, medicine, or public health, public or nonprofit private hospital or other public or nonprofit private entity which is located in a State and which provides a nurse practitioner training program is eligible to apply for a grant.

§ 57.2604 How will applications be evaluated?

(a) The Secretary will approve projects which will best promote the purpose of section 822(b) of the Act. The Secretary will take into consideration, among other factors:

(1) The adequacy of the qualifications and experience of the program director, staff and faculty to carry out the program;

(2) The administrative and managerial ability of the applicant to carry out the proposed project; and

(3) The extent to which the applicant will recruit trainees who are residents of health manpower shortage areas.

(b) In determining priority for funding applications approved under paragraph (a) of this section, the Secretary will give first preference to applications which provide nurse practitioner training in schools of nursing that award academic credit to students who complete the program. The Secretary will give second preference to applicants other than schools of nursing that award academic credit to students who complete the program.

(c) In determining the level of funding for traineeship programs funded under this section, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332 of the Act.

§ 57.2605 How long does grant support last?

(a) The notice of grant award specifies the length of time the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed 3 years.

(b) Generally, the grant will initially be funded for 1 year, and subsequent continuation awards will also be for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the availability of funds and the grantee's progress and management practices. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of federally obligated funds remaining unobligated by the school at the end of a budget period may be carried forward to the next budget period for use as prescribed by the Secretary, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds provided and made available to the school for that period, including any unobligated balance carried forward from prior periods, exceeds the school's needs for the period, the Secretary may adjust the amounts provided by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

§ 57.2606 How is the amount of the award determined?

The amount of the award to the grantee will be determined on the basis of the Secretary's estimate of the sum necessary during the budget period to cover 100 percent of the costs of tuition, reasonable living and moving expenses (including stipends), books, fees, and necessary transportation.

§ 57.2607 For what purposes may grant funds be spent?

(a) A grantee shall only spend funds it receives under this subpart according to the approved application and budget, the authorizing legislation, terms and conditions of the grant award, applicable cost principles specified in Subpart Q of 45 CFR Part 74, and these regulations.

(b) A grantee may not spend grant funds for sectarian instruction or for any religious purpose.

§ 57.2608 What financial support is available to trainees?

The grantee must pay each trainee, from grant funds, the entire cost of tuition and fees for the program, and a stipend and allowance, as set forth by the Secretary in the notice of grant award. This allowance must include costs incurred for:

(a) Books and equipment necessary for the course of study;

(b) Initial necessary travel from the trainee's residence to the training site;

(c) Travel required for clinical practice during the training program; and

(d) Necessary travel and moving expenses from the training site to the site of the obligated practice.

§ 57.2609 Who is eligible for financial assistance as a trainee?

To be eligible for a traineeship, an individual must:

(a) Be a national of the United States or a permanent resident of the Trust Territory of the Pacific Islands or the Commonwealth of the Northern Mariana Islands, or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam;

(b) Be accepted for enrollment, or be enrolled as a full-time student in a nurse practitioner training program;

(c) Not be receiving concurrent support for the same training from another Federal source, except education benefits under the Veteran's Readjustment Benefits Act; and

(d) Have signed a commitment with the Secretary in accordance with § 57.2613.

§ 57.2610 What are the requirements for traineeships and the appointment of trainee?

(a) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period. The program director must sign the statement of appointment and the grantee must retain it for 3 years.

(b) The grantee must require each trainee to sign a commitment with the Secretary to practice as a nurse practitioner in a health manpower shortage area, designed as being short of primary care health manpower. The commitment must meet the requirements of § 57.2613.

(c) The grantee may not require trainees to perform any work which is not an integral part of the nurse practitioner training program and required of all students in the program.

(d) The grantee must give priority in the allocation of traineeships to individuals who are residents of health manpower shortage areas designated under section 332 of the Act.

(Approved by the Office of Management and Budget under control number 0915–0083.)

§ 57.2611 Duration of traineeships.

Initial appointment to traineeships must be made for a full academic year, not to exceed 12 months, except that a shorter appointment may be made when necessary to enable the trainee to complete the training program. Appointments may be extended on a year-to-year basis. The total period of support for any trainee may not exceed 24 months.

§ 57.2612 Termination of traineeships.

The grantee must terminate a traineeship:

(a) Upon request of the trainee;

(b) If the trainee is no longer enrolled full-time in the nurse practitioner training program for which the trainee was receiving a traineeship under this subpart; or

(c) If the trainee fails to maintain the level of academic standing required by the institution's standards and practices for full-time enrollment.

§ 57.2613 What must a trainee agree to do in return for traineeship support?

(a) *General.* Each trainee must sign a commitment with the Secretary to practice as a nurse practitioner on a full-time basis (at least 40 hours per week) in a health manpower shortage area designated as having a shortage of primary medical care health manpower. At the end of the training program, the trainee must inform the Secretary of the location where he or she will be serving the practice commitment. The trainee must also inform the Secretary of any changes in name, address, and employment during this period of practice.

(b) *Duration of practice.* The period for which a trainee must agree to practice is equal to 1 month for each month for which the trainee receives support from grant funds. Once practice has begun, it must be continuous for the entire period of practice required by the commitment, unless the Secretary permits suspension of the obligation in accordance with § 57.2615.

(c) *Beginning of practice.* The trainee must begin the practice described in paragraph (a) of this section within 3 months of the completion of the training program.

(Approved by the Office of Management and Budget under control number 0915–0083.)

§ 57.2614 What are the consequences if the trainee fails to comply with the terms of the commitment?

If a trainee fails to complete the training program or fails to begin or complete the period of practice required by the commitment under § 57.2613, the trainee must repay the traineeship support to the United States Treasury. The trainee must pay the amount owed within 36 months of the date on which he or she failed to complete the training program or failed to begin or complete the period of required practice, as determined by the Secretary.

(a) *Failure to complete the training program.* A trainee who is dismissed from the academic program or who voluntarily terminates academic training must repay the traineeship support to the United States Treasury. This individual shall be liable for an amount equal to the cost of tuition and other education expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

(b) *Failure to begin or complete the period of practice.* If for any reason an individual who received a traineeship and completed the training program fails to complete a service obligation, this individual must repay the traineeship support plus interest to the United States Treasury. The amount of repayment must equal the sum of all traineeship support received, together with interest at the maximum legal prevailing rate in effect on the date the trainee initially received traineeship assistance. The Secretary will also charge this individual the Department's administrative costs of collecting the repayment, as well as the penalty charge of 6 percent a year if the repayment is more than 90 days overdue. Late payment charges will accrue from the date the repayment becomes overdue until the overdue amount is paid.

§ 57.2615 When can the practice or payment obligation be waived or suspended?

(a) *Application for waiver or suspension.* A trainee may seek waiver or suspension of the commitment to practice or obligation to repay traineeship support by written request to the Secretary setting forth the basis, circumstances, and causes which support the requested action. The total period during which the practice or repayment obligation may be suspended may not exceed 2 years.

(b) *Conditions for suspension.* The Secretary may suspend any practice or repayment obligation whenever he or she finds good cause based on such factors as:

(1) The trainee's efforts to secure employment which satisfies practice obligation;

(2) The trainee's present and estimated future financial resources and obligations; or

(3) The extent to which the trainee has problems of a personal nature, such as physical or mental disability, or terminal illness in the immediate family, which temporarily prevent the trainee from performing the obligation incurred.

(c) *Conditions for waiver.* The Secretary may waive any practice or repayment obligation:

(1) Upon the death of the trainee;

(2) If the trainee is found to be permanently and totally disabled as

supported by whatever medical certification the Secretary may require. A trainee is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment which is expected to continue indefinitely or result in death.

(3) Whenever the Secretary finds that compliance is possible or would involve extreme hardship to such individual and if enforcement of such obligation would be against equity and good conscience. In order to make this determination, the Secretary may require the trainee to provide supporting documentation.

Among the factors which will be considered by the Secretary in the waiver of any obligation are the extent to which the trainee has personal problems due to circumstances beyond his or her control such as a mental or physical disability; the extent to which the trainee has problems in his or her immediate family which prevent the trainee from either repaying training costs or performing his or her service obligation; and the extent to which the trainee's good faith efforts fail to secure employment which satisfies the practice obligation.

(Approved by the Office of Management and Budget under control number 0915-0083.)

§ 57.2616 What additional Department regulations apply to grantees?

Several other Department regulations apply to grantees. They include, but are not limited to:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board

45 CFR Part 46—Protection of human subjects

45 CFR Part 74—Administration of grants

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964

45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title

45 CFR Part 83—Regulation for the administration and enforcement of Sections 799A and 845 of the Public Health Service Act [1]

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.

45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

§ 57.2617 Addtional conditions.

The Secretary may impose additional conditions on any grant award before or at the time of any award if he or she determines that these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 86-15864 Filed 7-16-86; 8:45 am]

BILLING CODE 4160-17-M

[1] Sections 799A of the Public Health Service Act was redesignated as Section 704 by Pub. L. 94-484; Section 845 of the Public Health Service Act was redesignated as Section 855 by Pub. L. 94-83.

Proposed Rules

Federal Register
Vol. 51, No. 137
Thursday, July 17, 1986

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 Parts 1030, 1032, 1033, 1036, 1049, and 1050

[Docket Nos. AO-361-A24 et al.]

Milk in the Chicago Regional and Certain Other Marketing Areas; Decision on Proposed Amendments and Opportunity To File Written Exceptions to Tentative Marketing Agreements and to Orders

Correction

In FR. Doc. 86-14897 beginning on page 24677 in the issue of Tuesday, July 8, 1986, make the following correction:

On page 24691, in the first column, the minus signs were omitted from the entries in the table. As corrected, the table should read as follows:

[Cents per hundredweight]

Plant location	Present location adjustment	Proposed location adjustment
Anderson	0	0
Bloomington	0	0
Cambridge City	0	0
Fort Wayne	−4	−20
Gary	−12	−40
Highland	−12	−40
Huntington	−4	−20
Indianapolis	0	0
New Paris	−8	−30
Richmond	0	0
Rochester	−8	−20
Seymour	0	0
Shelbyville	0	0
Shipshewana	−4	−30
Warsaw	−8	−30

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-140-AD]

Airworthiness Directives; Lockheed-California Company Model L-1011 Series Airplanes Equipped With Rolls Royce RB211-22B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Lockheed Model L-1011 series airplanes equipped with Rolls Royce RB211-22B engines, that would require modifications and corrective actions to prevent the potential fire hazard caused by heat damage to the flex fuel feed line from an undetected gearbox fire. This proposed AD is prompted by nine reports of gearbox fires caused by failed bearings. This proposal would provide terminating action to AD 85-09-03, which imposes operating limitations on thses airplanes.

DATE: Comments must be received on or before September 8, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-140-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: L-1011 Technical Operations, Dept. 38. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-140-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Airworthiness Directive (AD) 85-09-03 was made effective May 20, 1985, and requires incorporation in the Airplane Flight Manual of the emergency engine inflight shutdown procedure whenever there is a rapid decrease of engine oil indication. The preamble of the AD noted that nine incidents of Lockheed L-1011 gearbox fires had been reported caused by failed bearings. Two of the fires were uncontained. The AD was intended to provide an interim procedure until the airplane and engine manufacturers could issue applicable service bulletins (S/B) to provide corrective actions.

Since issuance of the AD, Lockheed and Rolls Royce have issued the necessary service bulletins, which provide instructions for accomplishing the following:

A. Extension of the fire detector loop to an area above the gearbox heat zone on all engines (Lockheed L-1011 S/B

093–26–036, dated April 1, 1986; Rolls Royce S/B RB.211–72–8138, dated March 21, 1986);

B. Installation of a protective heat shield cover around the fuel supply line on all engines (Rolls Royce S/B RB.211–72–8106, dated February 21, 1986, and S/B.211–73–8105, dated February 21, 1986);

C. Modification of the gearbox breather tube assembly, replacing the aluminum sections with steel and the flex section with fire-resistant material on the engine at the No. 2 position (Lockheed L–1011 S/B 093–71–067, dated April 1, 1986); and

D. Rewiring of the circuitry of the fire shutoff valve on the No. 2 engine position to close in conjunction with the off position of the fuel and ignition switch (Lockheed L–1011 S/B 093–28–074, Revision 1, dated January 20, 1986).

Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is proposed which would require modifications and corrective actions in accordance with the various Rolls-Royce and Lockheed Service Bulletins previously mentioned.

Approximately 149 U.S. registered Model L–1011 series airplanes would be affected by this AD. It is estimated that it would take nine manhours at $40 per manhour and $3,800 for parts for each engine modified. In addition it is estimated that 38 manhours at $40 per manhour and $12,230 for parts to modify the aircraft are required. Based on these figures, the cost to modify the Model L–1011 airplanes is estimated to be $26,250 per airplane, or $3,911,250 for the airplanes on the U.S. register.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model L–1011 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive (AD):

Lockheed-California Company: Applies to Lockheed Model L–1011 series airplanes equipped with Rolls-Royce RB211–22B engines, certificated in any category. To prevent gearbox fires, accomplish the following, unless previously accomplished.

A. Within 8000 flight hours or 30 months after the effective date of this AD, whichever occurs sooner, comply with the accomplishment instructions listed in the following Lockheed Service Bulletins, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region:

1. 093–26–036, dated April 1, 1986;

2. 093–28–074, Revision 1, dated January 20, 1986; and

3. 093–71–067, Revision 1, dated April 1, 1986.

B. Within 8000 flight hours, or 30 months after the effective date of this AD, whichever occurs sooner, comply with the accomplishment instructions listed in the following Rolls Royce Service Bulletins, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region:

1. RB.211–72–4666, Revision 3, dated October 14, 1977;

2. RB.211–72–8106, dated February 21, 1986;

3. RB.211–72–8138, dated March 21, 1986; and

4. RB.211–73–8105, dated February 21, 1986.

C. Compliance with Rolls Royce Service Bulletins RB.211–72–4666, Revision 3, dated October 14, 1977, and RB.211–72–3878, Revision 3, dated June 25, 1976, constitutes an acceptable alternative means of compliance to paragraphs A. and B., above.

D. Compliance with either paragraphs A. and B., or paragraph C., above, constitutes terminating action for the requirements of AD 85–09–03, Amendment 39–5056.

E. If an operator has complied with paragraphs A. and B., or paragraph C., above, on an airplane and subsequently installs an engine on that airplane, which does not comply with either paragraphs A. and B., or paragraph C., that airplane will be subject to the requirements of AD 85–09–03.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

G. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Lockheed—California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on July 10, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86–16071 Filed 7–16–86; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Floor Broker Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend its regulations governing the registration of floor brokers under sections 4e and 4f of the Commodity Exchange Act ("Act"). The proposed amendments would eliminate the current one-year period of registration for floor brokers in favor of indefinite floor broker registration and provide that such registration would expire when the floor broker no longer has trading privileges on an exchange.

DATE: Comments must be submitted on or before August 18, 1986.

ADDRESS: Comments should be submitted to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director, or Linda Kurjan, Esq., Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–9703 or 254–8955, respectively.

SUPPLEMENTARY INFORMATION: By letter dated June 27, 1986, the National Futures Association ("NFA") requested the Commission to authorize NFA, pursuant to section 8a(10) of the Act, 7 U.S.C. 12a(10) (1982),[1] to perform certain of the

[1] Pursuant to section 8a(10) of the Act, the Commission may—

authorize any person to perform any portion of the registration functions under the Act, in accordance with rules, notwithstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.

Commission's registration functions with respect to applicants for registration as a floor broker. This request was the culmination of a series of conversations between the staffs of the Commission and NFA, and between NFA and the several exchanges acting on behalf of their member floor brokers, undertaken for the purpose of developing a mutually acceptable plan for the transfer of the Commission's registration processing functions with respect to floor brokers to NFA.

Under this proposed plan, NFA will be authorized to process and, where appropriate, grant applications for registration as a floor broker. Because floor brokers are not an NFA membership category, NFA is not seeking, nor is the Commission requesting that NFA accept, the authority to deny, condition, suspend, restrict or revoke the registration of a floor broker or othewise to assume regulatory jurisdiction over such registrants.[2]

In connection with this proposed transfer of registration processing functions to NFA, NFA has requested that the Commission amend its rules governing the registration of floor brokers to eliminate the current one-year period of registration set forth in Commission rule 3.2. In lieu thereof, NFA has requested that the Commission's rules provide for the indefinite registration of floor brokers. Such registration would terminate only when a floor broker no longer has trading privileges on any exchange.[3] A special registration procedure similar to that provided for associated persons who transfer from one firm to another would be provided for a floor broker who ceases to have trading privileges on one exchange and within sixty days thereafter obtains privileges on another exchange.[4]

The Commission has carefully considered NFA's request and believes that it has merit. The Commission, therefore, is publishing the proposed rule amendments for comment.[5]

Although floor brokers are not subject to supervision to the same extent as associated persons, their activities on the floor of an exchange are subject to the oversight of that exchange. Moreover, pursuant to Commission rule 1.62, each exchange is presently required to adopt and enforce rules prohibiting any person from acting in the capacity of a floor broker unless that person is registered as such with the Commission. In addition, in accordance with the plan developed by the Commission and NFA staffs, NFA has advised the Commission that each exchange has committed to adopt and enforce a rule requiring any floor broker with trading privileges on that exchange to notify either the exchange or NFA directly in the event that any information on the floor broker's application, or any supplement thereto, becomes inaccurate. This obligation is in addition to that which all floor brokers currently have under Commission rule 3.31 to ensure that the information in a floor broker's registration file is accurate. Finally, each exchange has agreed to advise NFA within twenty days after a floor broker ceases to have trading privileges on that exchange.

In this regard, therefore, the Commission is proposing to amend Commission rule 3.2 to delete therefrom the provision that the registration of each floor broker shall expire on March 31.[6] Commission rule 3.11 is proposed to be amended essentially to parallel rule 3.12 and other rules relating to the registration of associated persons.[7]

Proposed rule 3.11(a) provides that an applicant for registration as a floor broker must submit the Form 8–R to NFA and further provides that such registration will not be granted unless the person has been granted trading privileges by an exchange. Upon registration, in addition to notifying the applicant, NFA would also notify any exchange which has granted trading privileges. Under proposed rule 3.11(b), the term of a floor broker's registration would be indefinite, terminating only when the floor broker no longer has trading privileges on any exchange.[8]

Proposed rule 3.11(c) provides a special registration procedure for any floor broker applicant whose registration has expired within the preceding sixty days. Unlike the special registration procedure for associated persons, however, the floor broker registration would be effective upon mailing to NFA the Form 8–R, rather than the Form 8-S, accompanied by the floor broker's fingerprints. Because each exchange already conducts a background investigation before granting an individual trading privileges, the Commission believes that the Form 8-S procedure which exists for associated persons is unnecessary for floor brokers.

Finally, rule 3.31 is proposed to be amended to require each exchange that has granted trading privileges to a floor broker to file a Form 8–T or similar form with NFA whenever a floor broker no longer has trading privileges on the exchange within twenty days of the cessation of such privileges. Proposed § 3.31(d).[9]

However, because floor brokers may have trading privileges on more than one exchange, the filing of the appropriate form itself would not result in the termination of registration unless the floor broker no longer had trading privileges on any exchange. It should be noted, however, that the form would be filed by an exchange even if it knows that the floor broker continues to have trading privileges on another exchange.

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules,

[2] Specifically, NFA is not seeking, and the Commission is not requesting that NFA accept, authority to accept or to act upon requests for exemption or withdrawal from registration as a floor broker or to render "no-action" opinions with respect to applicable registration requirements.

[3] Under current rule 3.11, a floor broker could remain registered as such until the thirty-first day of March following the date on which registration was granted even if the floor broker no longer has trading privileges on an exchange.

[4] *See, e.g.*, Commission rule 3.12(d).

[5] Because the rule amendments proposed herein essentially relieve a restriction, the Commission, pursuant to the provisions of 5 U.S.C. 553(d)(1), may determine that the amendments, if adopted as final, may take effect on less than thirty days' notice.

[6] The Commission is also proposing to delete therefrom the provision that the registration of futures commission merchants shall expire on March 31. The Commission has previously authorized NFA to distribute the dates for registration of futures commission merchants and other registrants for which NFA performs the Commission's registration functions. 48 FR 51809 (November 14, 1983). This provision, therefore, is superfluous.

[7] In this connection, it should be noted that there is no intent to prohibit a floor broker from being a floor broker on more than one exchange. Nor would a floor broker be required to be registered separately with respect to each exchange on which he has trading privileges. As at the present time, the floor broker would add (or delete) any additional exchanges on which he later obtains (or ceases to have) trading privileges by filing the appropriate form.

[8] Pursuant to Commission Order of January 25, 1985, 50 FR 3506, all floor broker registrations granted on or after January 1, 1985, will remain in effect through March, 1987. If the rule amendments proposed herein are adopted, the Commission will concurrently issue an Order extending the floor broker registrations of persons who currently have trading privileges on any exchange indefinitely for so long as such privilege remains in effect. For those registered floor brokers who do not have trading privileges, such registrations would expire on March 31, 1987.

[9] The Form 8–T is used to notify the Commission and NFA of the termination of associated persons and principals of registrants. The staffs of the Commission and NFA are reviewing the Form 8–T in connection with the instant rulemaking proposal and may develop a separate form for the notification to NFA by exchanges of the cessation of a floor broker's trading privileges on such exchange.

consider the impact of those rules on small businesses.[10] With respect to floor brokers, this proposed regulation would impose no additional requirement for doing business as a floor broker since this class of commodity participant is already required to register with the Commission and would, in fact, ease the regulatory burden by eliminating the annual renewal requirement for registration. The Commission has previously determined that contract markets are not "small entities" within the RFA and, accordingly, the requirements of the RFA do not apply to those entities.[11] Accordingly, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Commission has submitted pertinent portions of this rule to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

List of Subjects in 17 CFR Part 3

Registration requirements, Conditional registration, Temporary licenses, Statutory disqualifications, Authority delegations, Fingerprinting, Associated persons, Floor brokers, Introducing brokers, Commodity trading advisors, Commodity pool operators, Futures commission merchants, Leverage transaction merchants, Petitions for review.

PART 3—REGISTRATION

1. The authority citation for Part 3 continues to read as follows:

Authority: Secs. 2(a)(1), 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 4p, 6, 8, 8a, 14, 15, 17 and 19 of the Commodity Exchange Act, 7 U.S.C. 2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19, 21 and 23 (1982).

2. Section 3.2 is proposed to be amended by revising paragraph (d) to read as follows:

§ 3.2 Registration processing by the National Futures Association; notification and duration of registration.

* * * * *

(d) The registration of each leverage transaction merchant shall expire on the thirty-first day of March following the date on which registration was granted.

* * * * *

3. Section 3.11 is proposed to be revised to read as follows:

§ 3.11 Registration of floor brokers.

(a) *Application for registration.* (1) Application for registration as a floor broker must be on Form 8–R, completed and filed with the National Futures Association in accordance with the instructions thereto. Each Form 8–R filed in accordance with this paragraph (a) must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association, except that a fingerprint card need not be filed by any applicant who has a current Form 8–R on file with the Commission or the National Futures Association.

(2) An applicant for registration as a floor broker will not be registered as such unless the applicant has been granted trading privileges by a board of trade designated as a contract market by the Commission.

(3) When the Commission or the National Futures Association determines that an applicant for registration as a floor broker is not disqualified from such registration, the National Futures Association will provide notification in writing to the applicant and to any contract market that the granted the applicant trading privileges that the applicant's registration as a floor broker is granted.

(b) *Duration of registration.* A person registered as a floor broker in accordance with paragraph (a) or (c) of this section, and whose registration has neither been suspended, revoked nor withdrawn, will continue to be so registered so long as such person has trading privileges on a contract market.

(c) *Special registration for certain persons.* Any person whose registration as a floor broker has terminated within the preceding sixty days and who is granted trading privileges by another contract market will be registered as, and in the capacity of, a floor broker upon mailing to the National Futures Association of a Form 8–R completed and filed in accordance with the instructions thereto, accompanied by the fingerprints of the floor broker on a fingerprint card provided by the National Futures Association for that purpose.

4. Section 3.31 is proposed to be amended by adding a new paragraph (d) to read as follows:

§ 3.31 Deficiencies, inaccuracies, and changes to be reported.

* * * * *

(d) Each contract market that has granted trading privileges to a person who is registered, or has applied for registration, as floor broker must file a notice with the National Futures Association on Form 8–T within twenty days after such person has ceased having trading privileges on such contract market.

* * * * *

Issued in Washington, DC, on July 11, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–16074 Filed 7–16–86; 8:45 am]

BILLING CODE 6351–01–M

[10] The Commission has previously stated in its RFA policy statement that with respect to floor brokers, RFA determinations should be made in the context of rule proposals specifically affecting them. 47 FR 18618, 18620 (April 30, 1982).

[11] *See* 47 FR 18618.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 81N–0027]

Smoking Deterrent Drug Products for Over-the-Counter Human Use; Notice of Proposed Rulemaking; Extension of Time for New Data and Comments on the New Data

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; extension of new data and comment periods.

SUMMARY: The Food and Drug Administration (FDA) is extending to September 3, 1986, the period for submission of new data to establish conditions under which over-the-counter (OTC) smoking deterrent drug products are generally recognized as safe and effective and not misbranded. The period for submission of comments on the new data will be extended to November 3, 1986. This action responds to a request to extend the period for the submission of new data.

DATES: New data by September 3, 1986. Comments on the new data by November 3, 1986.

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

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN–210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 3, 1985 (50 FR 27552), FDA issued a notice of proposed rulemaking to establish conditions under

which smoking deterrent drug products for OTC human use are generally recognized as safe and effective and not misbranded. This notice of proposed rulemaking is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until July 3, 1986, to submit new data and until September 3, 1986, to submit comments on the new data.

The investigators involved in a clinical study on an OTC smoking deterrent drug product informed the agency that, based on agency feedback on a proposed study protocol, the data collection phase of their study would not be completed by July 3, 1986, and, therefore, requested that the time period for the submission of new data be extended to September 3, 1986.

FDA has carefully considered the request and believes that the new data may be of assistance in establishing the conditions under which OTC smoking deterrent drug products are generally recognized as safe and effective and not misbranded and, therefore, an extension of the time period for submission of new data is in the public interest. Accordingly, the period for submission of new data is extended to September 3, 1986, and, correspondingly, the period for comments on the new data is extended to November 3, 1986. New data and comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 10, 1986.

James W. Swanson,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-16063 Filed 7-14-86; 10:46 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 773

Requirements for Surface Coal Mining and Reclamation Permit Approval; Ownership and Control

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

ACTION: Notice of public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI) published a proposed rule which would amend its regulations dealing with the permit approval provisions of section 510(c) of the Surface Mining Control and Reclamation Act of 1977. The proposed rule would define the terms "ownership" and "control," and would expand the scope of the findings which regulaory authorities are required to make prior to permit approval. The comment period on the proposed rule has been extended to August 11, 1986. OSMRE will conduct a public hearing in Denver, Colorado on the proposed rule.

DATES: The public hearing is scheduled for July 29, 1986, at 10:00 a.m.

ADDRESS: The public hearing will be held at the following location: Office of Surface Mining, Western Technical Center, Large Conference Room, Brooks Towers, 1020 15th Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Andrew F. DeVito, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202-343-5950 (Commercial or FTS).

SUPPLEMENTARY INFORMATION: OSMRE published a proposed rule which would amend its regulations dealing with the permit approval process by (1) adding definitions for the terms "ownership" and "control" as those concepts are used in the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, and (2) expanding the scope to the compliance findings which regulatory authorities are required to make prior to permit approval.

The proposed rule was published in the **Federal Register** on April 5, 1985 (50 FR 13724). On April 16, 1986 (51 FR 12879) a notice was published which reopened and extended the comment period to June 16, 1986. On June 25, 1986 (51 FR 23085) the comment period was further extended to August 11, 1986. In addition to extending the comment period, the April 16, 1986 notice contained examples illustrating how the "Ownership and Control" rule would be used in conjunction with OSMRE's computerized Applicant-Violator System. Those intending to comment on the proposed rule should read the April 16, 1986 notice in addition to the proposed rule published on April 5, 1985.

Public interest in the proposed rule has continued at very high level. OSMRE has received requests to hold a public hearing. As a result, OSMRE has scheduled a public hearing for July 29, 1986 at 10:00 A.M. at the Office of Surface Mining, Western Technical Center, Large Conference Room, Brooks Towers, 1020 15th Street, Denver, Colorado.

Dated: July 14, 1986.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 85-16132 Filed 7-16-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-3048-8]

Approval and Promulgation of Implementation Plans; Arizona, Particulate Copper Smelter Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to disapprove Arizona State Rule R9-3-515(B) which pertains to particulate matter emissions limitations for existing primary copper smelters. The rule was submitted to EPA on June 3, 1982 by the Arizona Department of Health Services as a revision to the Arizona State Implementation Plan (SIP). EPA is proposing to disapprove the rule because it is inconsistent with requirements of the Clean Air Act, 40 CFR Part 51, and EPA policy, in that it significantly relaxes the existing federally enforceable particulate matter emission limits for smelters.

DATE: Comments will be considered if they are submitted on or before September 2, 1986.

ADDRESSES: Send any comments to: Regional Administrator, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: State Implementation Plan Section (A-2-3), Air Management Division.

Copies of the submitted rule and EPA's evaluation of the submitted rule are available for public inspection during normal business hours at EPA's San Francisco office.

Copies of the submitted rule are also available at the following location: Arizona Department of Health Services, 2005 North Central Avenue, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: John Ong, State Implementation Plan Section (A-2-3), Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7635; FTS: 454-7635.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 1982 the Arizona Department of Health Services submitted to EPA Rule R9–3–515(B) as a revision to the Arizona SIP. Rule R9–3–515 is titled "Standards of Performance for Existing Primary Copper Smelters." Subsection B of Rule R9–3–515 is titled "Particulate Emissions Limitations." The June 3, 1982 submittal of Rule R9–3–515(B) superceded several provisions submittals of Rule R9–3–515(B) in 1980 and 1981. EPA has not taken action on any of the versions of Rule R9–3–515(B) submitted prior to June 3, 1982 mainly because those previous versions contain stay periods (from the applicable process weight particulate matter emission limits) which have already expired.

Rule R9–3–515(B) submitted June 3, 1982 specifies a particulate matter emission process rate curve for existing primary copper smelters. The current federally approved Arizona SIP limiting particulate matter emissions from copper smelters consists of Arizona State Regulation 7–1–3.6 and 40 CFR 52.126(b) Regulation 7–1–3.6 is a general particulate matter regulation which was submitted by Arizona on May 30, 1972 and approved by EPA on July 27, 1972 (37 FR 15080). On May 14, 1973 (38 FR 12704) EPA disapproved Regulation 7–1–3.6 for all portions of Arizona inside the Phoenix-Tucson Air Quality Control Region (AQCR) and promulgated a new TSP process rate curve at 40 CFR 52.126(b).

EPA Evaluation

EPA has evaluated Rule R9–3–515(B) against Regulation 7–1–3.6 and 40 CFR 52.126(b). Rule R9–3–515(B) provides for interim total suspended particulate (TSP) emission limits for smelters during a three year period following the date of EPA's approval of the Rule. These interim limits, which are specific to individual smelters, are far less stringent than the process rate curves in Regulation 7–1–3.6 and 40 CFR 52.126(b).

After expiration of the three year interim period, Rule R9–3–515(B) provides for emission limits which are the same as those contained in Regulation 7–1–3.6. For smelters within the Phoenix-Tucson AQCR, this would represent approximately a ten percent reduction in the stringency of the existing emission limits contained in 40 CFR 52.126(b).

Six of the seven smelters subject to R9–3–515(B) are in TSP nonattainment areas. These nonattainment areas are subject to a construction ban because of the lack of an EPA approved nonattainment area plan. Arizona submitted Rule R9–3–515(B) without any accompanying analysis of the impact of the Rule's emission relaxations on ambient air quality.

EPA has evaluated the interim and final limits of Rule R9–3–515(B) and concludes that the Rule represents a significant relaxation of the existing federally approved SIP emission limits for existing copper smelters and should be disapproved since the Rule does not meet the requirements set forth below.

EPA Requirements

EPA's evaluation of whether a proposed SIP revision such as Rule R9–3–515(B) may be approved is governed by the Clean Air Act (CAA), 40 CFR Part 51, and numerous EPA policy memoranda.

General SIP Requirements:

Section 110(a)(2)(A) of the CAA, 40 CFR Part 51.10, and EPA policy require that SIPs provide for the attainment of the National Ambient Air Quality Standards (NAAQS) "as expeditiously as practicable." Section 110(a)(2)(B) of the CAA, 40 CFR Parts 51.12 and 51.13, and EPA policy require that SIPs also insure maintenance of the NAAQS. Section 110(a)(3)(A) of the CAA and 40 CFR Part 51.6 extend the SIP requirements in Section 110 and 40 CFR Part 51 to SIP revisions.

EPA cannot approve a SIP or SIP revision without a demonstration that the SIP or SIP revision is adequate to attain and maintain the standards. EPA's policy is that the burden of proof is on the State to provide an adequate demonstration. If the State fails to provide an adequate demonstration, EPA is authorized to disapprove the submission. (See Memorandum dated May 16, 1978 from Richard G. Rhoads, Director, Control Programs Development Division, to David G. Hawkins, Assistant Administrator for Air, Noise and Radiation, entitled "Options for Handling State Implementation Plan Relaxation in Face of Uncertainty.")

In this case, the State of Arizona failed to demonstrate that the submitted SIP revision will provide for attainment and maintenance of the NAAQS. Therefore, EPA proposes to disapprove the revision.

Nonattainment Area Requirements:

Section 172 of the CAA, 40 CFR Parts 51.12 and 51.13, and EPA policy require that SIPs in nonattainment areas include a number of provisions including: (1) The implementation of all reasonably available control measures; (2) A demonstration of reasonable further progress; (3) A comprehensive emissions inventory; and (4) A demonstration of the adequacy of the submitted control strategy.

EPA's general policy regarding SIP relaxations in nonattainment areas (where a nonattainment area plan has not been approved) can be found in a policy memorandum dated December 28, 1978. The memorandum from Richard G. Rhoads, Director, Control Programs Development Division, to Stephen R. Wassersug, Director, Air and Hazardous Materials Division, Region III, entitled "SIP Relaxations in Nonattainment Areas," states:

> Generally, the nonattainment provisions of the Clean Air Act would prohibit any SIP relaxation for a source located in a designated (pursuant to section 107) nonattainment area. The basic rationale is that a nonattainment area without an attainment strategy is an intolerable situation, and any relaxation would only aggravate the already intolerable situation.

Arizona Rule R9–3–515(B) represents a significant relaxation from the EPA approved SIP. Since six of the seven smelters subject to the rule are in nonattainment areas, approval of the SIP revision would aggravate the nonattainment problem. Therefore, disapproval is appropriate.

Prevention of Significant Deterioration (PSD) Requirements

Sections 161 and 163(a) of the CAA and 40 CFR Part 51.24 require that SIPs contain emission limitations and any other measures necessary to prevent significant deterioration of air quality. Although Arizona Rule R9–3–515(B) represents a significant relaxation from the EPA approved SIP, the State of Arizona did not submit with the rule an accompanying demonstration that applicable increments and standards would not be violated. Lacking such a demonstration, EPA proposes to disapprove the SIP revision since the PSD requirements of the Clean Air Act and 40 CFR 51.24 are not met.

EPA Action

Under section 110 and Part D of the Clean Air Act, EPA is proposing to disapprove Arizona State Rule R9–3–515(B) (submitted as a SIP revision on June 3, 1982) because it is inconsistent with the Clean Air Act and EPA policy. The Rule significantly relaxes the existing federally enforceable particulate matter emission limits for smelters, even for those smelters in TSP nonattainment areas lacking an approved nonattainment area plan.

Regulatory Process

Under Executive Order 12291, today's action is not "Major." It has been

submitted to the Office of Management and Budget (OMB) for review.

Today's action imposes no additional requirements on small entities. Nor does today's action impose additional requirements on the seven affected copper smelters. Therefore, under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated: March 20, 1986.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 86–16106 Filed 7–16–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A–5–FRL–3050–7]

Approval and Promulgation of Implementation Plans; Michigan

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

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve a site-specific revision to the total suspended particulates (TSP) portion of the Michigan State Implementation (SIP). This revision establishes alternative opacity limitations for a bark boiler owned by the Packaging Corporation of America (PCA) in Filer City, Michigan.

USEPA is today proposing to approve this revision containing alternative opacity limits, because USEPA believes these opacity limits represent the best consistently attainable opacity levels for he PCA boiler when it is controlled to a reasonably available control technology (RACT) level.

DATE: Comments on this revision and on the proposed USEPA action must be received by August 18, 1986.

ADDRESSES: Copies of this proposed revision are available at the following addresses for review: (It is recommended that you telephone Ms. Toni Lesser, at (312) 886–6037, before visiting the Region V office.)

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

Michigan Department of Natural Resources, Air Quality Divison, 7150 Harris Drive, Lansing, Michigan 48909.

Comments on this proposed rule should be addressed to: (Please submit an original and five copies, if possible).

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

FOR FURTHER INFORMATION CONTACT: Ms. Toni Lesser, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 0604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On September 16, 1985, the State of Michigan submitted a SIP revision requesting alternate opacity limits for the PCA's bark boiler. The request is in the form of a Stipulation for Entry of Consent Order and Final Order (No. 23–1984). The Consent Order contains an extended schedule for the PCA's bark boiler to comply with Michigan's Rule 336.1301.

Michigan's Rule 336.1301 requires boilers not to exceed visible emissions of more than 20 percent opacity except in the following instances:

1. A visible air contaminant with a density of not more than 40 percent opacity may be emitted for not more than three minutes in any 60-minute period, but this emission shall not be permitted on more than 3 occasions during any 24-hour period.

2. When the presence of uncombined water vapor is the only reason for failure of an emission to meet the requirements of R336.1301.

3. When permitted by the Commission in a case where compliance with R336.1301 is not technically and economically feasible and all other requirements are being met.

Consent Order No. 23–1984 for PCA contains the following elements:

1. Until December 31, 1989, when fired with 100 percent bark as fuel, the maximum six-minute average opacity shall be limited to 40 percent, except for ten six-minute averages per day of not more than 60 percent opacity during periods of start-up, shutdown and ash removal, as determined by Test Method 9, Appendix A to 40 CFR Part 60 (July 1, 1980).

2. Until December 31, 1989, when fired with a combination of bark and wood chips as fuel, the maximum six-minute average opacity shall be limited to 35 percent, except for ten six-minute averages per day of not more than 60 percent opacity during periods of start-up, shutdown and ash removal, as determined by Test Method 9, Appendix A to 40 CFR Part 60 (July 1, 1980).

3. After December 31, 1989, visible emissions from the bark boiler shall not exceed 20 percent opacity except as provided in Michigan's Rule 336.1301.

USEPA has reviewed Consent Order (No. 23–1984) for the State of Michigan's PCA plant in Filer City, and prepared a technical support document (TSD) dated November 18, 1985. USEPA is today proposing to approve the alternative opacity limits contained in Consent Order No. 23–1984 as a revision to Michigan's TSP SIP, because USEPA believes these limits represent the best consistently attainable opacity level for this source when it is controlled to a RACT level. This SIP revision will not allow PCA to increase its TSP emissions. The revision merely increases PCA's opacity limitation to reflect actual opacity levels when PCA is in compliance with its TSP mass emission limits.

A 30-day public comment period is being provided on this notice of proposed rulemaking. Public comments received on or before August 18, 1986 will be considered in USEPA's final rulemaking action.

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

Pursuant to the provisions of 5 U.S.C. Section 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: March 31, 1986.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 86–16105 Filed 7–16–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[Docket No. AM022 DE; A–3–FRL–3050–6]

Approval of Revisions to the Delaware State Air Quality Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing approval of revisions to the Delaware Regulations Governing the Control of Air Pollution, Regulation No. , Control of Volatile Organic Compound Emissions, Section 9

Surface Coating Operations. The headings in Tables I and I(a) are amended by deleting the word "yearly" from "yearly average." Both automobile assembly plants, Chrysler Corporation in Newark and General Motors Corporation in Wilmington, will be affected by this revision. In addition, two new Reasonably Available Control Technology (RACT) standards are proposed for the zinc-rich primer and urethane chip-resistant primer. These standards of 4.0 and 4.5 lbs. VOC/gallon less water, respectively, will pertain only to Chrysler Corporation in Newark at the present time, although they will be applicable to General Motors if that company should decide to use these primers.

DATE: Comments must be submitted on or before August 18, 1986.

ADDRESSES: Copies of these amendments and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Esther Steinberg (3 AM1 1).

Delaware Department of Natural Resources and Environmental Control, Air Resources Section, 89 Kings Highway, P.O. Box 1401, Dover, DE 19901.

All comments on the proposed revision submitted within 30 days of this Notice will be considered and should be addressed to Mr. David L. Arnold, Chief, DELMARVA/DC Section at the above EPA Region III address. Please reference the EPA docket number found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia H. Stahl, (215) 597–9337, at the Region III address above. The commercial and FTS numbers are the same.

SUPPLEMENTARY INFORMATION: On December 18, 1985, the State of Delaware submitted a request to amend Regulation No. XXIV, Control of Volatile Organic Compound Emissions, section 9, Surface Coating Operations. This amendment proposes revisions to Tables I and I(a) by deleting the word "yearly" from the headings "yearly average" in both tables. The deletion of "yearly" removes the current confusion associated with these tables since the footnotes to these tables clearly limit the compliance determination for automobile and light duty truck coatings to the arithmetic average of all colors at any time. This revision will affect the two automobile assembly plants in Delaware, Chrysler Corporation in Newark and General Motors in Wilmington. The use of averaging only pertains to automobile and light duty truck coatings as footnoted in Tables I and I(a). Automobile and light duty truck coatings may be averaged within a category but not across categories. All other surface coatings in these tables must comply individually with the applicable standard.

In addition, two new standards under enamel coatings in Table I are proposed. The proposed standard for zinc-rich primer is 4.0 lbs. VOC/gallon less water. The proposed standard for urethane chip-resistant primer is 4.5 lbs. VOC/gallon less water. The final compliance date for both standards is December 31, 1985. The urethane chip-resistant primer is defined as a coating baked at or below 250°F and is applied, while wet and without individual bake curing, after the primer and immediately before the topcoat. Neither of these coatings were considered at the time of the development of EPA's Control Technology Guidelines (CTG) for Automobile and Light Duty Truck Surface Coating Operations. EPA has examined the material submitted by Delaware and determined that the proposed standards represent Reasonably Available Control Technology (RACT) for these two coatings. The technical support document contains detailed information regarding the development of these RACT standards. Currently, only Chrysler Corporation in Newark will be affected by the adoption of the standards for zinc-rich primer and urethane chip-resistant primer. The General Motors Wilmington Plant is not using a zinc-rich primer at this time and the definition of the urethane chip-resistant primer here restricts the application of this standard to Chrysler's current type of operation. Should General Motors decide to use either or both of these coatings, as defined here, these standards would also apply to them.

The proposed changes would appear as follows in Delaware Regulation No. XXIV Tables I and I(a). Proposed deletions are shown in brackets. Proposed additions are shown by arrows.

TABLES I and I(a)

* * * * *

EFFECTIVE DATE—[YEARLY] AVERAGE (2)

Table I * * *

	1985
* * * * *	
Enamel Coatings	* * *
* * * * *	
►Zinc Rich Primer	4.0◄
►Urethane Chip-Resistant Primer (5)...	4.5◄

* * * * *

(5) This coating is baked at or below 250 °F and is applied, while wet and without individual bake curing, after the primer and immediately before the topcoat.◄

Conclusion

EPA's decision to propose approval to delete the word "yearly" from the headings in Tables I and I(a) and adopt new RACT standards for zinc-rich primer and urethane chip-resistant primer is based on a determination that these revisions are consistent with current EPA policy and that they comply with the Clean Air Act.

The public is invited to submit comments, to the EPA Region III address above, on whether or not the proposed revisions should be approved.

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. Section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. (*See* 46 FR 8709)

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: March 11, 1986.

James M. Seif,

Regional Administrator.

[FR Doc. 86–16108 Filed 7–16–86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

Natural Resource Damage Assessments

AGENCY: Department of the Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 5, 1986, the Department of the Interior (Department) proposed a rule establishing simplified

procedures (type "A" procedures) for assessing damages for injury to natural resources from a discharge of oil or a release of a hazardous substance that is compensable under either the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, or under the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.* (also known as the Federal Water Pollution Control Act). The Department is extending the period for comment on the proposed rule from July 3, 1986, to August 18, 1986.

DATE: Comments on the proposed rule (51 FR 16636) should be submitted by August 18, 1986.

ADDRESS: Comments should be sent to: Keith Eastin, Deupty Under Secretary, CERCLA 301 Project Director, Room 4354, Department of the Interior, 1801 "C" Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Keith Eastin, (202) 343–5183; David Rosenberger, (202) 343–1301; Alison Ling, (415) 556–8807; or Willie Taylor, (202) 343–7531.

SUPPLEMENTARY INFORMATION: On May 5, 1986, the Department proposed a rule establishing simplified procedures (type "A" procedures) for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a release of a hazardous substance for the purposes of section 301(c) CERCLA and sections 311(f) (4) and (5) of the CWA. The May 5, 1986, notice stated that the proposed rule was being developed under a deadline imposed by the court in *State of New Jersey et al.* v. *Ruckelshaus et al.*, Cir. No. 84–1668 (D.C.N.J.) (now Thomas), modified on February 3, 1986, requiring promulgation of final "A regulations" on or before October 7, 1986. Because of that deadline, the notice stated that comments on the proposed rule were to be submitted on or before June 19, 1986.

The Department received numerous requests from the public for additional time to comment on this proposed rule. The Department petitioned the court to approved a modification in the schedule for the promulgation of the final "A" regulations. While awaiting the court's ruling on this motion, the Department extended the comment period to July 3, 1986 (51 FR 22320).

The court granted the motion and modified the previously-established deadline, now requiring the Department to submit the final rule to the office of the Federal Register by February 4, 1987. As a result of this court order, the Department is extending the comment period to August 18, 1986. This extention is retroactive to July 3, 1986.

Dated: July 15, 1986.

Keith E. Eastin,

Deputy Under Secretary.

[FR Doc. 86–16271 Filed 7–16–86; 9:22 am]

BILLING CODE 4310–10–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 1385, 1386, 1387 and 1388

Developmental Disabilities Program

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend the regulations that implement the Developmental Disabilities Assistance and Bill of Rights Act of 1984 (Pub. L. 98–527). The regulations include changes in reporting and paperwork requirements. They also propose to delete the regulatory requirements in 45 CFR Part 1387 regarding Special Projects of National Significance and propose new program criteria for the University Affiliated Facilities program.

DATE: To ensure consideration, comments must be submitted on or before September 15, 1986.

ADDRESS: Please address comments to: Commissioner, Administration on Developmental Disabilities, Room 348–F.5 (Regulations), Hubert H. Humphrey Building, 200 Indpendence Avenue, SW., Washington, DC 20201.

It would be helpful if agencies and organzations submitted comments in duplicate. Two weeks after the close of the comment period, comments and letters will be available for public inspection in Room 338–E, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, Monday through Friday, 9:00 a.m. to 4:00 p.m., telephone (202) 245–2897.

FOR FURTHER INFORMATION CONTACT: Ms. Elsbeth Porter Wyatt, (202) 245–2897.

SUPPLEMENTARY INFORMATION:

Description of Program

The Developmental Disabilities Assistance and Bill of Rights Act (the Act), 42 U.S.C. 6000, has traditionally served a target population who, by virtue of their severe handicapping conditions, have been underserved or inappropriately served through existing programs.

Legislation originally enacted in 1963 as the Mental Retardation Facilities and Construction Act (Pub. L. 88–164) authorized planning activities and construction of facilities in which services were to be provided to the mentally retarded. This legislation was subsequently amended by the Developmental Disabilities and Facilities Construction Act of 1970 (Pub. L. 91–517) which further expanded the target population to include individuals wiht cerebral palsy epilepsy and other neurological disorders. It also created State Planning Councils to advocate for, plan, monitor and evaluate services for the developmentally disabled and it authorized grants for constructing, administering and operating university affiliated facilities.

Public Law 91–517 and successive amendments to the Act emphasized that the purpose of the Developmental Disabilities Program was to strengthen, rather than supplant, existing services, and to fill gaps in the human service delivery system. Section 101(a)(5) of the Findings and Purpose section of the Act (42 U.S.C. 6000(a)(5)) explicitly states that "it is in the national interest to strengthen specific programs, especially programs that reduce or eliminate the need for institutional care . . .".

Public Law 94–103, the 1975 Amendments, deleted the construction authority, authorized studies of the feasibility of having university affiliated facilities establish satellite centers, emphasized advocacy, and added a new requirement that States establish a Protection and Advocate system (42 U.S.C. 6012). It also added section 111, "Rights of the Developmentally Disabled" which stated Congress' findings with respect to the rights of persons with developmental disabilities.

The 1978 amendments (Pub. L. 95–602) required the provision of priority services to assist States in focusing their energies on specific areas needing remediation (42 U.S.C. 6001(8)). In addition, these amendments added a new definition of developmental disabilities (42 U.S.C. 6001(7)). The term "developmental disability" was defined in the 1978 amendments as ". . . a severe chronic disability of a person which:

A. Is attributable to a mental or physical impairment or combination of mental and physical impairments;

B. Is manifested before the person attains age twenty-two;

C. Is likely to continue indefinitely;

D. Results in subtantial functional limitations in three or more of the following areas of major life activity: (i)

Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

E. reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

The definitional change was arrived at following an extensive study and emphasizes functional deficits rather than clinical conditions. It is estimated that 3.9 million people in the United States now meet the functional definition of developmental disability.

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) extended the Developmental Disabilities Program through September 30, 1984. It authorized appropriations for the four major programs in the Act: (1) The basic State grant program (42 U.S.C. 6061–6068); (2) a system for protection and advocacy of individual rights (42 U.S.C. 6012). (3) the university affiliated facilities programs for administration and operation of interdisciplinary training, research and service programs (42 U.S.C. 6031–6033); and (4) special project grants for projects of national significance (42 U.S.C. 6081).

In addition, section 912 of Pub. L. 97–35 repealed the requirement formerly contained in section 110 of the Act (42 U.S.C. 6009) for a specific evaluation system for services furnished to persons assisted under the Developmental Disabilities Program.

The 1984 Amendments (Pub. L. 98–527) revised and extended the Act through September 30, 1987. Section 101(b)(1) of the Findings and Purposes section of Pub. L. 98–527, (42 U.S.C. 6000(b)(1)) added a new emphasis to assist States to assure that persons with developmental disabilities receive the care, treatment and other services necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community.

In addition, the 1984 Amendments required increased accountability of State program and fiscal management which included the introduction of new and revised reporting requirements in section 107(a) and (b) (42 U.S.C. 6006).

The regulations for the Developmental Disabilities Program are found at 45 CFR parts 1385, 1386, 1387 and 1388. The most recent revision applicable to the Basic State Grant program, the Protection and Advocacy System and Special Projects, was published on March 27, 1984 (49 FR 11779). Rules for the University Affiliated Facilities program were last published on August 6, 1979 (44 FR 45949). These programs are administered at the Federal level by the Administration on Developmental Disabilities (ADD).

Approach to Writing These Regulations

Based on Executive Order 12291 and the President's commitment to regulatory relief, the Department has established principles to be applied in the development of new regulations. These are to:

•Insure that all regulations are clearly within the authority delegated by law and consistent with Congressional intent.

•Provide maximum flexibility to State and local governments.

•Minimize Federal, State, local and private costs.

•Eliminate regulations not serving a compelling Federal interest or reform those not implemented in the least instrusive means available.

This NPRM references sections of the law where it is appropriate but does not repeat the language of the Act. We have introduced requirements in the regulations only in those areas where specificity is needed in order to carry out the intent of the law.

In proposing these rules, we have made every effort to be sensitive to State practice and our overall purpose has been to prepare a regulation designed to assist States in the implementation of the statute.

The proposed rules supplement rather than repeat the Act. Therefore, we recommend that they be reviewed in conjunction with the appropriate sections of the Act. Through the comment process, we hope to identify any additional statutory provisions that should be addressed either in final regulations or in nonbinding program guidance.

Summary of Major Changes to the Developmental Disabilities Assistance and Bill of Rights Act of 1984 (Pub. L. 98–527).

Reporting Requirements

•State Planning Councils are now required to report annually (by January 1 of each year) to the Commissioner, ADD, on the State's activities under the Basic State Grant Program (section 107(a)). This is a new reporting requirement.

•Each Protection and Advocacy system must prepare a report (by January 1 of each year) to the Commissioner, ADD, which describes the activities, accomplishments and expenditures of the system during the preceding fiscal year (section 107(b)).

Basic State Grant Program

• The Federal share of all projects assisted under the Basic State Grant program may not exceed 75 percent of the aggregate necessary costs of all such projects (90 percent of the aggregate necessary costs of projects in poverty areas), (section 103(a)). Previously, the Federal matching limits applied to each project.

• No more than 25 percent of a State's grant funds will be allocated to the State agency for the provision of services (section 122(b)(3)(C)).

• A new comprehensive Statewide plan for the provision of services must be developed by the second year of funding after enactment of the 1984 amendments on October 19, 1984. The plan must provide for the provision of employment related activities among the priority services beginning in FY 1987 if the appropriations level for the Basic State program is at or above $50,250,000 (section 122(b)(4)(B)).

• The plan must be developed after consideration of the data collected by the State education agency under the Education of the Handicapped Act (section 122(b)(4)(D)).

• A new definition of "priority services" is contained in the Act (section 102(11)(C)). Four priority services continue to be specified. However, non-vocational social-developmental services have been deleted and replaced by employment related activities.

• The State plan must use no less than 65 percent of their allotment on the newly-defined priority services (section 122(b)(4)(E)(i)).

• The State plan must use the remainder of the allotment for other services for persons who are developmentally disabled and for planning, coordination, administration and advocacy (section 122(b)(E)(ii)).

• The State plan must provide assurances that the State will provide the State Planning Council with a copy of each annual survey report and plan of corrections for intermediate care facilities for the mentally retarded in the State within 30 days after completion of such report or plan (section 122(b)(5)(E)).

State Planning Councils

• State Planning Councils shall include representatives of the State agency or agencies that administer programs under the Rehabilitation Act of 1973, the Education of the Handicapped Act, and Title XIX of the Social Security Act; higher education training facilities; each University Affiliated Facility or Satellite Center in

the State; the State Protection and Advocacy system; local agencies; and nongovernmental agencies and private nonprofit groups concerned with services to persons with developmental disabilities in that State (section 124(a)(1)).

Protection and Advocacy System

- The State Protection and Advocacy (P&A) system must have authority to provide information on and referral to programs and services addressing the needs of persons with developmental disabilities (section 142(a)(2)(A)).
- The State P&A system must be able to obtain access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities if a complaint has been received on behalf of such person and if the person does not have a legal guardian or if the State or a designee of the State is the legal guardian (section 142(a)(2)(D)).
- A State must assure that it will not redesignate a new agency to administer the Protection and Advocacy system without good cause, and without giving prior notice of its intention to make such redesignation to persons with developmental disabilities or their representatives (section 142(a)(5)).
- A State may not use more than 5 percent of its P&A allotment for the costs of monitoring the administration of its Protection and Advocacy system (section 142(c)(2)).

University Affiliated Facilities

- The 1984 Amendments clarified that satellite centers may carry out all activities that are carried out by University Affiliated Facilities (UAFs) (section 152(c)).

Overview of the Regulations

A section-by-section discussion of the changes we are proposing follows:

Part 1385

We are proposing to revise the title of Part 1385 to read "Requirements Applicable to the Developmental Disabilities Program". In part 1385 the table of contents will be revised to reflect the changes described below. Editorial and technical changes have been made to comport the regulations with the changed statutory citations as a result of the 1984 Amendments (See §§ 1385.1, 1385.2, 1385.3 and 1385.4).

We are proposing a new § 1385.5 entitled "Recovery of Federal funds used for construction of facilities" to make clear the Department's commitment to recovery of construction funds as required in section 105 of the Act. When a facility constructed with Federal funds for the express purpose of serving the developmentally disabled, ceases, funds may be recovered on a pro rata basis. We are proposing that the State Council or the UAF which has responsibility for assuring appropriate use of such facilities notify the Commissioner, ADD, if a change in ownership or a change in use is to occur or has occurred. Recoveries will include the charging of interest in accordance with HHS claim collection regulations as stated in 45 CFR Part 30 and Debt Collection Procedures at 45 TFR 61792, September 17, 1980.

Part 1386

In Part 1386 the table of contents will be revised to reflect the changes described below. Also, editorial and technical changes have been made to include the changed statutory citations as a result of the 1984 Amendments (See §§ 1386.21, 1386.23, 1386.30, 1386.32, 1386.33, 1386.34, 1386.35, 1386.41, 1386.111 and 1386.112).

Pursuant to section 142(a)(5) of the Act, we are proposing to establish new requirements in § 1386.20(d), and (e) which outline the approval procedure which must be followed in order for a State to redesignate a new agency to administer the protection and Advocacy system. State protection and advocacy agencies are responsible for administering State advocacy systems which must be independent of State public and private service systems and which are to provide information, referral and have the authority to pursue legal, administrative and other appropriate remedies to ensure the protection of the rights of persons with developmental disabilities. The purpose of these proposed requirements is to ensure that no redesignation occurs which would compromise the independence of the Protection and advocacy system. Under the proposed process, the State would specify, through public notice, its reason(s) for wanting to redesignate the protection and advocacy agency and obtain public comment on its proposal. Subsequently, because of the unique and vital role of State protection and advocacy agencies in ensuring the rights of persons with developmental disabilities, the Commissioner will review the information submitted to assure that it meets the requirements of the statute and the regulations.

Section 1386.22—Triennial report on the State protection and advocacy system. This section has been deleted because the report is no longer required under the Act.

Section 1386.23—Periodic reports. The reference to the triennial report in the lead sentence has been deleted because the report is no longer required under the Act. Section 107(b) of the Act expanded the annual report requirements to include information on expenditures for the Protection and Advocacy system (42 U.S.C. 6006(b)). The report format currently used and the Standard Form 269 include all of the required information. In addition, we are proposing to require States to submit, on a one time only basis, written assurances of compliance with section 142 of the Act. These assurances to the Commissioner must be signed by a State official or entity empowered to provide such assurances and would remain in effect unless changes occur within the State which affected the functioning of the Protection and Advocacy system. If this was the case, an amendment would be required prior to the effective date of the change. All assurances and/or amendments may be submitted in any format chosen by the State and would remain in effect as long as the State received funds under the Act. Under the previous statutory provision, 42 U.S.C. 6012(a)(3)(A), a State's documentation of compliance with section 142 was provided through the triennial report.

In addition, in paragraph (c) we are clarifying the requirements for submitting financial reports to comport with the two-year liquidation period on obligations as allowed in *§ 1386.3.* This liquidation timeframe was established at the request of the States. In accordance with good business practices, we encourage grantees to liquidate funds as soon as possible after the receipt of all invoices or billings. The proposed regulations provide for the continued submission of quarterly reports until a final report for that fiscal year is submitted.

We propose to change the title of § 1386.24 to reflect the content of this section regarding non-allowable costs for the Protection and Advocacy System. We have deleted paragraph (a) of the current regulations since the two examples in the current paragraph (a) pertaining to allowable costs for the Protection and Advocacy system are no longer necessary. References to the triennial report are now obsolete, as triennial reporting requirements have been deleted from the statute. Also, the statute requires that a State Protection and Advocacy system have the authority to provide information and referral.

In § 1386.30—State plan requirements, technical changes have been made in the regulations to comport with the new statutory citations.

We propose to change the title of § 1386.32 from "Financial reports" to "Periodic reports: Basic State grants." The change is being made because we are expanding this section to include the new requirement for the submission of an annual report (section 107(a) of the Act). We are proposing in paragraph (a) the identical language as in § 1386.23(C) to clarify the requirements for submitting financial reports. The proposed regulations provide for submission of quarterly reports until a final report for that fiscal year is submitted.

We are proposing to delete and reserve § 1386.34 Provision of priority services. We believe that section 122(b)(4)(C) of the Developmental Disabilities Act as amended by section 6 of Pub. L. 99–91—the Orphan Drug Amendments of 1985 has specified the requirements and limitations for the provision of priority services. The amendment provides that States which were granted a waiver to provide an additional priority service prior to September 18, 1984 retain their eligibility to apply for a waiver to provide an additional service in FY 1986 and FY 1987.

We are proposing to delete and reserve Part 1387—Special Project—Projects of National Significance. Current regulations require that all projects funded must be of national significance, hold potential for replication, and that the requirements regarding format, application content, and submittal procedures will be published in program announcements in the **Federal Register**. We are proposing to delete and reserve this Part as we believe that sections 161 and 162 of the Act are clear with respect to the requirements for special project grants; the regulations duplicate statutory language; and it is unnecessary to state in regulations how ADD plans to announce availability of these funds and application requirements and procedures.

Part 1388

Pursuant to section 153 (a) of the Act, standards for University Affiliated Facilities must be established through regulations. The standards are to "reflect the special needs of persons with developmental disabilities who are of various ages, and to include performance standards relating to each of the activities" described in the definition of a UAF, section 102(13). The proposed program criteria are the basic requirements that a UAF must meet if it is to receive a grant under this program. They relate to (1) the administration and management of the facility; (2) the interdisciplinary training program; (3) the demonstration of exemplary services; (4) the provision of technical assistance; and (5) the dissemination of information concerning services and needs for service-related research. Compliance with the program criteria is a prerequisite for the minimum funding level of a university affiliated facility. However, compliance with the program criteria does not, by itself, constitute an assurance of funding.

We are proposing to delete the regulations currently found under this part which were published in the **Federal Register** on August 6, 1979. The standards contained in current regulations have been viewed as a conceptual framework upon which specific performance standards would be developed at a later time. These regulations have been used as the basis for funding decisions under the UAF program. Recently the Administration on Developmental Disabilities has placed increased emphasis on monitoring UAFs as we consider the activities performed by these facilities of particular value to the developmental disabilities program. Therefore, in support of this effort, we are proposing program criteria which have been developed in consultation with the American Association of University Affiliated Programs and with experts in a broad range of disciplines including education, health, psychology and social work. These program criteria help define good professional standards and practices for the UAFs, including criteria that will help the field and ADD measure achievements and identify areas needing special attention. It should be noted that in preparing the program criteria we have taken into account the fact that the programs funded under this authority are varied and often unique. The program criteria have been designed so that they can be applied to the wide variety of UAF programs. Furthermore, the program criteria will provide a basis for uniform monitoring of grantees. We specifically invite comments on the proposed program criteria.

We are proposing to delete § 1388.1—"Purpose of the university affiliated facilities program," in line with our policy of not repeating in regulations the language of the statute. The new § 1388.1 is now entitled "Definitions"; the text contained in the current § 1388.2—Definitions, is deleted. We believe that section 102 of the Act is clear with respect to definitions for the UAF program, and since the current regulations duplicate statutory language, they are unnecessary. We are proposing a definition for the term "program criteria" to explicitly set forth the requirements of a quality UAF program. The remaining sections in Subpart A would be deleted.

We are proposing to delete Subpart B and add a new § 1388.2 entitled "Program criteria for university affiliated facilities—Purpose", to explain how the program criteria will be used. These regulations propose program criteria in five areas: administration, services, training, technical assistance, and information dissemination. Compliance with the program criteria alone would not qualify a university for eligibility for funding unless all requirements of the Act are fully met (See sections 103(b) (c) and (d); 105, 109, 152 and 153).

Section 1388.3, entitled "Program Criteria—Administration," proposes program criteria to ensure that a UAF will adequately administer the program by carrying out the UAF mission and the operation of mandated activities (exemplary services, interdisciplinary training, technical assistance and information dissemination (Section 152(a)).

The Program criteria on administration include the following areas: (a) Governance; (b) university relationship; (c) administration; (d) organization; (e) management structure; (f) funding; (g) cooperative relationships; (h) personnel policies; (i) physical facility; (j) evaluation; and (k) measurements of program criteria. These areas of program criteria were developed because UAFs are multipurpose organizations that must be responsive to university, community, State, Federal and scientific influences and still achieve operational effectiveness. In addition, ADD funding supports administration and operation of a facility, and ADD is responsible for effective and appropriate use of program funds. To carry out this responsibility, the proposed program criteria must include a requirement, in § 1388.3(b)(1), for a one-time only submission of a written agreement or Charter to reflect the UAF and the University's relationship. This agreement or charter would remain in effect unless changes occur which affect the stated relationship. We view this proposed reporting requirement as a non-burdensome activity.

Section 1388.4, entitled "Program Criteria—Services, proposes program criteria to ensure that a UAF demonstrates the capacity to provide exemplary services to persons with developmental disabilities in settings which are integrated in the community

(Section 102(13)(B)(i)). The program criteria for services include the following areas: (a) Exemplary services; (b) community-integrated services; (c) continued or emerging need; (d) state-of-the-art and innovative practices; (e) demonstration and training; and (f) measurements of program criteria. These areas of program criteria were developed based on the following four functions within the UAF mission: (1) To provide needed services to developmentally disabled individuals, their families and the community; (2) to provide state-of-the-art practicum experience to UAF trainees in the practice of their discipline in an interdisciplinary setting; (3) to identify knowledge-gaps that inhibit the development of more effective services; and (4) to develop "cutting-edge" practices and programs. It should be noted that in relation to the overall purpose of the UAF program as defined in the Act, the Congress emphasized that UAFs and Satellite Centers have an important responsibility to extend their research, training and service efforts to include adult and elderly developmentally disabled persons whose numbers are increasing and whose needs are largely unmet today (H.R. Report No. 1074, 98th Congress, 2nd Session, Page 35 (1984).

Section 1388.5, entitled "Program Criteria—Training," proposes program criteria to ensure that a UAF will adequately provide interdisciplinary training for personnel concerned with developmental disabilities. The training must be conducted at the facility and through outreach activities (Section 102(13)(A)). The proposed program criteria on training focus on long-term training (300 or more hours), intermediate interdisciplinary training (160 to 300 hours), and specialized and preservice training based on needs of persons with developmental disabilities and to their families. In addition, program criteria have been developed in response to the statements in the Conference Report (H.R. Report No. 1074, 98th Congress, 2nd Session, Page 35 (1984)) that recommended UAFs must reach out to professionals in those disciplines which provide generic services to adult and elderly persons with developmental disabilities. The program criteria on training include the following areas: (a) Organization; (b) outcome of interdisciplinary training; (c) long-term interdisciplinary training; (d) intermediate interdisciplinary training; (e) short-term special purpose interdisciplinary training; (f) training; (g) evaluation and research in the interdisciplinary training program; and (h) measurements of program criteria.

Section 1388.6, entitled "Program Criteria—Technical Assistance," proposes program criteria to ensure that a UAF demonstrates the capacity to provide technical assistance to individuals and organizations responsible for the independence, productivity, community integration and human rights of individuals with developmental disabilities (section 102(13)(B)(ii)). We are proposing regulations for UAFs for technical assistance efforts based on state-of-the-art practices and new, innovative practices and models found within exemplary services. The outcomes of these technical assistance practices includes such activities as workshops and inservice training. We are also proposing regulations for technical assistance covering special needs or emerging problems that are identified, such as the unmet needs of adult and elderly persons with developmental disabilities.

The program criteria on technical assistance include the following areas: (a) Technical assistance; (b) establishment and planning for technical assistance; (c) technical assistance training; and (d) measurements of program criteria.

Section 1388.7, entitled "Program Criteria—Information Dissemination," proposes program criteria on activities to assist the UAF to stay abreast of contemporarty community practices and concerns and influence the overall programs of other UAFs. The program criteria on information dissemination include the following areas: (a) Information and dissemination; (b) information and dissemination plan; (c) target audiences; (d) information products; and (e) measures of program criteria. ADD believes that UAFs have information that can be useful to professional practitioners, parents, and community and health planners. Since a UAF acts as a link between the university and the community it has a responsibility to make available needed information and to provide technical assistance to assist individuals, groups and organizations upgrade their practice and programs with respect to persons of all ages who are developmentally disabled and to their families.

We are proposing to delete Subpart C of Part 1388 as it repeats section 152 of the Act.

We are proposing to delete Subpart D, Grants for Satellite Centers, as there is no need for further clarification of the satellite center requirements in section 152(b)(1)(b) and section 153 (b) and (d) (1) and (2) of the Act.

We are proposing a new § 1388.8—"Use of program criteria for Satellite Centers." Since a satellite center may engage in the same activities as a UAF (See section 152(c)), the satellite center's chosen area(s) of focus must be clearly reflected in practice. We are proposing that satellite centers meet the program criteria based on their statutory mission (Section 102(12)).

Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. These regulations primarily affect State agencies. The basic requirements of the program are established by the statute, not these regulations. Therefore, the Department concludes that these regulations are not major rules within the meaning of the Executive Order, because they do not have an effect on the economy of $100 million or more or meet the other threshold criteria.

Regulatory Flexibility Act of 1980

Consistent with the Regulatory Flexibility Act (5 U.S.C. Ch. 6), we try to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities", we prepare an anaylsis describing the rule's impact on small entities. The primary impact of these regulations is on the States, which are not "small entities" within the meaning of the Act. For these reasons, the Secretary certifies that these rules will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, all Departments are required to submit to the Office of Management and Budget for review and approval any reporting or recordkeeping requirement contained in a proposed or final rule.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, we will submit a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. The sections of this proposed rule listed below contain information collection requirements. Other organizations and individuals desiring to submit comments

on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, DC 20503, ATTN: Desk Officer for HHS.

REPORTING AND RECORDKEEPING REQUIREMENTS IN PART 1386 OF THE NPRM

Sections of NPRM containing reporting and record-keeping require-ments	NPRM impact on reporting and recordkeeping requirements	OMB approval information
1386.20(d) & (e)	New requirement	
1386.23(a)	New requirement	This requirement replaces the former 3 Year Plan for Protection and Advocacy (OMB Control number 0980-0053) which has been discontinued.
1386.23(b)	Technical revision to existing requirement.	This requirement is implemented by the Protection and Advocacy Annual Program Performance Report (OMB control number 0980-0160).
1386.23(c)	Existing requirement.	This requirement is currently implemented by use of the SF-269.
1386.30	Technical revision to existing requirement.	This requirement is currently approved under OMB control number 0980-0162.
1386.30(e)(2)	Existing requirement.	This requirement is currently approved under OMB number 0980-0139.
1386.32(a)	Existing requirement.	This requirement is currently implemented by use of the SF-269.
1386.32(b)	New regulatory requirement.	This requirement will be implemented by the Program Performance Report Developmental Disabilities which is approved under OMB Control number 0980-0172.
1386.33	Technical revision to existing requirement.	This requirement is currently approved under OMB control number 0980-0162.

There will be no specified format for the submittal of the State plans and assurances required in §§ 1386.30–1386.31 and 1386.33. States may select any format they wish as long as they meet the requirements in the Act and in these regulations.

These regulations reflect the aims of Executive Order 12372 to allow for State Plan simplification.

Section 1388 proposes program criteria for the UAF program. The program criteria were developed through consultation with the American Association of University Affiliated Programs. Although certain sections of part 1388 contain recordkeeping and reporting requirements, it should be understood that these criteria have been developed by the field to help define good professional standards and are not new practices. Most of the requirements will be satified with the submission of an acceptable grant application. We will be submitting a separate clearance package to OMB on Part 1388.

List of Subjects

45 CFR Part 1385.

Grant programs/education, Grant programs/social programs, Handicapped, Reporting and recordkeeping requirements.

45 CFR Part 1386

Administrative practice and procedure, Grant programs/education, Handicapped, Reporting and recordkeeping requirements.

45 CFR Part 1388

Colleges and universities, Grant programs/education, Grant programs/social programs, university affiliated facility, satellite center.

(Catalog of Federal Domestic Assistance Program, Nos. 13.630 Developmental Disabilities Basic Support and 13.631 Developmental Disabilities—Special Projects)

For the reasons set forth in the preamble, Chapter XIII of title 45 of the Code of Federal Regulations is proposed to be amended as follows:

SUBCHAPTER 1—THE ADMINISTRATION ON DEVELOPMENTAL DISABILITIES, DEVELOPMENTAL DISABILITIES PROGRAM

1. The heading for Part 1385 is revised to read as follows:

PART 1385—REQUIREMENTS APPLICABLE TO THE DEVELOPMENTAL DISABILITIES PROGRAM

2. The authority citation for Part 1385 is revised to read as follows:

Authority: Pub. L. 88–164, 77 Stat. 282, as amended by Pub. L. 90–170, 81 Stat. 527; Pub. L. 91–517, 84 Stat. 1316; Pub. L. 94–103, 89 Stat. 486; Pub. L. 95–602, 92 Stat. 2955; Pub. L. 97–35, 95 Stat. 563; Pub. L. 98–527 98 Stat. 2662 (42 U.S.C. 6000 et seq.).

3. Section 1385.1 is revised to read as follows:

§ 1385.1 General.

Except as specified in § 1385.4, the requirements in this Part are applicable to the following programs and projects:

(a) State Systems for Protection and Advocacy of Individual Rights of Persons with Developmental Disabilities;

(b) State Basic Program for Planning, Administration and Services on Behalf of Persons with Developmental Disabilities;

(c) Special Projects—Projects of National Significance; and

(d) University Affiliated Programs.

4. Section 1385.3 is amended by revising the definition of "Act" to read as follows. The introductory text is republished for the convenience of the reader.

§ 1385.3 Definitions.

In addition to the definitions in section 102 of the Act (42 U.S.C. 6001), the following definitions apply:

Act means the statutory authority for the developmental disabilities programs as enacted in Pub. L. 88–164 and amended by Pub. L. 90–170, Pub. L. 91–517, Pub. L. 94–103, Pub. L. 95–602, Pub. L. 97–35 and Pub. L. 98–527. It may be cited as the Developmental Disabilities Assistance and Bill of Rights Act.

* * * * *

5. Section 1385.4 is revised to read as follows:

§ 1385.4 Rights of persons with developmental disabilities.

(a) Section 110 of the Act, *Rights of the Developmentally Disabled* (42 U.S.C. 6009) is applicable to the programs authorized under the Act, except for the Protection and Advocacy system.

(b) In order to comply with section 122(b)(5)(C) of the Act (42 U.S.C. 6022 (b)(5)(C)), regarding the rights of developmental by disabled persons, the State must meet the requirements of § 1386.30(e)(3) of these regulations.

(c) Applications from university affiliated facilities or for special project grants must also contain an assurance that the human rights of persons assisted by these programs will be protected consistent with section 110 (see section 153(b)(3) and section 162(b)).

6. A new § 1385.5 is added as follows:

§ 1385.5 Recovery of Federal funds used for construction of facilities.

(a) The State Council or the appropriate university affiliated facility official must notify the Commissioner in advance in writing if a facility described in section 105 of the act:

(1) Will be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity; or

(2) will cease to be a public or other nonprofit facility for persons with developmental disabilities.

(b) The State Council or the appropriate UAF official must submit detailed documentation to the Commissioner of all transactions as specified in paragraph (a) of this section which occurred prior to this publication.

(c) Recovery of funds will include the charging of interest in accordance with HHS claims collection regulations in 45 CFR Part 30 and the Departmental Debt Collection Procedures (45 FR 61792, September 17, 1980) available from the Administration on Developmental Disabilities, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

7. Section 1385.6 is revised to read as follows:

§ 1385.6 Employment of handicapped individuals.

Each grantee who receives Federal funding under this Act must meet the requirements of section 109 of the Act (42 U.S.C. 6008) regarding affirmative action. Failure to comply with section 109 may result in loss of Federal funds under the Act. If a compliance action is taken, the State will be given reasonable notice and an opportunity for a hearing as provided in Subpart D of Part 1386.

8. Section 1385.7 is amended by revising the introductory text to read as follows:

§ 1385.7 Waivers.

Applications for a waiver of the provisions of section 105 of the Act (42 U.S.C. 6004) with respect to alternative use of facilities constructed with funds under the Act may be granted by the Commissioner if the following criteria are met:

* * * * *

9. Section 1385.9 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 1385.9 Grants administration requirements.

(a) The following parts of Title 45 CFR apply to grants funded under Parts 1386 and 1388 of this chapter and to special project grants under section 162 of the Act (42 U.S.C. 6082).

* * * * *

PART 1386—(AMENDED)

10. The authority citation for Part 1386 is revised to read as follows:

Authority: Pub. L. 88–164, 77 Stat. 282, as amended by Pub. L. 90–170, 81 Stat. 527; Pub. L. 91–517, 84 Stat. 1316; Pub. L. 94–103, 89 Stat. 486; Pub. L. 95–602, 92 Stat. 2955; Pub. L. 97–35, 95 Stat. 563; Pub. L. 98–527, 98 Stat. 2662 (42 U.S.C. 6000 et seq.).

11. New paragraphs (d), and (e) are added to § 1386.20 to read as follows:

Subpart B—State System for Protection and Advocacy of Individual Rights

§ 1386.20 Designated State Protection and Advocacy Office.

* * * * *

(d) Prior to any redesignation of the agency which administers the State Protection and Advocacy system, the designating official or entity must give public notice of the intent to redesignate and provide an opportunity for public comment on the proposed redesignation. The public notice must include:

(1) The Federal requirements for the Protection and Advocacy program (section 142 of the Act);

(2) The goals and function of the State's Protection and Advocacy program;

(3) A description of the current Protection and advocacy agency and the system it administers;

(4) The reason(s) for proposing redesignation;

(5) The name of the agency proposed to administer the State Protection and Advocacy program; and

(6) A description of the system which the new Protection and Advocacy agency would administer.

(e) Following receipt of comments from the public, the designating official or entity must submit the following information to the Commissioner:

(1) Documentation that the system was redesignated for good cause; and

(2) Assurance that the designated Protection and Advocacy system meets the requirements of the statute and the regulations.

12. Section 1386.21 is amended by revising paragraphs (a) to read as follows:

§ 1386.21 Requirements of the Protection and Advocacy system.

(a) In order for a State to receive Federal financial participation for Protection and Advocacy activities under this subpart, as well as the Basic Support Program (subject C), the Protection and Advocacy system must meet the requirements of section 142 of the Act (42 U.S.C. 6042 and that system must be operational.

* * * * *

§ 1386.22 [Removed and Reserved]

13. Section 1386.22 is removed and reserved.

14. Section 1386.23 is revised to read as follows:

§ 1386.23 Periodic reports: Protection and Advocacy System.

The State Protection and Advocacy Agency must submit:

(a) Written assurance of compliance with section 142 of the Act will be required on a one time only basis. These assurances to the Commissioner must be signed by a State official or entity empowered to provide such assurance. These assurances will remain in effect unless changes occur within the State which will affect the functioning of the Protection and Advocacy system in which case an amendment is required 30 days prior to the effective date of the change. All assurances and/or amendments may be provided in a format of the State's choice and will remain in effect as long as the State receives funds under the Act.

(b) An annual report to the Commissioner describing the activities and accomplishments carried out under the system during the previous year.

(c) Quarterly financial status reports from the Protection and Advocacy Agency are due thirty (30) days after the close of each quarter. The final financial report is due two (2) years and thirty (30) days after the last day of the Federal fiscal year. These quarterly reports must be submitted until the final report is submitted for each fiscal year.

15. Section 1386.24 is revised to read as follows:

§ 1386.24 Non-allowable costs for the Protection and Advocacy System.

Federal financial participation is not allowable for:

(a) Costs incurred for activities on behalf of persons with developmental disabilities to solve problems not directly related to their disabilities and which are faced by the general populace; and

(b) Costs not allowed under other applicable statutes. Departmental regulations and issuances of the Office of Management and Budget:

16. Section 1386.30 is amended by revising paragraphs (a), (b), (e)(2) and (e)(3) to read as follows:

§ 1386.30 State plan requirements.

(a) In order to receive Federal financial assistance under this subpart, Councils and States must prepare, submit and have in effect a State plan which meets the requirements or sections 122 and 124(a) of the Act (42 U.S.C. 6022 and 6024(a)(b)) and these regulations.

(b) Failure to comply with State plan requirements may result in loss of Federal funds as described in section 127 of the Act (42 U.S.C. 6027).

* * * * *

(e) * * *

(2) The State meets the requirements regarding individual habilitation plans as set forth in section 123 of the Act (42 U.S.C. 6023) and

(3) The human rights of developmentally disabled persons will be protected consistent with section 110 of the Act (42 U.S.C. 6009).

* * * * *

17. Section 1386.32 is amended by revising the heading, revising and redesignating the present text as paragraph (a), and by adding paragraph (b) to read as follows:

§ 1386.32 Periodic reports: Basic State grants.

(a) The Governor or the appropriate State financial official must submit quarterly financial status reports on the programs funded under this part. These reports are due thirty (30) days after the close of each quarter. The final financial report is due two (2) years and ninety (90) days after the last day of the Federal fiscal year. The quarterly reports must be submitted until the final report is submitted for each fiscal year.

(b) By January 1 of each year an annual report shall be submitted pursuant to section 107(a) of the Act. The report may be in a format of the State's choice.

* * * * *

18. Section 1386.33 is amended by revising paragraph (a) to read as follows:

§ 1386.33 Protection of employee's interests.

(a) Based on section 122(6)(B) of the Act (42 U.S.C. 6022(6)(B)), the State plan must provide for fair and equitable arrangements to protect the interest of all institutional employees affected by actions under the plan to provide alternative community living arrangements. Specific arrangements for the protection of affected employees must be developed through negotiations between the appropriate State authorities and employees or their representatives. Fair and equitable arrangement must include procedures that provide for the impartial resolution of disputes between the State and an employee concerning the interpretation, application, and enforcement of protection arrangements. The State must inform employees of the State's decision to provide alternative community living arrangements.

* * * * *

§ 1386.34 [Removed and Reserved]

19. Section 1386.34 is removed and reserved.

20. Section 1386.35 is amended by revising paragraph (b)(1) to read as follows:

§ 1386.35 Allowable and non-allowable costs for basic State grants.

* * * * *

(b) * * *

(1) Cost incurred by institutions or other residential or non-residential programs which do not comply with the Congressional findings with respect to the developmentally disabled in section 110 of the Act (42 U.S.C. 6009).

* * * * *

21. Section 1386.81 is amended by revising paragraph (a) to read as follows:

§ 1386.81 Scope of rules.

(a) The rules of procedure in this subpart govern the practice for hearings afforded by the Department to States pursuant to sections 122, 127 and 142, of the Act. (42 U.S.C. 6022, 6027 and 6042).

* * * * *

22. Section 1386.111 is amended by revising paragraph (c)(1) to read as follows. The introductory text of (c) is republished for the convenience of the reader.

§ 1386.111 Decisions following hearing.

* * * * *

(c) If the Assistant Secretary concludes:

(1) In the case of a hearing under sections 122, 127 and 142 of the Act that a State plan or report on the State's protection and advocacy system does not comply with Federal requirements, he or she shall also specify whether the State's total allotment for the fiscal year will not be authorized for the State or whether, in the exercise of his or her discretion, the allotment will be limited to parts of the State plan or the report not affected by the noncompliance.

* * * * *

PART 1387—[REMOVED AND RESERVED]

23. Part 1387 is removed and reserved.

24. 45 CFR Part 1388 is revised to read as follows:

PART 1388—THE UNIVERSITY AFFILIATED FACILITIES PROGRAM

Sec.

1388.1 Definitions.
1388.2 Program criteria—Purpose.
1388.3 Program criteria—Administration.
1388.4 Program criteria—Services.
1388.5 Program criteria—Training.
1388.6 Program criteria—Technical assistance.
1388.7 Program criteria—Information dissemination.
1388.8 Use of program criteria for Satellite Centers.

Authority: Pub. L. 91-517; Pub. L. 94-103; Pub. L. 95-602; and Pub. L. 98-527. (42 U.S.C. 6063 et. seq.).

§ 1388.1 Definitions.

For purposes of this part:

Program criteria means a statement of the Department's expectation regarding the direction and desired outcome of the University Affiliated Facilities program operation. The program criteria will be used for qualitative evaluation, and also include measurement indicators.

§ 1388.2 Program criteria—Purpose.

The program criteria will be used to assess the quality of the University Affiliated Facilities (UAF) program. Compliance with the program criteria is a prerequisite for the minimum funding level of a UAF. However, compliance with the program criteria, does not, by itself, constitute an assurance of funding.

§ 1388.3 Program criteria—Administration.

(a) *Governance.* A UAF must be an intergral component of a university but maintain the autonomy required to carry out the UAF mission and provide for the mandated activities as set forth in section 102(13) and section 151 of the Act (exemplary services, interdisciplinary training, technical assistance and information dissemination). The UAF must use State-of-the-art management practices to provide direction to professionals, parents of persons who are developmentally disabled, paraprofessionals and volunteers for the UAF and promote the visibility of the UAF, and the integration of the program components. Management practices must facilitate cooperative relationships both within and outside the university community that further the UAF mission, aid persons with developmental disabilities and improve the field of developmental disabilities.

(b) *University relationship.*

(1) The UAF must have a written agreement or charter with the university

that specifies the UAF designation as an official university component, the relationships between the UAF and other university components, the university commitment to the UAF, and the UAF commitment to the university. The written agreement or charter will be required on a one-time only basis and would remain in effect unless changes occur which affect the relationship of the UAF and the University.

(2) The UAF must be resonsible to and report directly to a university administrator and will represent the interests of the UAF within the university. This administration must support and represent the UAF in operation and planning and in the training of university students, professionals, parent and the community.

(3) The UAF must provide support for the university in the form of public relations, university instruction, continuing education, and joint development of new programs and grants.

(c) Administration.

(1) The UAF must be managed by a person who has adequate background in a discipline relevant to the goals of the UAF, evidence of committment to the field of developmental disabilities, and functional competence to carry-out the mission of the UAF.

(2) Directors, administrators, and middle managers of the UAF must work with a variety of professional and non-professionals within the University and across levels of the service system to carry-out the UAF mission.

(3) A UAF must maintain a mechanism to identify and successfully compete for funding opportunities other than those under the Act.

(d) *Organization.*

(1) A UAF must be represented and fully participate in all meetings and activities of the State Planning Council that are prescribed by the Act.

(2) A UAF's mission must reflect legislative requirements, special needs of persons of all ages who have developmental disabilities and the needs of those who work in the field and who are concerned about the developmentally disabled.

(3) A UAF must develop a plan which includes the goals, objectives and timelines for UAF services, special projects, training, technical assistance, information dissemination and research activities that includes a continuous, ongoing assessment of its program and activities.

(e) *Funding.*

A UAF must maintain an annual operational budget and use accepted accounting procedures to administer funds.

(f) *Cooperative relationships.*

(1) A UAF must maintain cooperative relationships with the State Developmental Disability Council and the Protection and Advocacy system.

(2) A UAF must maintain cooperative relationships with the UAF network and individuals, organizations, and universities to enhance quality of life for persons with developmental disabilities and to improve the field of developmental disabilities.

(g) *Personnel policies.*

(1) In order to promote the interdisciplinary nature of the UAF mission, a UAF must have on staff, or have available, adjunct professors, consultants, or experts in a broad range of disciplines, including education, health, psychology and social work.

(2) A UAF must inform staff of and implement university policies.

(3) A UAF must supplement university policies that enhance professional growth and support research.

(4) A UAF must take affirmative action to employ and advance in employment qualified individuals who are developmentally disabled.

(h) *Physical facility.*

(1) A UAF must be fully accessible to the handicapped in accordance with section 504 of the Rehabilitation Act.

(2) A UAF must have adequate space to carry out the mandated activities and use all space that was constructed with Federal funds for its intended UAF purpose pursuant to 45 CFR 1385.5 and 1385.7.

(i) *Measurements of program criteria.* Measures of program criteria include:

(1) Number of UAF staff that operate the center identified by name, discipline, percentage of time working on UAF grant, and percentage of time working on other activities within the university.

(2) Amount of university financial and other resources that supplement the UAF.

(3) Total amount of UAF funds which include the amount of the ADD grant and funds from all other sources.

§ 1388.4 Program criteria—services.

(a) *Exemplary Services.* A UAF must integrate exemplary services and projects into community settings. Exemplary services are based on emerging or continuing needs and new, innovative concepts or practices. These services may be provided in a service delivery site or training setting within the community or within the university. Exemplary training projects may involve interdisciplinary student trainees, professionals from various disciplines, service providers, families and/or administrators. Exemplary services must be extended, as appropriate, to include adult and elderly persons who are developmentally disabled and also to support the independence, productivity, community integration and human rights of developmentally disabled individuals.

(b) *Community-integrated services.*

The following are criteria for evaluating community-integrated services:

(1) Services and projects must be scheduled at times and in places that are consistent with routine activities within the local community.

(2) Services or projects interact with and involve community members, agencies, and organizations.

(c) *Bases for services or project development.*—The bases for the services or project development must be:

(1) A local or universal need that reflects critical problems in the field of developmental disabilities; or

(2) An emerging, critical problem that reflects current trends or anticipated developments in the field of developmental disabilities.

(d) *State-of-the-art and innovative practices.*

(1) Service and project concepts and practices must facilitate and demonstrate independence for the individual, community integration, productivity and human rights.

(2) Practices that are economical, accepted by various disciplines, and highly beneficial to persons who are developmentally disabled, must be integrated within services and projects.

(3) The design of innovative cost-effective concepts and practices must be evaluated according to accepted practices of scientific investigation.

(4) Research methods must be used to test hypotheses, validate procedures, and field test products.

(5) Exemplary service and project practices and models must be tested, packaged for replication and disseminated through the information dissemination component.

(e) *Demonstration and training.*

(1) UAFs must disseminate information (brochures, professional articles, news articles) to State Developmental Disabilities Councils, the State Administering Agencies, the State Protection and Advocacy Agencies, other public and private agencies serving the developmentally disabled and private citizens. This information must describe exemplary services and projects and be made available for demonstration and training.

(2) A variety of individuals must be trained within exemplary services and

projects. They include long-term and intermediate interdisciplinary trainees and inservice trainees. The latter group could include service providers, families, and administrators.

(f) *Measurements of program criteria.* Measures of *program criteria* include:

(1) The total number of exemplary preventive, diagnostic and prescriptive, independent living, vocational, residential family support, information and referral, and health services performed:

(2) The total number of clients served under each area service; and

(3) The amount of related research evaluation and dissemination conducted.

§ 1388.5 Program criteria—training.

(a) *Organization.*

(1) To ensure quality comprehensive interdisciplinary training, professional staff representing the major disciplines of education, health, psychology and, social work, and holding appropriate university appointments, must direct the interdisciplinary training program.

(2) The focus of training must be interdisciplinary service and treatment of persons of all ages with developmental disabilities and their families.

(3) Training must be integrated with exemplary services provided by or affiliated with the UAF.

(b) *Outcome of interdisciplinary training.*

(1) Training must develop competencies related to developmental characteristics and assessment of persons with developmental disabilities of all ages.

(2) Training must develop an understanding of various disciplines' roles, diagnostic and evaluation practices, and treatment procedures.

(3) Training must promote understanding and use of the values, knowledge, methods, and skills of the major professions of education, health, psychology and social work and other appropriate disciplines.

(4) Training must include training and practicum in the interdisciplinary team process.

(5) Training must address services and treatment for all age groups.

(6) Optional training must address program evaluation and research methods applicable to developmental disability programs.

(7) Optional training must address leadership development issues such as policy analysis and management.

(c) *Long-term interdisciplinary training.*

(1) To develop leaders in serving individuals with developmental disabilities, a UAF must recruit students of high achievement from major disciplines into a program that provides long term training (300 or more hours) during an academic year.

(2) Each long-term trainee must have planned didactic instruction and clinical practicum experiences to be undertaken during the academic year, including experience with an interdisciplinary team.

(3) Didactic instruction and clinical practicum must cover the nature and assessment of developmental disabilities and at least three of the following services: prevention and detection, individual program planning and case management, developmental services, and individual and family support services.

(4) Training must cover at least two of the following settings: natural home, supervised living arrangements, residential treatment centers, nonresidential treatment settings, educational and employment settings.

(5) Training must cover a range of disabilities and impairments.

(6) Trainees must receive credit for training completed at the UAF that is performed as part of a program of course work administered by the university or any of its divisions.

(7) Training must include:

(i) instruction in the interdisciplinary team process,

(ii) practicum as a team member, and

(iii) practicum as a team leader.

(d) *Intermediate interdisciplinary training.*

(1) Students who receive intermediate interdisciplinary training (160 to 300 hours) must be recruited from various disciplines to provide services to persons with developmental disabilities as a part of generic or special services.

(2) Each trainee must have planned didactic instruction and clinical practicum experiences to be undertaken during the academic year, including experience with an interdisciplinary team.

(3) Didactic instruction and clinical practicum must cover the nature and assessment of developmental disabilities and at least three of the following services: prevention and detection, individual program planning and case management, developmental services, and individual and family support services.

(4) Trainees must receive credit for training completed at the UAF performed as part of a program of course work administered by university or any of its divisions.

(e) *Short-term special purpose interdisciplinary training.*

A variety of training experiences designed to improve or expand services to developmentally disabled individuals and their families, including workships, courses, lectures, and other didactic experiences, must be provided to a variety of individuals who may or do serve individuals of all ages with developmental disabilities.

(f) *Training provided by the UAF shall be relevant to community needs.*

(1) A UAF must determine and set priorities for training based on the needs of the community.

(2) Training priorities must be established with the assistance of State Developmental Disabilities councils, State manpower councils, and other relevant agencies.

(3) Training priorities must consider national manpower needs, with particular attention to those serving adult and elderly persons with developmental disabilities.

(g) *The interdisciplinary training program must be evaluated and research should be conducted to improve it.*

(1) Student achievement of program goals must be evaluated.

(2) The degree to which the program is achieving its stated goals must be evaluated.

(3) Research must be conducted to develop and evaluate effective interdisciplinary strategies and procedures.

(4) The extent to which training is satisfactorily addressing the needs of the community must be systematically evaluated.

(h) *Measurements of program criteria.* Measures of program criteria:

(1) Number of long-term interdisciplinary trainees; number of intermediate interdisciplinary trainees; and number of special trainees completing training;

(2) Number of workshops or training sessions provided;

(3) Number of hours of special training provided; and

(4) Number and type of disciplines of participants involved in each category of training.

§ 1388.6 Program criteria—technical assistance.

(a) *Technical Assistance.* A UAF must provide technical assistance to individuals and organizations responsible for the independence, productivity, community integration, and human rights of individuals with developmental disabilities. Technical assistance must be based on state-of-the-art practices and new, innovative practices and models found within

exemplary services. Technical assistance must also be based on special needs or emerging problems that are identified by the UAF, organizations or individuals concerned with the developmentally disabled.

(b) *Established and planned technical assistance.*

(1) Technical assistance must be an integral part of a UAF.

(2) Adequate resources and personnel must be assigned.

(3) Personnel assigned must be specified and be: UAF staff who solely develop technical assistance products and provide technical assistance; other UAF staff who provide technical assistance as needed; or a roster of experts that could be used through consultation.

(4) The UAF must identify potential target audiences and needs.

(5) The UAF must have a system (electronic mail, mailing list) to inform target audiences about technical assistance availability.

(6) The UAF must evaluate and improve technical assistance on an ongoing basis.

(c) *Technical assistance training.*

(1) Technical assistance activities must be used as a training opportunity for UAF trainees.

(2) The experience, observations, and testing of the technical assistance provision must be used to refine UAF training.

(d) *Measurements of program criteria.* Measures of program criteria include:

(1) Number of government agencies, service providers and professional organizations to whom the UAF provides technical assistance.

(2) Total hours of technical assistance provided by type (e.g., workshops, consultation, inservice training) and topic.

(3) Number of trainee hours involved in technical assistance activities.

§ 1387.7 Program Criteria—Information dissemination.

(a) *Information and Dissemination.* A UAF must disseminate information products that enhance the quality of life of persons with developmental disabilities. The UAF must disseminate information that is based on exemplary services and projects, interdisciplinary training, UAF products and current developments related to the field of developmental disabilities. Information shall be disseminated to target audiences within the field of developmental disabilities and to other concerned persons within the general public.

(b) *Information and Dissemination Plan.*

(1) An information component or activities must be an integral part of a UAF.

(2) Adequate resources and personnel must be assigned to information dissemination objectives.

(c) *Target audiences for information dissemination.*

(1) Specific target audiences must be identified for information dissemination. Target audiences may include consumers, service providers, administrators, policymakers, peers, researchers, and the general public.

(2) UAFs must have a system (mailing lists, electronic mail, etc.) to disseminate information to target audiences.

(3) A UAF must use existing systems (the UAF network, professional journals, publishers) to disseminate information.

(d) *Information products.*

(1) Information products must be developed and packaged (articles, procedures manuals, newsletters) for specific target audiences.

(2) Information products must be based on innovative ideas and practices identified or developed within exemplary services, interdisciplinary training, research, evaluation and technical assistance activities.

(3) Information products must be based on current developments in the field of developmental disabilities and must facilitate independence, productivity and integration into the community for persons of all ages who are developmentally disabled.

(e) *Measurements of program criteria.* Measures of program criteria include:

(1) Number of individuals or organizations receiving information about the UAF's exemplary services, demonstrations, training, technical assistance, product and information availability;

(2) Number of individuals or organizations receiving information on current research and new, innovative practices by other individuals and organizations;

(3) Number of researchers and government agencies to whom information was presented about current service, training, and research needs.

(4) Number of individuals and agencies receiving information related to the UAF mission; and

(5) Number of individuals (professionals, consumers, administrators, policymakers, the general public) presented information as part of symposia or special purpose presentations.

§ 1388.8 Use of program criteria for Satellite Centers.

A Satellite Center must specify which activities, as defined in section 102(12) of the Act, it chooses to perform. The satellite center must comply with the program criteria in § 1388.3 of this Part and will be subject to the program criteria which correspond to the activities it has selected under section 102(12) of the Act.

Dated: February 27, 1986.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: March 12, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-16087 Filed 7-16-86; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for the Grizzly Bear

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to revise the special regulations for the threatened grizzly bear in the conterminous United States. The proposal involves: (1) A new requirement to report taking to Regional Service agents and to Indian Tribal authorities; (2) addition of Tribal authorities to those persons allowed to take grizzly bears under specified conditions; (3) a stipulation that grizzly bears or their parts, taken in self-defense, cannot be possessed or moved, except by authorized Federal, State, or Tribal personnel; (4) provision for limited commercial disposal of grizzly bears and their parts by State and Tribal authorities; and (5) adjustment of the boundaries and quotas associated with the State grizzly hunting season in northwestern Montana. With regard to the last matter, available data indicate that grizzlies in certain areas are declining and should not be hunted, but that increasing grizzly numbers elsewhere are leading to bear-human interactions that pose a risk to the main grizzly population. Therefore, this proposal would stop hunting in some areas, open it in others, and prohibit it altogether once the known total number

of grizzlies killed in one year within the range of the main population, exclusive of Glacier National Park, reached 21 minus the annually estimated unknown kill in the area, or once the number of female grizzlies killed reached 6. The estimated annual unknown kill would be set at 7 bears, and thus the total known kill set at 14, until new data show a need for revision. The Service seeks data and comments from the public. An abbreviated comment period is provided so that a final rule may be available prior to the commencement of the State hunting season on September 15.

DATE: Comments must be received by August 6, 1986.

ADDRESSES: Comments nd materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service (SE), P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Endangered Species Office, Fourth Floor, 134 Union Boulevard, Lakewood, Colorado 80228.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Roybal, Staff Biologist, Endangered Species Office, Region 6, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236–7398 or FTS 776–7398).

SUPPLEMENTARY INFORMATION:

Background

The grizzly bear (*Ursus arctos*) originally occurred throughout western North America from Alaska to central Mexico. Its populations in the conterminous United States are now apparently restricted to northwestern and northwestern Washington, northern and eastern Idaho, western Montana, and northwestern Wyoming. Fewer than 1,000 individuals are thought to survive in these areas, most of them in northwestern Montana. In the **Federal Register** of July 28, 1975 (40 FR 31734–31736), the Service determined threatened status for the grizzly in the conterminous United States, pursuant to the Endangered Species Act of 1973. Special regulations were issued in conjunction with that determination, and were incorporated into 50 CFR Part 17.40(b). These rules provided general protection to the species, but allowed taking under certain conditions to defend human life, to eliminate nuisance animals, and to carry out research. In addition, a limited sport hunting season was authorized in a specified portion of northwestern Montana. In the **Federal Register** of August 29, 1985 (50 FR 35086–35089), the Service issued an emergency rule modifying the regulations for this hunting season. That rule recently expired, and experience with various other aspects of the special regulations has shown them to not be fully sufficient for the conservation needs of the grizzly. Thus, it is now necessary to propose permanent revisions that would clarify and/or strengthen the regulations in the five major ways described below. Several minor adjustments and corrections also have been made in the proposed regulations.

Reporting of taking to appropriate authorities.—Successful prosecution for illegal taking of grizzly bears is dependent upon a timely, professional investigation. Current wording of § 17.40(b)(1)(i) (B, C, and E) and (ii)(A) does not provide for timely notification of Regional law enforcement agents of the U.S. Fish and Wildlife Service concerning possible illegal taking. New language would require reporting of the taking of any grizzly bear, within five days of occurrence, to the Special Agent in Charge of the Service's Division of Law Enforcement in Denver, Colorado, or Portland, Oregon. This requirement would provide centralized reporting and there would be no further need to report taking to the Service's Washington, DC offices. The present stipulation to report to State authorities would be maintained, but with the added requirement that any taking during the sport hunting season in Montana be reported to the State within 48 hours. In addition, if a grizzly bear is taken on an Indian reservation, it would have to be reported to Tribal law enforcement authorities.

Addition of Tribal authorities to those persons allowed to take grizzly bears.—The current regulations do not address the need of Indian Tribal authorities to remove nuisance grizzly bears on reservation lands, to carry out research, and to handle unlawfully taken bears. Grizzlies occur on the Flathead and Blackfeet Indian Reservations in Montana. Each involved tribe has reserved hunting rights pursuant to treaty. The Service therefore proposes that § 17.40(b)(1)(i)(C)(2) be amended to allow authorized Tribal personnel to take nuisance grizzlies on their respective reservations; that § 17.40(b)(1)(i)(D) be amended to allow such authorities to take grizzlies for research purposes; and that § 17.40(b)(1)(ii)(B) be amended to allow such authorities to possess, deliver, carry, transport, ship, export, or receive unlawfully taken grizzlies for scientific or research purposes.

Resolution of jurisdictional problems with the "double-take" theory.—Pursuant to § 17.40(b)(1)(i)(B), grizzly bears may be taken legally in self-defense or in defense of others. Currently, persons may recover parts of such bears and lawfully possess them under the legal defense that if the taking of the animal is legal, the taking of its parts cannot be illegal. Such a situation may encourage the deliberate hunting of inoffensive bears, and the false claim that self-defense was involved. To prevent such taking of parts, the Service proposes to provide explicitly that grizzlies or their parts taken in self-defense may not be possessed, delivered, carried, transported, shipped, exported, or sold, except by authorized Federal, State, or Tribal officers.

Commercial transactions.—Current regulations do not provide for the commercial disposal of grizzly bears or their parts, even if the involved animals had been taken illegally and confiscated, or taken legally as nuisances or in defense of human life. The sale of such materials, if restricted to specified authorities and carried out pursuant to State and/or Tribal laws and regulations, would not be detrimental to wild grizzly populations. Moreover, the revenue generated by such sale would be used for conservation work that would benefit these populations. A special regulation providing for such sale would meet the requirement of section 4(d) of the Endangered Species Act, that it be "necessary and advisable . . . for the conservation" of a threatened species. Such a regulation is therefore now proposed through modification of § 17.40(b)(1)(iv).

Adjustment of hunting boundaries and quotas.—The original special regulations issued on July 28, 1975, provided for hunting of the grizzly bear in the Flathead National Forest, the Bob Marshall Wilderness Area, and the Mission Mountains Primitive Area (now Mission Mountains Wilderness Area) of northwestern Montana. Such hunting was to cease once the number of grizzly bears killed throughout northwestern Montana during any one year, from all causes, reached 25. The known grizzly kill in this area has averaged 20 per year since 1976, including an average annual hunting kill of 10.6. Prior to 1975, the average annual grizzly mortality in the area was 28 (Montana Department of Fish, Wildlife and Parks 1986).

The largest grizzly population in northwestern Montana, and in the conterminous United States, is that of the Northern Continental Divide Ecosystem (NCDE) (U.S. Fish and Wildlife Service 1982). This ecosystem includes Glacier National Park; the

Flathead National Forest and adjoining portions of the Helena, Kootenai, Lewis and Clark, and Lolo National Forests (including the Bob Marshall, Great Bear, Mission Mountains, and Scapegoat Wilderness Areas); and some adjacent Bureau of Land Management, State, private, and Indian Reservation lands. Based on a number of recent studies, the Montana Department of Fish, Wildlife and Parks (1986) has estimated the grizzly bear population of the NCDE to contain 549 individuals, of which 356 are found outside of Glacier National Park. The Service is using this estimate in formulating the modification of § 17.40(b)(1)(i)(E) now being proposed. In the remainder of northwestern Montana, there may be no more than a dozen individual bears.

The status of the grizzly varies from place to place within the NCDE. Studies undertaken in various parts of the NCDE indicate that grizzly bear numbers are stable or increasing in some areas, but are decreasing in others (Aune and Stivers 1982, Aune *et al.* 1984, Claar 1985, Mace and Jonkel 1980, Martinka 1974, McLellan 1984, Servheen 1981, 1983). All but one of these studies postdate the current special regulations, which were published in 1975. The Service believes that the new information developed in these studies demonstrates the need to revise the current regulations in order to (1) adjust the boundaries of the areas within which hunting is allowed, and (2) change the level of maximum allowable annual kill, which is currently set at 25. The Service believes that these revisions are required to ensure the continued conservation of the species in all areas where it occurs.

The current regulations allow for hunting in the Mission Mountains Wilderness Area. The studies indicate, however, that grizzly bear numbers in the Mission Mountains currently are declining. The Service therefore proposes to revise the regulations so as not to allow for grizzly bear hunting in this area. A different situation exists along the Rocky Mountain Front in the eastern part of the NCDE. The existing regulations do not provide for hunting in the east front area beyond the Flathead National Forest and the Bob Marshall Wilderness Area. Grizzlies consistently use areas along the border of the Flathead National Forest in the Bob Marshall Wilderness Area, and frequent private lands in their movement through cover along riparian zones to low elevations. This movement may be attributable to one or a combination of factors, such as availability of bear foods along riparian zones, artificial food sources (livestock carcass dumps, beehives, etc.), climatic changes, loss of previously utilized habitat, or an actual increase in the size of the overall bear population and consequent dispersal. In any case, grizzly bears in this area prey on livestock and destroy property, and thus pose a possible threat to human safety. Such difficulties are leading to confrontations between people and bears, confrontations that may result in the destruction of the latter. Live-trapping and relocation of bears preying on livestock and damaging property has met with only limited success. Moreover, the processes of trapping, immobilizing, handling, and relocating the animals (usually by helicopter) pose considerable risks to the bears themselves as well as the bear handlers. In 1985, 11 grizzlies were captured in such control measures in the Choteau area of the Rocky Mountain east front; 2 of these animals died as a result of this action, 1 was placed in a zoo, and 8 were released in other parts of the NCDE. Only a single grizzly was removed by control operations in the Choteau area from 1980 to 1984. The 1985 loss represents a new and serious escalation of bear-human conflicts along the east front. Present indications are that such problems will continue to intensify. Already this year, bears are frequenting ranch lands on the east front, exhibiting little fear of humans, damaging beehives, and preying on livestock. As of June 6, 1986, two grizzlies had been relocated or removed from this area.

Because of the two different critical situations described above—the decline of the grizzly population in the Mission Mountains and the escalation of bear-human conflicts on the eastern front of the Rocky Mountains—the Service considers that expedited action is required to alleviate a significant risk to the well-being of the grizzly. In the **Federal Register** of August 29, 1985 (50 FR 35086–35089), the Service issued an emergency rule adjusting the boundaries and quotas for the grizzly hunting season. That rule recently expired, and it is now necessary to propose permanent regulations that deal appropriately with the hunting season. The Service proposes to act under an abbreviated schedule because of the escalation in bear-human conflicts in the eastern front of the Rocky Mountains and becuse of the need to reinstate the conservation-based revisions in the hunting boundaries and quotas established by the August 29, 1985, emergency rule. Differences between the emergency and proposed permanent rules are derived from information that has been newly obtained or more precisely interpreted and applied.

In accordance with section 4(d) of the Act, special regulations on threatened species must be "necessary and advisable to provide for the conservation of such species." Section 3(3) defines conservation, essentially, as measures that are beneficial to the species, and contribute to its recovery and ultimate removal from the List of Endangered and Threatened Wildlife. Special regulations for the grizzly bear, therefore, must be beneficial to the species and be aimed at the particular factors that threaten the species.

In its original determination of threatened status for the grizzly, on July 28, 1975, the Service decided that strictly controlled hunting would be a necessary element in the conservation program for the species. The Service contines to hold that regulated hunting is necessary and advisable for the conservation of the grizzly in northwestern Montana, and considers that such hunting should now be applicable in portions of the Rocky Mountain east front. Such hunting would tend to eliminate those bears that are unwary of humans and thus most likely to come into conflict with people. The remaining bears would likely be wary of humans and less likely to become involved in depredations or bear-human conflicts that would lead to control actions and possible mortality. This last point is supported by the studies of Elgmork (1978) and Mysterud (1977), who provided evidence that brown bear populations, long-exposed to human exploitation, did exhibit wariness, and by the work of Herrero (1985), who reported that bear-human confrontations are associated more frequently with unhunted, rather than hunted, bear populations. To help reduce the further escalation of problems on the east front, and in other areas, hunting also should continue in the Flathead National Forest (except that portion including the Mission Mountains) and the Bob Marshall Wilderness Area, and should be extended into the adjoining Scapegoat Wilderness Area and some adjacent lands. In order to more precisely delineate the involved areas, and to facilitate their identification on the ground, the Service now proposes to use mainly highways as boundaries for these areas (see accompanying map).

The Montana Department of Fish, Wildlife and Parks (1986), in developing its proposed levels of hunting, and female quotas, reviewed data from several studies and determined that the average annual human-induced mortality allowable to maintain a stable

population was 6.5 percent. However, in order to achieve recovery of the grizzly population in the NCDE, the conservation program must be geared toward increasing the existing population rather than just maintaining stability. This population is estimated to contain 356 bears, exclusive of Glacier National Park. Computer simulations have indicated that, if an annual human-induced mortality of 6 percent per year occurs, this population could still experience a general increase in numbers (Montana Department of Fish, Wildlife and Parks 1986). Six percent of 356 is approximately 21 bears, but it is also known, based on recovery of dead radio-collared grizzlies, that there is now an unknown, unreported kill in the NCDE. Therefore, the Service is proposing that the maximum allowable known kill be set at 21 minus a figure representing the annual estimated unknown, unreported kill. The State of Montana, in agreement with the Service, would have the authority to adjust the latter figure, based on new scientific information, as it becomes available, and thus to adjust the allowable known kill (within the maximum limit of 21). The present estimate of annual unknown human-induced mortality in the NCDE is 7, and that estimate would be used until new data showed a need for revision. Therefore, the known annual kill limit for the NCDE would be initially set at 14 grizzlies.

Under the proposed rule, known grizzly bear mortalities during any calendar year could include not more than six females. This figure is based on records indicating that annual mortality from hunting, from 1957 to 1984, averaged 40 percent female, and on the presumption that a greater rate of female mortality would be damaging to a grizzly population (Montana Department of Fish, Wildlife and Parks 1986). The State of Montana will propose grizzly hunting regulations to minimize the kill of female grizzly bears. The proposed quota of six females known killed per year is an upper limit, and State conservation measures and regulations will seek to maintain a female kill not to exceed that limit. The apportionment of the female kill into subunits of the NCDE will be at the discretion of the State of Montana through its annual hunting regulations. To further reduce the likelihood of female mortality, there would be no hunting of grizzly bears accompanied by young in any part of northwestern Montana, as such grizzlies would in all likelihood be females.

The Service recognizes that hunting or depredation hunts may be necessary and advisable in the future in other portions of the species' range, such as the Yellowstone region of Wyoming, as grizzly numbers increase in response to conservation efforts. Depredation hunts would involve the taking of grizzly bears, deemed nuisance animals and unsuitable for further relocation, by licensed hunters accompanied by authorized State personnel. Further determinations to open a hunting season or implement a depredation hunt would be based on the most current data regarding grizzly numbers and population status, and would require publication in the **Federal Register** of a proposed rule for public comment.

The State of Montana normally opens its grizzly bear hunting season in northwestern Montana on September 15. The State utilizes the quotas and boundaries set forth in the Service's special rule in establishing the State grizzly bear hunting regulations. As described above, currently available data indicate that the quotas and boundaries in the existing special rule should be revised. The Service must revise the special rule prior to the September 15 opening of the State hunting season, and therefore is providing an abbreviated 20-day public comment period.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4 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).

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Author

The primary author of this proposed rule is Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, HS 105D, University of Montana, Missoula, Montana 59812 (406/329–3223 or FTS 585–3223).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Acordingly, the Service proposes 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 continues to read 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 revise § 17.40(b) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(b) Grizzly bear (*Ursus arctos*)—(1) *Prohibitions.* The following prohibitions apply to the grizzly bear:

(i) *Taking.* (A) Except as provided in paragraphs (b)(1)(i)(B) through (F) of this section, no person shall take any grizzly bear in the 48 conterminous states of the United States.

(B) Grizzly bear may be taken in self-defense or in defense of others, but such taking shall be reported, within 5 days

of occurrence, to the Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236–7540 or FTS 776–7540), if occurring in Montana or Wyoming, or to the Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1490, 500 Northeast Multnomah Street, Portland, Oregon 97232 (503/231–6125 or FTS 429–6125), if occurring in Idaho or Washington, and to appropriate State and Indian Reservation Tribal authorities. Grizzly bears or their parts taken in self-defense or in defense of others shall not be possessed, delivered, carried, transported, shipped, exported, received, or sold, except by Federal, State, or Tribal authorities.

(C) *Removal of nuisance bears.* A grizzly bear constituting a demonstrable but nonimmediate threat to human safety or committing significant depredations to lawfully present livestock, crops, or beehives may be taken, but only if:

(*1*) It has not been reasonably possible to eliminate such threat or depredation by live-capturing and releasing unharmed to a remote area the grizzly bear involved; and

(*2*) Taking is done in a humane manner by authorized Federal, State, or Tribal authorities, and in accordance with existing interagency guidelines covering the taking of such nuisance bears; and

(*3*) The taking is reported within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(D) *Federal, State, or Tribal scientific or research activities.* Federal, State, or Tribal authorities may pursue, capture, or collect grizzly bears for scientific or research purposes. Such taking must be reported within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragaph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(E) *Northwestern Montana.* If it is not contrary to the laws and regulations of the State of Montana, a person may hunt grizzly bear, except a grizzly bear accompanied by young, in the area bounded on the north by the United States-Canada border, on the east by Interstate Highway 15, on the south by State Highway 200, on the west by a line extending from the U.S.-Canada border south along U.S. Highway 93 to its intersection with Montana State Highway 82, and then east and south along State Highways 82 and 83, except that this area shall not include Glacier National Park and that portion of the Blackfeet Indian Reservation, as defined by the following boundaries: Beginning at the intersection of the U.S.-Canada border and the North Fork of the Flathead River, thence south along the North Fork to its confluence with the Middle Fork of the Flathead River, thence east along the Middle Fork to its intersection with U.S. Highway 2, thence east along U.S. Highway 2 to its intersection with the border of the Blackfeet Indian Reservation, thence southeast in a straight line to Heart Butte, thence south along a straight line to the North Fork of Birch Creek, thence east of Swift Dam and along Birch Creek to Cut Bank Creek, thence north along Cut Bank Creek through and approximately 2¾ miles north of the town of Cut Bank, thence north along a straight line to the United States-Canada border, thence west along said border to the point of beginning: *Provided,* That if in any calendar year in question, in that part of Montana, exclusive of U.S. Glacier National Park, which is bounded on the north by the United States-Canada Border, on the east by Interstate Highway 15, on the south by State Highway 200, and on the west by U.S. Highway 93, the known number of female grizzly bears already killed or removed, for whatever reason, reaches 6, or the known total number of grizzly bears already killed or removed, for whatever reason, reaches 21 minus a figure representing the annual unknown, unreported human-induced mortality in that same part of Montana, as estimated on the basis of scientific information by the State of Montana, in agreement with the U.S. Fish and Wildlife Service, the Director of the Montana Department of Fish, Wildlife and Parks shall post and publish a notice prohibiting such hunting, and any such hunting for the remainder of that year shall be unlawful: *Provided further,* That the estimate of annual unknown, unreported human-induced mortality shall be grizzly bears until new scientific data show, to the satisfaction of the State of Montana and the U.S. Fish and Wildlife Service, that this estimate should be revised: *Provided further,* That any legal taking of a grizzly bear in the above-described portion of Montana shall be reported within 48 hours of occurrence to the Montana Department of Fish, Wildlife and Parks, Helena, Montana 59601 (406/444–2535), and within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(B) of this section, and to appropriate Tribal authorities.

(F) *National Parks.* The regulations of the National Park Service shall govern all taking of grizzly bears in National Parks.

(ii) *Unlawfully taken grizzly bears.* (A) Except as provided in paragraphs (B)(1)(ii)(B) and (b)(1)(iv) of this section, no person shall possess, deliver, carry, transport, ship, export, receive, or sell any unlawfully taken grizzly bear. Any unlawful taking of a grizzly bear shall be reported within 5 days of occurrence to the appropriate Special Agent in Charge, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(B) Authorized Federal, State, or Tribal employees, when acting in the course of their official duties, may, for scientific or research purposes, possess, deliver, carry, transport, ship, export, or receive unlawfully taken grizzly bears.

(iii) *Import or export.* Except as provided in paragraphs (b)(1)(iii) (A) and (B) and (b)(1)(iv) of this section, no person shall import any grizzly bear into the United States.

(A) *Federal, State, or Tribal scientific or research activities.* Federal, State, or Tribal authorities may import grizzly bears into the United States for scientific or research purposes.

(B) *Public zoological institutions.* Public zoological institutions (see 50 CFR 10.12) may import grizzly bears into the United States.

(iv) *Commercial transactions.* (A) Except as provided in paragraphs (b)(1)(iv) (B) and (C) of this section, no person shall, in the course of commercial activity, deliver, receive, carry, transport, or ship in interstate or foreign commerce any grizzly bear.

(B) A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver, receive, carry, transport, or ship grizzly bears in interstate or foreign commerce.

(C) State or Tribal authorities acting pursuant to applicable State law or Tribal ordinance may sell or offer for sale in interstate or foreign commerce any unlawfully grizzly bear of parts thereof, subsequent to the termination of all legal proceedings, or any grizzly bear or parts thereof taken legally as a nuisance or in self-defense or defense of others. Such sale may take place only if there are no legitimate scientific or educational requests for the involved

grizzly bear or parts. All involved grizzly bears and parts must be identified according to State or Tribal regulations, and all such sales, and the name and address of the buyer, must be reported within 5 days of the appropriate Special Agent in Charge, Division of Law Enforcement, U.S Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section. In the course of such commercial activity, State or Tribal authorities may deliver, receive, carry, transport, or ship grizzly bears and their parts in interstate or foreign commerce.

(v) *Other violations.* No person shall attempt to commit, cause to be committed, or solicit another to commit any act prohibited by paragraph (b)(1) of this section.

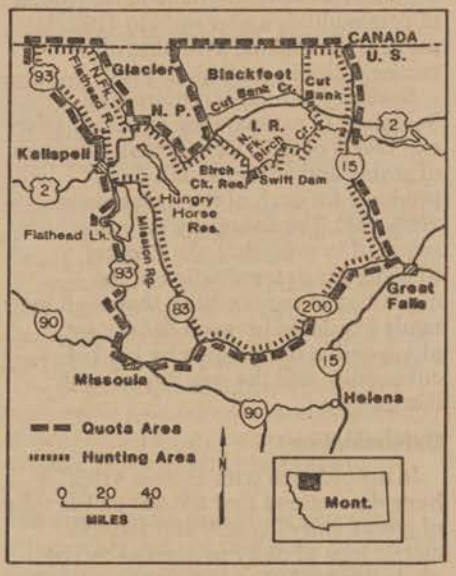
(2) *Definitions.* As used in paragraph (b) of this section:

"Grizzly bear" means any member of the species *Ursus arctos* of the 48 conterminous States of the United States, including any part, offspring, dead body, part of a dead body, or product of such species.

"State, Federal or Tribal authority" means an employee of State, Federal, or Indian Tribal government who, as part of his/her official duties, normally handles grizzly bears.

"Identified" means permanently marked or documented so as to be identifiable by law enforcement officials at a subsequent date.

"Grizzly bear accompanied by young" means any grizzly bear having offspring, including one or more cubs, yearlings, or 2-year-olds, in its immediate vicinity.



* * * * *

Dated: July 2, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-16172 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 137
Thursday, July 17, 1986

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

Types and Quantities of Agricultural Commodities to be Made Available for Donation Overseas; FY 1986

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice sets forth the determination of the Secretary of Agriculture of the types and quantities of agricultural commodities to be made available for donation overseas under section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1986.

FOR FURTHER INFORMATION CONTACT: Mary Chambliss, Director, Program Analysis Division, Office of General Sales Manager, FAS, USDA (202) 447–3573.

SUPPLEMENTARY INFORMATION: Section 416(b) of the Agricultural Act of 1949, as amended 7 U.S.C. 1431(b) ("section 416(b)"), requires the Secretary of Agriculture to make available for donation overseas for each of the fiscal years 1986–1990, not less than certain minimum quantities of Commodity Credit Corporation ("CCC") uncommitted stocks of grains and oilseeds, and dairy products. The minimum quantity of grains and oilseeds required to be made available shall be the lesser of 500,000 metric tons of CCC uncommitted stocks or 10 percent of the estimated year-end level of CCC's uncommitted stock of grain and oilseeds; the minimum quantity of dairy products shall be 10 percent of CCC's uncommitted stocks of dairy products, but not less than 150,000 metric tons to the extent that uncommitted stocks are available. The minimum quantity requirements may be waived by the Secretary if the Secretary determines and reports to Congress that there are insufficient valid requests for eligible commodities under section 416(b) for any fiscal year or if the Secretary determines the restrictions in furnishing of commodities under section 416(b)(3) prevent the making available of commodities in such quantities

Section 416(b) also requires the Secretary to estimate the expected year-end levels of CCC's uncommitted stocks of grains and oilseeds, and dairy products for each of the fiscal years 1986–1990. The Secretary is further required to publish in the **Federal Register** his determination of the quantities of commodities that shall be made available for each fiscal year along with a breakdown by kind of commodity and the quantity of each commodity.

Determination

In accordance with section 416(b), I have determined that 500,000 metric tons of grains and oilseeds, and 150,000 metric tons of dairy products shall be made available for donation overseas pursuant to section 416(b) during fiscal year 1986. The kinds and quantities of commodities that shall be made available for donation are as follows:

Commodity	Quantity (metric tons)
Grains and Oilseeds:	
Wheat	250,000
Barley	50,000
Corn	50,000
Sorghum	50,000
Rice	50,000
Soybeans	50,000
Total	500,000
Dairy Products:	
Nonfat dry milk	125,000
Cheese	20,000
Butter/butteroil	5,000
Total	150,000

Done at Washington, DC, July 11, 1986.

Richard E. Lyng,

Secretary.

[FR Doc. 86–16101 Filed 7–16–86; 8:45 am]

BILLING CODE 3410–10–M

Forest Service

Environmental Statements; Pacific Southwest Region

AGENCY: Forest Service, USDA.

ACTION: Availability of additional written material and extension of the public comment period for review of the Pacific Southwest region supplement to the vegetation management for reforestation; draft environmental impact statement.

SUMMARY: A listing of references for the section on Soil and Water Quality, part of the Supplement, is now available for review. This listing was inadvertently left out of the Supplement when it was issued for public review (Notice of Availability, May 30, 1986, 51 FR 19578–19579). To facilitate public review of this additional material, the public comment period is extended by 31 days, from August 11, 1986 to September 11, 1986. This amends the above-referenced Notice of Availability.

Copies of this list of references, the Supplement, and the original Draft EIS are available at the following Office: Office of Information, USDA Forest Service, 630 Sansome Street, San Francisco, California 94111.

Reading copies will be placed in all National Forest and Ranger District Offices in the Pacific Southwest Region. In addition, reading copies will be placed in all of the libraries identified in the above-referenced **Federal Register** Notice of Availability.

The achedule for public hearings is unchanged.

Written comments on the Supplemental DEIS should be postmarked by September 11, 1986 in order to be included in the public comment analysis. They should be sent to: USDA Forest Service, Office of Information—VM, 630 Sansome Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Michael D. Srago at the above address, or by calling (415) 556–2563.

Raymond G. Weinmann,

Assistant Regional Forester for Timber Management.

[FR Doc. 86–16099 Filed 7–16–86; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Collingsworth County Roadside Erosion Critical Area Treatment RC&D Measure, Texas

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 Collingsworth County Roadside Erosion Critical Area Treatment RC&D Measure, Collingsworth County, Texas.

FOR FURTHER INFORMATION CONTACT: Coy A. Garrett, State Conservationist, Soil Conservation Service, W.R. Poage Federal Building, 101 South Main, Temple, Texas, 76501, Telephone 817–774–1214.

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 environemnt. As a result of these findings, Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on five eroded areas in southern Collingsworth County. Planned treatment consists of installing grade stabilization structures on four of the sites. These will be installed on the county road with the road surface on top of the dam. One site will have road ditches shaped and lined with rock. These areas will be established to permanent vegetative cover when completed. The areas will be fenced where necessary to protect and manage the vegetation. This will involve 4.7 acres of gullied land, 8.5 acres of cropland, 0.5 acres of rangeland and 4.2 acres of public right-of-way.

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 Coy A. Garrett.

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. Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: July 10, 1986.

Coy A. Garrett,

State Conservationist.

[FR Doc. 86–16060 Filed 7–16–86; 8:45 am]

BILLING CODE 3410–16–M

East Walker Watershed, Nevada

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

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 being prepared for the East Walker Watershed, Lyon County, Nevada.

FOR FURTHER INFORMATION CONTACT: Edward P. Cook, Acting State Conservationist, Soil Conservation Service, 1201 Terminal Way, Room 219, Reno, Nevada, 89502, telephone (702) 784–5863.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Edward P. Cook, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns agricultural water management to reduce sediment problems in exising irrigation system and to conserve water. Alternative under consideration include a diversion structure in the East Walker River; desilting basins; ditch enlargement, realignment, and consolidation; ditch lining; headgates; and water measuring devices.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction or interest in the preparation of the draft environmental impact statement. Further information on the proposed action, or future meetings may be obtained from Edward P. Cook, Acting State Conservationist, at the above address or telephone (702) 784–5863).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable)

Edward P. Cook,

Acting State Conservationist.

July 10, 1986.

[FR Doc. 86–16061 Filed 7–16–86; 8:45 am]

BILLING CODE 3410–16–M

Mounts Run Cemetary Critical Area Treatment RC&D Measure, Indiana

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Indianapolis, Indiana, 46224, telephone 317–248–4350.

NOTICE: 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 Mounts Run Cemetary Critical Area Treatment RC&D Measure, Boone County, Indiana.

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, Robert L. Eddleman, State Conservationist, has determined that the preparation of and review of an environmental impact statement are not needed for this project.

The project concerns a plan for Critical Area Treatment. The planned works of improvement include the installation of a grade stabilization structure, subsurface drainage, and critical area planting. Approximately one-half acre will be seeded.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Robert L. Eddleman, State Conservationist. The FNSI has been sent to various Federal, State and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single 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.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

William E. Weber,

Acting State Conservationist.

[FR Doc. 86-16059 Filed 7-16-86; 8:45 am]

BILLING CODE 3410-16-M

East Locust Creek Watershed, Missouri; Environmental Statement

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 East Locust Creek Watershed, Putnam and Sullivan Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone 314/875-5214.

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, Paul F. Larson, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for flood control and watershed protection. The planned works of improvement include one large and 120 small dams, and accelerated financial and technical assistance for land treatment.

The Notice of 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 Paul F. Larson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Dated: July 9, 1986.

Paul F. Larson,

State Conservationist.

[FR Doc. 86-16135 Filed 7-16-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-507-502]

Antidumping Duty Order; Certain In-Shell Pistachios From Iran

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In an investigation concerning certain in-shell pistachios from Iran, the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that certain in-shell pistachios from Iran are being sold at less than fair value and that imports of certain in-shell pistachios from Iran threaten material injury to a United States industry. Therefore, based on these findings, in accordance with the "Special Rule" provision of section 736(b)(2) of the Tariff Act of 1930, as amended (the Act), 19 USC section 1673e(b)(2), all unliquidated entries, or warehouse withdrawals, for consumption of certain in-shell pistachios from Iran made on or after the date of publication in the **Federal Register** of an affirmative determination of threat of material injury by the ITC, will be liable for the assessment of antidumping duties.

EFFECTIVE DATE: July 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION: The product covered by this investigation is raw, in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells and edible meats, from Iran. This merchandise is currently provided for in item 142.2600 of the

Tariff Schedules of the United States Annotated

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on March 11, 1986, the Department published its preliminary determination that there was reason to believe or suspect that certain in-shell pistachios from Iran were being sold at less than fair value (51 FR 8342). On May 19, 1986, the Department published it final determination that these imports were being sold at less than fair value (51 FR 18919). On June 18, 1986, we issued a notice of clarification of the scope that stated that roasted in-shell pistachios should not be included within the scope of the antidumping duty investigation of in-shell pistachios from Iran. The notice was published in the **Federal Register** on June 26, 1986 (51 FR 23254).

On July 8, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that importations of certain in-shell pistachios from Iran threaten material injury to a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise subject to the order exceeds the United States price for all entries of such merchandise from Iran. These antidumping duties will be assessed on all unliquidated entries of such merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date in the **Federal Register** of an affirmative determination of threat of material injury by the ITC, in accordance with the "Special Rule" provision of section 736(b)(2) of the Act (19 U.S.C. 1673e(b)(2)).

Because the ITC determined that imports of raw, in-shell pistachios from Iran only threaten material injury to, rather than materially injure, a U.S. industry, Customs field offices are being directed to terminate the suspension of liquidation, release any bond or other security and refund any cash deposit made by any manufacturer, producer or exporter of raw, in-shell pistachios, to secure the payment of antidumping duties with respect to entires of the merchandise entered, or withdrawn

from warehouse, for consumption, before the ITC final determination publication date in the **Federal Register.**

On and after the date of publication of the ITC final determination, United States Customs officers must require, at the same time as importers would normally deposit estimated customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/producers/exporters	Weighted-average (percent)
Rafsanjan Pistachio Cooperative	241.14
All other manufacturers/producers/exporters	241.14

Article VI.5 of the General Agreement on Tariffs and Trade provides that "(n)o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on certain in-shell pistachios from Iran we found export subsidies (51 FR 8344). Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Thus, the amount of the export subsidies will be subtracted for deposit or bonding purposes from the dumping margins.

This determination constitutes an antidumping duty order with respect to certain in-shell pistachios from Iran, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Dated: July 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-16162 Filed 7-16-86; 8:45 am]

BILLING CODE 3510-DS-M

Initiations of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: July 17, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the precedures for requesting administrative reviews. The Department has received timely requests, in accordance with §353.53a(a)(1), (a)(2), (a)(3), and 335.10(a)(1) of the Commerce Regulations for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than July 31, 1987.

Antidumping duty proceedings and firms	Periods to be reviewed
Certain Red Raspberries from Canada:	
Clearbrook Packers	Dec. 18, 1984 to May 1986.
Jesse Processing	Do.
Mukhtiar & Son	Do.
Sabolay	Do.
Large Power Transformers from France.	
Alsthom Atlantique	Jun. 1985 to May 1986.
Large Power Transformers from Italy:	
Legnano	Do.
Officine Elettromeccaniche	Do.
Lombarde (OEL)	Do.
Strontium Nitrate from Italy: SABED.	Do.

—Continued

Antidumping duty proceedings and firms	Periods to be reviewed
Fish Netting of Manmade Fibers from Japan:	
Amikan	Do.
Fukui	Do.
Hakodate	Do.
Hakodate/Mitsui	Do.
Momoi	Do.
Morishita	Do.
Morishita/Mitsui	Do.
Nagaura Seimosho	Do.
Nippon Kenmo	Do.
Osada/Nichimen	Do.
Puretic Supplies	Do.
Taito Seiko	Do.
Toyama	Do.
Yamaji	Do.
Large Power Transformers from Japan: Fuji.	Do.
PVC Film from Taiwan:	
Cathay Plastic/S.M. & Roger.	Do.
Cathay Plastic/Wondertex	Do.
Barium Carbonate from West Germany: Kali-Chemie.	Do.

Countervailing duty proceedings	Periods to be Reviewed
Oil Country Tubular Goods from Argentina.	Jan. 1985 to Dec. 1985.
Industrial Nitrocellulose from France.	Jan. 1984 to Dec. 1985.
Carbon Black from Mexico	Oct. 1983 to Dec. 1985.

In the antidumping case on Japanese fish neeting the petitioner filed requests for a review on June 30 and July 1, 1986. We are not initiating that requested review since the requests did not adequately explain the need for the review, as required by § 353.53a(a)(1) of the Commerce Regulations. However, we are initiating both the reviews requested by exporters and importers and reviews of certain firms we deem commercially significant.

We will instruct the Customs Service to liquidate all entries of Japanese fish netting of manmade fibers exported to the U.S. by all other firms entered, or withdrawn from warehouse, for consumption during the period at the cash deposit rate required at time of entry and to continue to collect the cash deposit previously ordered.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and § 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c); 50 FR 32556, August 13, 1985).

Dated July 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc 86-16165 Filed 7-16-86; 8:45 am]

BILLING CODE 3510-DS-M

Rush Presbyterian St. Luke's Medical Center et al.; Notice of Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket number: 86–029R. Applicant: Rush Presbyterian St. Luke's Medical Center, 1753 W. Congress Parkway, Chicago, IL 60612. Instrument: Extracorporeal Shockwave Lithotripter. Manufacturer: Dornier System GmbH, West Germany. Original notice of this resubmitted application was published in the **Federal Register** of January 3, 1986.

Docket number: 86–239. Applicant: Veterans Administration Medical Center, 1030 Jefferson Avenue, Memphis, TN 38104. Instrument: Electron Microscope, Model JEM–1200EX. Manufacturer: JEOL Ltd., Japan. Intended use: The instrument is intended to be used for studies of the ultrastructure of bacteria, purified bacterial components, blood cells, mucosal cells and tissues, collagen molecules, lung tissue, ear tissue, eye tissue, brain tissue and plastic or other synthetic and natural medical products. In addition, the instrument will be used on a one-to-one basis in the training of medical and graduate students, residents and fellows in the use of electron microscopic techniques in biomedical research. Application received by Commissioner of Customs: June 13, 1986.

Docket number: 86–240. Applicant: Brookhaven National Laboratory, Biology Department, Upton, NY 11973. Instrument: Superconducting Magnet System. Manufacturer: Cryogenic Consultants Limited, United Kingdom. Intended use: The instrument is intended to be used for studies of proteins, membranes and macromolecular complexes. Elastic neutron scattering experiments will be done on proteins and lipids in solution. The intensities of neutrons diffracted at different angles will be determined with the help of high-resolution position-sensitive detectors. Application received by Commissioner of Customs: June 13, 1986.

Docket number: 86–241. Applicant: Department of the Interior, U.S. Geological Survey, Box 25046, MS 509, Denver Federal Center, Denver, CO 80225. Instrument: Automatic Geodetic Level, Model NI002. Manufacturer: aus Jena, East Germany. Intended use: Long-term geodetic monitoring designed to reveal crustal motion which may be detrimental to underground hazardous nuclear waste disposal sites and to support geologic and hydrologic investigations related to suspected crustal movements within the Long Valley Caldera, California. Application received by Commissioner of Customs: June 13, 1986.

Docket number: 86–242. Applicant: Cornell University Medical College, 1300 York Avenue, New York, NY 10021. Instrument: Mass Spectrometer, Model SIRA 12. Manufacturer: VG Isogas Ltd., United Kingdom. Intended use: The instrument is intended to be used for measurement of the rates of substrate turnover in man under conditions of stress, starvation, endocrine disorder and trauma. The objective of this research is to investigate systematically the turnover and regulation of the key individual amino acids in the body most important to whole body protein metabolism, per se, and their interaction with the important fuel source substrates, glucose and fatty acids. Application received by Commissioner of Customs: June 17, 1986.

Docket number: 86–243. Applicant: University of Georgia, College of Veterinary Medicine, Veterinary Diagnostic and Investigational Laboratory, P.O. Box 1389, Route 7, Brighton Road, Trifton, GA 31793. Instrument: Electron Microscope, Model EM 109T with Accessories. Manufacturer: Carl Zeiss Inc., West Germany. Intended use: The instrument is intended to be used to identify and characterize viruses and to investigate the following:

(1) Respiratory diseases of cattle caused by respiratory syncytial virus (RSV) and the bacterium, *Hemophilus pleuropneumoniae*,
(2) Toxic myopathies of swine,
(3) Viruses of unknown affinity that are endogenous to the reproductive tracts of female parasitoid wasps and
(4) A disease of armyworms caused by a novel virus. Application received by Commissioner of Customs: June 19, 1986

Docket number: 86–244. Applicant: University of Washington, School of Pharmacy, BG–20, Seattle, WA 98195. Instrument: Mass Spectrometer, Model VG 70SEQ. Manufacturer: VG Analytical Ltd., United Kingdom. Intended use: The instrument is intended to be used for spectrometric analysis of drug-peptide covalent adducts, peptides (primarily those containing modified amino acid residues) obtained from protein hydrolysates, coenzyme A derivatives of potentially toxic metabolites of valproic acid, mutagenic agents present as environmental contaminants and alkylated nucleic acids obtained by reaction of DNA with electrophilic metabolites of halogenated alkyl phosphates. In other projects a broad spectrum of sample types will be investigated, e.g. conjugates of a variety of foreign compounds (sulfate esters, glutathione adducts, polyglutamate derivatives) and polar and/or intermediate molecular weight substances of endogenous origin (phospholipid and polyisoprene derivatives, leukotrienes and modified amino acids). The instrument will also be used for educational purposes in a high quality predoctoral program. Application received by Commissioner of Customs: June 19, 1986.

Docket number: 86–245. Applicant: Roswell Park Memorial Institute, Health Research Inc., Roswell Division, 666 Elm Street, Buffalo, NY 14263. Instrument: Rotating Anode X-Ray Generator, Model RU–200H with Accessories. Manufacturer: Rigaku Corporation, Japan. Intended use: The instrument is intended to be used for analysing the structure of membrane phospholipids and cholesterol in various phases, the miscibility of various membrane lipids, the stability of lipid molecular bilayers, the structure of membranes in close contact prior to and during fusion events and the structure of serum lipoproteins. The objective of the study is to investigate the molecular organization in cell membranes so as to understand the functional properties of membranes in relation to the basic cell functions, transport related diseases, cell fusion phenomena, neuroactivities and drug delivery. In addition, the instrument will be used in science-related graduate courses given in connection with the above research. Application received by Commissioner of Customs: June 23, 1986.

Docket number: 86–246. Applicant: Southeastern Kidney Institute Cooperative Inc., 118 South Monroe Street, Tallahassee, FL 32202. Instrument: Lithotripter. Manufacturer: Dornier Medizintechnik GmbH, West

Germany. Intended use: The instrument is intended to be used for studies of kidney stones using shockwave technology. The instrument will also be used in lithotripsy experience courses to expand the use of shockwave treatment by educating personnel in its application. Application received by Commissioner of Customs: June 23, 1986.

Docket number: 86–247. Applicant: University of Pennsylvania, Department of Orthopaedic Surgery, 424 Medical Education Building, 6081 36th Street and Hamilton Walk, Philadelphia, PA 19104. Instrument: Electron Microscope, Model EM 10CA/CR/C. Manufacturer: Carl Zeiss, West Germany. Intended use: The instrument is intended to be used for the study of ultrastructural changes in the hypertrophic zone (HZ) of the epiphyseal growth plate following the administration of stable strontium (Sr) and calcium (Ca). Investigations will be to trace the pathway of Ca and Sr and observe the ultrastructural changes they elicit in the HZ to acquire new knowledge about the process of endochondral calcification. Application received by Commissioner of Customs: June 24, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–16163 Filed 7–16–86; 8:45 am]

BILLING CODE 3510–DS–M

University of Southern Mississippi; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decison is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket number: 86–084.

Applicant: University of Southern Mississippi, Hattiesburg, MS 39606–0076.

Instrument: Excimer Laser, Model HE440–SM–B with Power Supplies and Accessories.

Manufacturer: Lumonics Incorporated, Canada.

Intended use: See notice at 51 FR 4648.

Comments: None received.

Decision: Denied. An instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The applicant, in the request for duty-free entry, alleges that the domestic instrument does not provide "minimal RF attenuation" as required by the request for bid (RFB) provided several manufacturers. The record, however, does not support this allegation.

Our scientific consultants advise us that the domestic manufacturer, Questek, Inc., offered an instrument that meets the full specification set forth in the request for bid. The applicant contends, however, that the Questek laser provides minimal RF attenuation, resulting in the significant broadcasting of high frequency RF noise, which makes the use of this product unacceptable. We disagree, since the radio frequency broadcasting of the domestic product can be eliminated with a simple, commercially available screen room enclosure. Therefore, the domestic instrument is scientifically equivalent to the foreign instrument for the intended purposes.

Further, Mississippi state law mandates that purchase contracts be awarded to the lowest bidder which meets the RFB specifications. We conclude from this that the domestic manufacturer's fully responsive bid was not considered solely because of cost.

For the foregoing reasons, we deny the application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–16164 Filed 7–16–86; 8:45 am]

BILLING CODE 3510–DS–M

Short Supply Review on Certain Alloy Strip Steel; Request For Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products with respect to certain hot-rolled alloy steel strip, used to manufacture alloy band saw steel.

EFFECTIVE DATE: Comments must be submitted on later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C.Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Inport Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product. . . ."

We have received a short supply request for D6A hot-rolled alloy steel strip in the following sizes: 0.093 × 11.81 inches, 0.093× 10.433 inches and 0.125 × 11.81 inches. This material is used to produce cold-rolled steel strip for bi-metal band saws.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days from the publication of this notice. Comments should focus on the economic factors involved in granting or denying the particular request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission, which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

July 11, 1986.

[FR Doc. 86–16125 Filed 7–16–86; 8:45 am]

BILLING CODE 3510–DS–M

Short Supply Review on Certain Stainless Steel Strip; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 8 of the U.S.-EC Arrangements on Certain Steel Products and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain stainless steel strip.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099, (202) 377–0159.

SUPPLEMENTARY INFORMATION: The United States concluded a steel export restraint arrangement with Japan on May 14, 1985, and on December 11, 1985 concluded an exchange of letters extending the 1982 U.S.-EC steel trade arrangement. Both arrangements provide that, in case where abnormal supply or demand factors demonstrate that the U.S. industry is unable to meet domestic demand for a particular product, an additional tonnage will be allowed for such product by a special license.

We have received a request for short supply for ready-to-stamp, stress free, 400 LF stainless steel strip in nominal thickness of not over 0.010 inch, and nominal widths not under 0.970 inch and not over 6.5 inches, for use in the manufacture of semiconductor lead frames.

Any party interested in commenting on this request should send written comments as soon as possible and no later than ten days after publication of this notice. Comments should focus on the economic factors involved in granting or denying this request. Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Gilbert b. Kaplan,

Deputy Assistant Secretary for Import Administration.

July 10, 1986.

[FR Doc. 86–16124 Filed 7–16–86; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Certain Steel Products; Request For Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of requests for short supply determinations under Article 8 of the U.S.-EC Arrangement on Certain Steel Products with respect to certain stainless steel and round wire, certain cold rolled steel strip, certain steel flat wire and certain nails.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. Steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product. . . ."

We have received short supply requests for the following products:

1. Certain stainless round wire with a nominal diameter ranging from 0.017 to 0.050 inch, generally conforming to AISI Types 420 and 420F, for use in the manufacture of surgical needles.

2. Certain cold rolled steel strip, 3 to 6 inchess in width and 0.001 to 0.010 inch in thinkness, for use in the manufacture of lapping carriers used in surface processing devices for semiconductors.

3. Certain steel flat wire, 0.250 inch in width and 0.008 inch in thinckness, for use in the manufacture of cutting knives used to cut crystals for semiconductors.

4. Certain decorative nails, of two piece construction used in the manufacture of furniture.

Any party interested in commenting on these requests should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denyng these requests. Commerce will maintain each request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. Each public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

July 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary.

[FR Doc. 86–16123 7–16–86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a public meeting at the University of Rode Island, Alton Jones Campus, Victor Highway, West Greenwich, Rhode Island, to discuss reports of the groundfish, scallop, and surf clam/ocean quahog oversight committees, as well as to discuss other fishery management and administrative matters. The public meeting will convene July 29, 1986, at 10 a.m. and will adjourn July 30 at approximately 5 p.m. For further information, contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, (Route One), Saugus, MA 01906; telephone: (617) 231–0422.

Dated: July 11, 1986.

Richard B. Roe,

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

[FR Doc. 86–16110 File 7–16–86; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Meeting

AGENCY: National Fisheries Service, NOAA, Commerce.

The dates for the public meeting as published in the **Federal Register** (July 14, 1986, Vol. 51, page 25385) for the North Pacific Fishery Management Council's Plan Team for the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan, have been changed as follows:

From July 21–25, 1986 to July 28–August 1, 1986.

All other information remains unchanged. For further information contact Jim Glock, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK; telephone: (907) 274–4563.

Dated: July 11, 1986.

Richard B. Roe,

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

[FR Doc. 86–16747 Filed 7–16–86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limits for Certain Cotton, Wool and Man-made Fiber Textiles and Textile Products Produced or Manufactured in Mexico

July 14, 1986.

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 July 17, 1986. For further information contact Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

In consultations held in Mexico City, May 14–17, 1986, the Governments of the United States and Mexico agreed to further extend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 26, 1979, as amended and extended, beginning on January 1, 1986 and extending through December 31, 1987. The agreement, as further amended and extended, establishes import restraint limits for cotton, wool and man-made fiber textitles and textile products in Categories 310–320, 360–369, 410–429, 464–469, 610–627, and 665–670, as a group, and in individual Categories 300/301, 334, 335, 336, 337/637, 338/339, 340, 341/641, 347/348, 352/652, 359, 363, 433, 435, 443, 447, 604, 632, 633, 634, 635, 636, 638/639, 640, 647/648, 649, 651, 659 and 666, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. It was further agreed that the factors for converting into equivalent square yards shall be 23.0 for Category 337/637, 13.5 for Category 352/652, and 15.5 for Category 638/639. Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textiles and textile products in the foregoing categories in excess of the newly agreed restraint limits. Polyethylene film in the spool or in cartridges in part of Category 627 (in TSUSA numbers 389.6260 and 389.6265) is excluded from the coverage of the group limit established under this agreement and does not require an export visa.

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 in the implementation of certain of its provisions.

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), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

July 14, 1986.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement 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 February 26, 1979, as further amended and extended, between the Governments of the United States and Mexico; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 17, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textiles and textile products in the following categories, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, in excess of the following restraint limits:

Category	12-mo Limit [1] [4]
300/301	8,000,000 pounds.
310–320, 360–369, 410–429, 464–469, 610–627 and 665–670, as a group [2],	60,000,000 square yards equivalent.
334	50,000 dozen.
335	45,000 dozen.
336	40,000 dozen.
337/637 [3]	80,000 dozen.
338/339	400,000 dozen.
340	125,000 dozen.
341/641	600,000 dozen of which not more than 225,000 dozen shall be in TSUSA numbers 384.4605, 384.4607, 384.9910 and 384.9120.
347/348	1,225,000 dozen of which not more than 725,000 dozen shall be in Category 347 and not more than 725,000 dozen shall be in Category 348.
352/652 [5]	800,000 dozen.
359 pt. [6]	1,200,000 pounds.
359 pt. [7]	300,000 pounds.
363	5,000,000 numbers.
433	11,000 dozen.
435	14,815 dozen.
443	6,000 dozen.
447	11,000 dozen.
604	1,500,000 pounds of which not more than 1,000,000 pounds shall be in TSUSA numbers 310.5049 and 310.6042.
632	600,000 dozen pairs.
633	77,000 dozen.
634	50,000 dozen.
635	100,000 dozen.
636	100,000 dozen.
638/639 [8]	425,000 dozen.
640	200,000 dozen.
647/648	1,500,000 dozen of which not more than 800,000 shall be in Category 647 and not more than 800,000 dozen shall be in Category 648.
649	1,600,000 dozen.
651	100,000 dozen.
659 pt. [9]	1,200,000 pounds.
659 pt. [10]	250,000 pounds.
659 pt. [11]	1,200,000 pounds.
666	3,000,000 pounds.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1985.

[2] Polyethylene film in the spool or in cartridges in Category 627 pt. (only TSUSA numbers 389.6260 and 389.6265) shall not be subject to this limit.

[3] The conversion factor into square yards equivalent shall be 23.0.

[4] See footnote 1.

[5] The conversion factor into square yards equivalent shall be 13.5.

[6] In Category 359, only TSUSA numbers 381.0822, 381.6510, 384.0928 and 384.5222.

[7] In Category 359, all TSUSA numbers except those listed in footnote 6.

[8] The conversion factor into square yards equivalent shall be 15.5.

[9] In Category 659, only TSUSA numbers 381.3325, 381.9805, 384.2205, 384.2530, 384.8606, 384.8607 and 384.9310.

[10] In Category 659, only TSUSA numbers 703.0510, 703.0520, 703.0530, 703.0540, 703.0550, 703.0560, 703.1000, 703.1610, 703.1620, 703.1630, 703.1640, and 703.1650.

[11] In Category 659, all TSUSA numbers except those listed in footnotes 9 and 10.

In carrying out this directive entries of cotton, wool and man-made fiber textiles and textile products in the foregoing categories, except Categories 310–320, 360–369, 410–429, 610–627, and 665–670, as a group, and individual Categories 300/301, 334, 337, 352/652, 359 pt. (only T.S.U.S.A. number 384.5299), 363, 435, 636, 640, 651, the designated parts of 659, and 666, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1985 and extended through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the restraint limits established for such goods during that period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter. Cotton, wool and man-made fiber textiles and textile products in Categories 310-320, 360–369, 410–429, 610–627, and 665–670, as a group, and individual Categories 300/301, 334, 337, 352/652, 359 pt. (only T.S.U.S.A. number 384.5299), 363, 435, 636, 640, 651, the designated parts of 659, and 666, which have been exported before January 1, 1986 shall not be subject to this directive.

All import charges already made to any of the foregoing categories, whether to the category or group limits, against the January-June 1986 restraint limits previously established for Mexico, shall be retained, as applilcable. Missing charges for the group limit and individual categories not controlled during that six-month period will be supplied by separate letter.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448 (b) or 1484 (a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreeement of February 26, 1979, as further amended and extended, between the Governments of the United States and Mexico, which provide, in part, that: (1) Specific limits or sublimits may be exceeded by not more than five percent for swing in any agreement period with the exception of specific limits in Categories 310–320 and 360–369, 410–429 and 464–469, and 610–627 and 665–670, as a group, which may be exceeded by not more than seven percent; (2) these same limits may be adjusted for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral 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), December 14, 1983, (48 FR55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

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 Pureto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 86–16159 Filed 7–16–86; 8:45 am]

BILLING CODE 3510-DR-M

Officials Authorized to Issue Export Visas for Certain Cotton, Wool, and Man-Made Fiber Textile Products, Produced or Manufactured in Peru

July 14, 1986.

Under the terms of the cotton, wool and man-made fiber export visa arrangement effected by exchange of letters dated June 13, 1986, between the Governments of the United States and Peru, the Government of Peru has notified the United States Government that Rose Catter de De la Cuba has been authorized to issue export visas in place of Otto Espinoza Barron for textile and apparel products subject to the terms of the bilateral agreement. The purpose of this notice is to advise the public of this change.

The following is a complete list of officials of the Government of Peru who are currently authorized to issue export visas: Eduardo Paredes Briceno, Juan Manuel Pacheco Zevallos, Rosa Catter de De la Cuba, Miguel Olivares Aranda, Emilia Acosta Angeles.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–16161 Filed 7–16–86; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Consultations With the Government of Bangladesh on Category 635

July 14, 1986

On June 29, 1986, the United States Government, under Article 3 of the Arrangement of Regarding International Trade in Textiles, requested the Government of Bangladesh to enter into consultations concerning exports to the United States of women's, girls' and infants' man-made fiber costs in Category 635, produced or manufactured in Bangladesh.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Bangladesh, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 635, produced or manufactured in Bangladesh and exported to the United States during the twelve month period which began on June 29, 1986 and extends through June 28, 1987, at a level of 71,587 dozen.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 635 under the agreement with Bangladesh, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Bangladesh—Market Statement

Category 635—Women's, Girls' and Infants' Man-Made Fiber Coats

June 1986.

Summary and Conclusions

U.S. imports of Category 635 from Bangladesh were 75,257 dozens during year-ending April 1986, more than double the number imported during the previous twelve months. During full year 1985, 52,800 dozens were imported, 33 percent more than the number imported in 1984. Imports reached 32,519 dozens in the first four months of 1986, a 223 percent increase over the same period in 1985. Bangladesh is the eighth largest supplier of Category 635 and the largest uncontrolled supplier, accounting for 3 percent of total imports during the first four months of 1986.

The U.S. market for Category 635 has been disrupted by imports. The sharp and substantial increase of low valued Category 635 imports from Bangladesh is contributing to this disruption. Absence of a control on Category 635 imports from Bangladesh would create a real risk of further disruption.

U.S. Production and Market Share

Domestic production peaked at 5,793,000 dozens in 1983 and then plummeted 20 percent in 1984 to 4,632,000 dozens. Between 1982 and 1984, the market for women's, girls' and infants' man-made fiber coats declined 7 percent from 9,145,000 dozens to 8,541,000 dozens.

In 1983, the U.S. market rose moderately before declining 10 percent to reach the 1984 level of 8,541,000 dozens. U.S. producers did not share in this short term growth. Their share of the market has continuously declined, from 62 percent in 1982 to 54 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 635 increased 13 percent between 1982 and 1984, rising from 3,454,000 dozens in 1982 to 3,909,000 dozens in 1984. While 1985 saw a slight decline in imports, world imports of Category 635 have risen 18 percent in the first four months of 1986 compared to the same period in 1985. The import to production ratio increased from 61 percent in 1982 to 84 percent in 1984.

Duty-Paid Value and U.S. Producers' Price

Approximately 61 percent of Category 635 imports during the first four months of 1986 from Bangladesh entered under the following two TSUSA numbers: 384.9152—women's other man-made fiber coats, not knit, not ornamented; 384.9155—girls' and infants' other man-made fiber coats, not knit, not ornamented. These garments from Bangladesh entered the U.S. at landed, duty paid values below U.S. producers' prices for comparable garments.

[FR Doc. 86-16160 Filed 7-16-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Performance of Registration Functions by National Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and Order authorizing the National Futures Association to be official custodian of certain registration records of floor brokers.

SUMMARY: The Commission is authorizing the National Futures Association to assume and maintain, on behalf of the Commission, a system of records regarding registered floor brokers and to serve as the official custodian of those Commission records.

EFFECTIVE DATE: July 17, 1986.

FOR FURTHER INFORMATION CONTACT: Linda Kurjan, Special Counsel, and Robert P. Shiner, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955 and (202) 254-6112, respectively.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

United States of America Before the Commodity Futures Trading Commission

Order Authorizing the Performance of Registration Functions

On June 27, 1986, the Commodity Futures Trading Commission (NFA) formally requested that the Commodity Futures Trading Commission (Commission) authorize it pursuant to section 8a(10) of the Commodity Exchange Act (Act) to assume, no later than October 1, 1986, responsibility for the processing and granting of applications for registration with the Commission as floor brokers in accordance with standards established by the Act and Commission regulations thereunder.[1] NFA also requested that the Commission permit NFA immediately to take physical custody of the Commission's hardcopy (paper) noninvestigatory registration files on all floor brokers with active registration status in any capacity under the Act on or after October 1, 1983.[2] NFA is seeking to take possession of those files at the Commission's earliest convenience prior to being authorized to process applications and perform related functions in order to facilitate a smooth and orderly transfer of floor broker registration activities from the Commission to NFA.

The Commission expects to grant NFA's request to assume responsibility for processing and, where appropriate, granting applications for floor broker registration. Before the Commission issues a formal order conferring such authority on NFA, however, the Commission must review and approve certain NFA rule proposals regarding the registration functions to be assumed. The Commission must also adopt certain revisions in its own regulations to accommodate that delegation of authority to NFA.[3] The Commission believes, however, that an immediate transfer of certain registered floor broker files to the physical custody of NFA as requested is both reasonable and feasible.

The Commission has, by prior Order, authorized NFA to maintain various other Commission registration records and certified NFA as the official custodian of such records of this Agency.[4] The Commission has now determined, in accordance with its authority under section 8a(10) of the Act, to authorize NFA to maintain and serve as official custodian of a system of the Commission's records with respect to floor brokers with active registration status in any capacity under the Act on or after October 1, 1983.[5] This

[1] Letter dated June 27, 1986, from Robert K. Wilmouth, President of NFA, to Jean A. Webb, Secretary of the Commission. Section 8a(10) of the Act provides that the Commission may authorize any portion of the registration functions under the Act in accordance with rules, notwithstanding any other provision of law, submitted by the person to the Commission for review and subject to the provisions of the Act applicable to registrations granted by the Commission. 7 U.S.C. 12a(10) (1982). The Commission has previously authorized NFA to perform registration functions with respect to futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors and associated persons of such entities. *See* 48 FR 15940 (April 13, 1983); 48 FR 35158 (August 3, 1983); 48 FR 51809 (November 14, 1983); 49 FR 8226 (March 5, 1984); 49 FR 39593 (October 9, 1984); and 50 FR 34885 (August 28, 1985).

[2] The records of all floor brokers whose registrations became inactive in all capacities prior to October 1, 1983, are being retired to the Federal Records Center. NFA is not seeking custody of the Commission's fitness investigation records for floor brokers, and such records will be retained by the Commission.

[3] The Commission has concurrently proposed certain amendments to its registration regulations, 17 CFR Part 3. *See* Notice of Proposed Rulemaking published elsewhere in this issue.

[4] *Order Authorizing the Performance of Registration Functions*, October 1, 1984 (49 FR 39593, 39595-97 (October 9, 1984)); *see also* 50 FR 34885 (August 28, 1985).

[5] *See* n. 2 *supra*. *See also* Notice of Modified Description of Systems of Records issued by the Commission concurrently with this Order. That Notice is published elsewhere in this issue.

determination is based upon NFA's representations regarding the implementation of rules and procedures for maintaining and safeguarding all such records, as well as the need to facilitate NFA's preparations for assuming responsibility for the processing and related functions concerning applications for registration of floor brokers.

In maintaining the Commission's registration records pursuant to this Order, NFA shall be subject to all other requirements and obligations imposed upon it, and in the manner prescribed, by the Commission in existing or future Orders or regulations. In this regard, NFA shall also implement such additional procedures (or modify existing procedures) as necessary and acceptable to the Commission to ensure the security and integrity of the floor broker records in NFA's custody; to facilitate prompt access to those records by the Commission and its staff, particularly as described in other Commission Orders or rules; to facilitate disclosure of public or nonpublic information in those records when permitted by Commission Orders or rules and to keep logs as required by the Commission concerning disclosures of nonpublic information; and otherwise to safeguard the confidentiality of the records.

This Order does not authorize NFA to accept or grant any applications for registration as floor brokers. Until NFA is authorized to assume such registration functions with respect to floor brokers, the Commission will continue to process and act upon all applications—those currently pending and subsequently received—for floor broker registration. In this regard, the Commission will maintain the registration records of each such applicant until such time as the floor broker application may be granted, when the Commission will transfer the records of such new registrant to NFA. This Order also does not authorize NFA to take any adverse action against the registration of any floor broker;[6] to accept or act upon any request for exemption or withdrawal from registration; [7] or to render "no-action" opinions or interpretations with respect to applicable registration requirements.

Issued and sealed by the Commission on July 11, 1986, in Washington, DC.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-16075 Filed 7-16-86; 8:45am]

BILLING CODE 6351-01-M

[6] *See* Part 3, Subpart C of the Commission's regulations, 17 CFR Part 3, Subpart C, (1985).

[7] See Commission Regulation 3.33, 17 CFR 3.33 (1985).

Privacy Act of 1974; Notice of Modified Descriptions of Systems of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of modified descriptions of systems of records.

SUMMARY: The Commodity Futures Trading Commission is modifying the descriptions of two existing systems of records to reflect the planned assumption of certain additional registration functions, including the maintenance of corresponding Commission registration records, by the National Futures Association.

EFFECTIVE DATE: July 17, 1986, for CFTC–20 with respect to hardcopy registration records of floor brokers with active registration status in any capacity on or after October 1, 1983; otherwise, October 1, 1986, or such earlier date as the Commission may announce by appropriate notice in connection with the transfer of corresponding registration functions to the National Futures Association.

FOR FURTHER INFORMATION CONTACT: Linda Kurjan, Special Counsel, or Robert P. Shiner, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254–8955 or (202) 254–6122, respectively.

SUPPLEMENTARY INFORMATION:

Introduction

Following the directives of the Privacy Act of 1974, the Commodity Futures Trading Commission currently maintains two systems of Commission records related to the registration of persons engaging in certain types of commodity-related activities: CFTC–12 (Fitness Investigations) and CFTC–20 (Registration of Floor Brokers, Futures Commission Merchants, Introducing Brokers, Commodity Trading Advisors, Commodity Pool Operators, Leverage Transaction Merchants and Associated Persons). As currently set forth, these two systems contain registration forms, related supplements and schedules, fingerprint cards, correspondence, and reports reflecting information developed from various sources relating to the registration or fitness of applicants, registrants and persons affiliated with futures commission merchants (FCMs), introducing brokers (IBs), commodity pool operators (CPOs), commodity trading advisors (CTAs), leverage transaction merchants (LTMs) and floor brokers.[1] The National Futures Association (NFA), in performing certain registration functions on behalf of the Commission, currently maintains the Commission's registration records with respect to FCMs, IBs, CPOs, CTAs and their respective associated persons (APs).[2]

NFA has now sought Commission authority to perform certain additional registration functions with respect to floor brokers.[3] In particular, NFA has requested the authority, by October 1, 1986, to process and, where appropriate, grant the registration applications of floor brokers. The maintenance of Commission records associated with those activities is an essential aspect of any such authority granted to NFA by the Commission.

In that regard, NFA also asked initially to take custody, at the Commission's earliest convenience, of the hardcopy registration records in CFTC–20 with respect to floor brokers with active registration status in any capacity on or after October 1, 1983. NFA requested custody of those specific records prior to being authorized to process applications in order to facilitate a smooth and orderly transition of floor broker registration activities from the Commission to NFA. In response, the Commission issued an Order on July 11, 1986, authorizing NFA to become custodian of the requested records.[4]

In light of that Order and in anticipation of the Commission delegating additional registration processing functions for floor brokers to NFA, as described above, the Commission has now further modified its description of CFTC–12 and CFTC–20 to provide for both NFA's expanded role and the attendant change in location of the Commission's floor broker registration records.[5] Because the

[1] *See* 49 FR 45472 (November 16, 1984).

[2] *Id. See also* 49 FR 39593 (October 9, 1984), 49 FR 45418 (November 16, 1984) and 50 FR 34885 (August 28, 1985).

[3] Letter dated June 27, 1986, from Robert K. Wilmouth, President of NFA, to Jean A. Webb, Secretary of the Commission.

[4] That Order is published elsewhere in the "Notices" section of this issue.

[5] Although the Commission has no intention of granting NFA any authority to take adverse actions against floor broker applicants or registrants, NFA will nonetheless be responsible for maintaining certain limited "Fitness Investigations" records encompassed by CFTC–12 since NFA's processing of floor broker applications, when authorized, will result in the collection of some information pertaining to fitness of the individual applying for such registration. The Commission emphasizes, however, that NFA has not sought, nor has the Commission authorized NFA to assume, custody of any primary fitness investigation records, which remain in the Commission's custody.

Commission believes that delegating to NFA physical custody of floor broker registration records will assist NFA in carrying out responsibilities under the Commodity Exchange Act, the concomitant disclosure to NFA of personal information on individuals that may be contained in those records is permissible under the Commission's current routine use of such information under the Privacy Act.[6] This Notice is being published to inform the public—and, in particular, individuals about whom information is maintained in either system—where these Commission records will be located.

Description of Systems of Records

CFTC-12

SYSTEM NAME:

Fitness Investigations.

SYSTEM LOCATION:

Records for floor brokers, leverage transaction merchants and their associated persons; also for all other categories where registration status in every applicable capacity was inactive prior to October 1, 1983: Division of Trading and Marktes, 2033 K Street, NW., Washington, D.C. 20581.

Records for futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, their respective associated persons and principals, with active registration status in any capacity on or after October 1, 1983; also limited records for floor brokers: National Futures Association (NFA), 200 West Madison Street, Suite 1600, Chicago, Illinois 60606.

(*See also* "Retention and Disposal," *infra.*)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied or who may apply to the Commission or NFA, as applicable, or registration as floor brokers or as associated persons, and principals (as defined in 17 CFR 3.1) of futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors and leverage transaction merchants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the fitness of the above-described individuals to engage in business to the Commission's jurisdiction. The system includes registration forms, schedules and supplements; fingerprint cards, correspondence relating to registration; and reports and memoranda reflecting information developed from various sources outside the CFTC or NFA. In addition, the system contains records of each CFTC or NFA fitness investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 4f(1), 4k(4), 4k(5), 4n(1), 8a(1)–(5), 8a(10), 17(*o*) and 19 of the Commodity Exchange Act as amended, 7 U.S.C. 6f(1), 6k(4), 6k(5), 6n(1), 12a(1)–(5), 12a(10), 21(*o*) and 23 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses applicable to all of the Commission's systems of records, including this system, were set forth under the caption, "General Statement of Routine Uses," in 47 FR 43759, 43760–61 (October 4, 1982), and subsequently modified in 47 FR 44830, 44831 (October 12, 1982). In addition, information contained in this system of records may be disclosed by the Commission as follows:

1. Information contained in this system of records may be disclosed to any person with whom an applicant or registrant is or plans to be associated as an associated person or affiliated as a principal.

2. Information contained in this system of records may be disclosed to any registered futures, commission merchant with whom an applicant or registered introducing broker has or plans to enter into a guarantee agreement in accordance with Commission regulation 1.10 (17 CFR 1.10).

NFA may disclose information contained in those portions of this system of records maintained by NFA, but any such disclosure must be made in accordance with Commission-approved NFA rules and under circumstances authorized by the Commission as consistent with Commission's regulations and routine uses. The currently authorized circumstances are set forth in the Commission's September 28, 1984 Order authorizing NFA to perform certain Commission registration functions including the maintenance of Commission records and are published at 49 FR 39593, 39596 (October 9, 1984), except that Item 2b therein is hereby modified to eliminate the requirement of specific consent by the applicant or registered introducing broker to the disclosure of information to the futures commission merchant with whom it has or plans to enter a guarantee agreement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer memory, computer printouts, index cards, microfiche.

RETRIEVABILITY:

By the name of the individual or firm, or by assigned identification number. Where applicable, the Commission's or NFA's computer cross-indexes the individual's file to the name of the futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant with which the individual is associated or affiliated.

SAFEGUARDS:

General office security measures including secured rooms or premises and, in appropriate cases, lockable file cabinets with access limited to persons whose official duties require access.

RETENTION AND DISPOSAL:

Applications, biographical supplements, other forms, related documents and correspondence are maintained on the CFTC's or NFA's premises, as applicable, for three years after the individual's registration(s), or that of the firm(s) with which the individual is associated as an associated person or affiliated as a principal, becomes inactive. Records are then stored at an appropriate site for an additional seven years before being destroyed; CFTC-held records are stored in the Federal Records Center, and NFA-held records are to be stored either on NFA's premises or in appropriate fireproof off-site facilities.

Computer records are maintained permanently on the CFTC's or NFA's premises, as applicable, and are updated periodically as loing as the individual remains pending for registration, registered in any capacity, or affiliated with any registrant as a principal. Computer records on persons who may apply may be maintained indefinitely. Microfiche records, when produced, are maintained permanently on the CFTC's or NFA's premises.

SYSTEM MANAGERS AND ADDRESSES:

Assistant Director, Registration Unit, Division of Trading and Markets, at the Commission's principal office, or his designee.

For records held by NFA: Vice President for Registration or the Records Custodian, National Futures Association, 200 West Madison Street,

[6] *See* Routine Use No. 3 at 47 FR 44832 (October 12, 1982).

Suite 1600, Chicago, Illinois 60606, or a designee.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, seeking access to records about themselves in this system of records, or contesting the content of records about themselves, should address written inquiries to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The individual or firm on whom the record is maintained; the individual's employer; federal, state and local regulatory and law enforcement agencies; commodities and securities exchanges, National Futures Association and National Association of Securities Dealers; and other miscellaneous sources. Computer records are prepared from the forms, supplements, attachments and related documents submitted to the Commission or NFA and from information developed during the fitness inquiry.

CFTC–20

SYSTEM NAME:

Registration of Floor Brokers, Futures Commission Merchants, Introducing Brokers, Commodity Trading Advisors, Commodity Pool Operators, Leverage Transaction Merchants, and Associated Persons.

SYSTEM LOCATION:

For leverage transaction merchants and their associated persons: Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581.

For all other categories of registrant: National Futures Association (NFA), 200 West Madison Street, Suite 1600, Chicago, Illinois 60606. If registration status in every applicable capacity was inactive prior to October 1, 1983: Division of Trading and Markets (*see* "Retention and Disposal," *infra*).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied to the CFTC or NFA, as applicable, for registration as floor brokers or as associated persons, and principals (as defined in 17 CFR 3.1) of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators, and leverage transaction merchants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the registration and fitness of the above-described individuals to engage in business subject to the Commission's jurisdiction. The system includes registration forms, schedules and supplements; fingerprint cards; correspondence relating to registration; and reports and memoranda reflecting information developed from various sources outside the CFTC or NFA.

Computerized systems, consisting primarily of information taken from the registration forms, are maintained by the CFTC and NFA for their respective categories. Computer records include the name, date and place of birth, social security number (optional), exchange trading privileges (floor brokers only), firm affiliation, and the residence or business address, or both, of each associated person, floor broker, and principal. Computer records also include information relating to name, trade name, principal office address, records address, names of principals and branch managers of futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, and leverage transaction merchants; names of advisory services for commodity trading advisors; and names of pools for commodity pool operators.

Directories and microfiche records, when produced, list the name, business address, and exchange membership affiliation of all registered floor brokers and the name and firm affiliation of all associated persons and principals. These directories and microfiche records, as well as registration forms and biographical supplements, except for any confidential information on supplementary attachments to the forms, are publicly available to any person for disclosure, inspection and copying. Auxiliary records, such as card indices which summarize information contained in this system regarding each associated person, floor broker and principal, may also be maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 4f(1), 4k(4), 4k(5), 4n(1), 8a(1), 8a(5), 8a(10) and 19 of the Commodity Exchange Act as amended, 7 U.S.C. 6f(1), 6k(4), 6k(5), 6n(1), 12a(1), 12a(5), 12a(10) and 23 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The routine uses applicable to all of the Commission's systems of records, including this system, were set forth under the caption, "General Statement of Routine Uses," in 47 FR 43759, 43760–61 (October 4, 1982), and subsequently modified in 47 FR 44830, 44831 (October 12, 1982). In addition, information contained in this system of records may be disclosed by the Commission as follows:

1. Information contained in this system of records may be disclosed to any person with whom an applicant or registrant is or plans to be associated as an associated person or affiliated as a principal.

2. Information contained in this system of records may be disclosed to any registered futures commission merchant with whom an applicant or registered introducing broker has or plans to enter into a guarantee agreement in accordance with Commission regulation 1.10 (17 CFR 1.10).

NFA may disclose information contained in those portions of this system of records maintained by NFA, but any such disclosure must be made in accordance with Commission-approved NFA rules and under circumstances authorized by the Commission as consistent with the Commission's regulations and routine uses. The currently authorized circumstances are set forth in the Commission's September 28, 1984 Order authorizing NFA to perform certain Commission registration functions including the maintenance of Commission records and are published at 49 FR 39593, 38596 (October 9, 1984), except that Item 2b therein is hereby modified to eliminate the requirement of specific consent by the applicant or registered introducing broker to the disclosure of information to the futures commission merchant with whom it has or plans to enter a guarantee agreement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in the file folders, computer memory, computer printouts, index cards, microfiche.

RETRIEVABILITY

By the name of the individual or firm, or by assigned identification number. Where applicable, the CFTC's or NFA's computer cross-indexes the individual's primary registration file to the name of the futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant with which the individual is associated or affiliated.

SAFEGUARDS:

General office security measures including secured rooms or premises and, in appropriate cases, lockable file cabinets, with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Applications, biographical supplements, other forms, related documents and correspondence are maintained on the CFTC's or NFA's premises, as applicable, for three years after the individual's registration(s), or that of the firm(s) with which the individual is associated as an associated person or affiliated as a principal, becomes inactive. Records are then stored at an appropriate site for an additional seven years before being destroyed; CFTC-held records are stored in the Federal Records Center, and NFA-held records are to be stored either on NFA's premises or in appropriate fireproof off-site facilities.

Computer records are maintained permanently on the CFTC's or NFA's premises, as applicable, and are updated periodically as long as the individual remains pending for registration, registered in any capacity, or affiliated with any registrant as a principal. Any computer printouts that are produced in order to publish directories are maintained on the premises for six months and then destroyed. Microfiche records, when produced, are maintained permanently on the CFTC's or NFA's permises.

SYSTEM MANAGERS AND ADDRESSES:

Assistant Director, Registration Unit, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581, or his designee.

For records held by NFA: Vice President for Registration or the Records Custodian, National Futures Association, 200 West Madison Street, Suite 1600, Chicago, Illinois 60606, or a designee.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves, seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system or records, should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581; telephone (202) 254-3382.

RECORD SOURCE CATEGORIES:

The individual or firm on whom the record is maintained; the individual's employer; federal, state and local regulatory and law enforcement agencies; commodities and securities exchanges, National Futures Association and National Association of Securities Dealers; and other miscellaneous sources. The computer records are prepared from the forms, supplements, attachments and related documents submitted to the Commission or NFA and from information developed during the fitness inquiry.

Issued in Washington, DC, on July 11, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-16076 Filed 7-16-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 10, 1986.

The USAF Scientific Advisory Board Engineering & Services Advisory Group will meet at Headquarters Engineering & Services Center, Tyndall AFB, FL, on August 6-7, 1986, from 8:00 am to 5:00 pm, both days.

The purpose of the meeting is for the Advisory Group to assess the Center's technical, programmatic and organizational capabilities to meet current and future operational needs of the Air Force.

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 202-697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-16057 Filed 7-16-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Savannah Harbor Comprehensive Study, Chatham County, GA, and Jasper County, SC

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: *1. Proposed Action:* The primary objective of the Savannah Harbor Comprehensive Study is to improve navigation in the harbor. Deepening the channel by hydraulic dredging is the most reasonable solution. The harbor presently has an interharbor depty of −38 feet msl from the entrance to the Kings Island Turning Basin. The proposed plan would deepen this channel section to −40 feet msl. New work material from the interharbor would be placed in existing diked disposal areas.

2. Alternatives: The other alternatives are noaction and using dump scows to transport all dredged material to the ocean disposal site centr at 31°56'54" N, 80°45'34" W.

3. Significant issues to be analyzed in the DEIS include anticipated impacts on water quality, sediment accumulation, benthic communities, fish and wildlife resources, endangered and threatened species, and cultural resources. The issue of saltwater intrusion and changes in salinity in the Savannah River will be examined, with emphasis on how changes may affect the Savannah National Wildlife Refuge and adjacent freshwater wetlands.

4. Scoping Process: A public hearing was held in Savannah, Georgia, on March 4, 1981, to gather comments and opinions on what the study should accomplish. On April 1, 1981, an Interagency Coordination meeting was held in the Savannah District. Approximately 14 Federal and State agencies attended. On November 30, 1982, a second public meeting was held in Savannah, Georgia. Participation in this study by affected Federal, State, and local agencies and other interested private organizations and parties is invited.

5. DEIS Preparation: The DEIS is scheduled to be available to the public in December 1986.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: Stanley Rikard, Biologist, U.S. Army Corps of Engineers, P.O. Box 889, Savannah, Georgia 31402-0889, Telephone (912) 944-5816.

Dated: July 10, 1986.

Stanley G. Genega,

Colonel, Corps of Engineers, Commander.

[FR Doc. 86-16053 Filed 7-16-86; 8:45 am]

BILLING CODE 3710-HP-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 9548-000, 9879-000, 7728-003]

Availability of Environmental Assessment and Finding of No Significant Impact; Rhyne Mills, Inc., Camrosa Country Water District, Robley Point Hydro Partners

July 11, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town or county	Applicant
			Exemptions		
9548-000	Rhyne Mills No. 1	NC	South Fork, Catawba River	Lincolnton	Rhyne Mills, Inc.
9879-000	Wood Creek Road	CA	County Water Distribution System	Camarillo	Camrosa County Water District.
			Licenses		
7728-003	Robley Point	CA	West Branch of North Fork Feather River.	Stirling City	Robley Point Hydro Partners.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16128 Filed 7-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2381-001, 6623-001, 8888-001, 2600-006]

Availability of Environmental Assessment and Finding of No Significant Impact; Utah Power and Light Co., E.R. Jacobson, Brookfield Power Co. Bangor Hydro Electric Co.

July 11, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town or county	Applicant
			Licenses		
2381-001	Ashton-St. Anthony	ID	Henrys Fork	Ashton	Utah Power and Light Company.
6623-001	Bridal Veil Hydro	CO	Bridal Veil Creek	Telluride	E.R. Jacobson.
8888-001	Oliverian Brook	NH	Oliverian Brook	Haverhill	Brookfield Power Company.
			Amendments		
2600-006	West Enfield	ME	Penobscot River	Enfield/Howland	Bangor Hydro-Electric Company.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16129 Filed 7-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8906-001 et al.]

Surrender of Preliminary Permits; Canyon Hydro Co. et al

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Canyon Hydro Company

[Project No. 8906-001]

July 11, 1986.

Take notice that Canyon Hydro Company, permittee for the Canyon Creek Project, FERC No. 8906, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8906 was issued on August 7, 1985, and would have expired on July 31, 1988. The project would have been located on Canyon Creek in Nevada County, California.

The permittee filed the request on June 20, 1986.

2. Burlington Energy Development Associates

[Project No. 8801-001]

July 14, 1986.

Take notice that the Burlington Energy Development Associates, the permittee for the Upper Yarmouth Project No. 8801, has requested that the perliminary permit be terminated. The preliminary permit for Project No. 8801 was issued on July 10, 1985, and would have expired on December 31, 1986. The project would have been located on the Royal River, in Cumberland County, Maine.

The permittee filed the request on July 2, 1986.

3. City of Redding, California

[Project No. 8018-001]

July 14, 1986.

Take notice that the City of Redding, permittee for the Cottonwood Power Project No. 8018, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 15, 1985, and would have expired on September 30, 1988. The project would have been lcoated at the base of the proposed Corps of Engineers' Dutch Gulch and Tehama Dams on Cottonwood Creek in Shasta and Tehama Counties, California.

The Permittee filed the request of June 30, 1986.

4. Henderson Hydro Company

[Project No. 8905-001]

July 14, 1986.

Take notice that Henderson Hydro Company, permittee for the Dark and Henderson Canyon Project, FERC No. 8905, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8905 was issued on July 19, 1985, and would have expired on December 31, 1986. The project would have been located on unnamed tributaries to Thomas Creek, in Tehama County, California.

The permittee filed the request on June 20, 1986.

5. Nelson's Crossing Hydro Company

[Project No. 8967-001]

July 11, 1986.

Take notice that Nelson's Crossing Hydro Company, permittee for the Fall River at Nelson's Crossing Project, FERC No. 8967, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8967 was issued on June 19, 1985, and would have expired on November 30, 1986. The project would have been located on Fall River, in Butte County, California.

The permittee filed the request on June 20, 1986.

6. Pine Creek Hydro Company

[Project No. 8907-001]

July 14, 1986.

Take notice that Pine Creek Hydro Company, permittee for the Pine Creek Project, FERC No. 8907, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8907 was issued on July 20, 1985, and would have expired on November 30, 1986. The project would have been located on Pine Creek, in Humboldt County, California.

The permittee filed the request on June 20, 1986.

Standard Paragraphs

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holdiay as described in 18 CFR 385.2007 in which case the permit shall remian in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16130 Filed 7-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-896-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; B & W Clarion, Inc., et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. B & W Clarion, Inc.

[Docket No. QF86-896-000]

July 11, 1986.

On July 2, 1986, B&W Clarion, Inc. (Applicant) of 1010 Common Street, P.O. Box 61038, New Orleans, Louisiana 70161, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Piney Township, Clarion County, Pennsylvania. The facility will consist of a circulating fluidized bed boiler, extraction steam turbine generator, and related auxiliary equipment. Applicant states that the primary energy source of the facility will be "waste" in the form of bituminous coal refuse produced by the C&K Coal Company. The net electric power production capacity of the facility will be 22.5 megawatts.

2. O'Brien Energy Systems, Inc.

[Docket No. QF86-889-000]

July 14, 1986.

On July 1, 1986, O'Brien Energy Systems, Inc. (Applicant), of Green and Washington Streets, Downingtown, Pennsylvania 19335, 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 cogeneration facility will be located at the Conoco, Inc.'s Santa Maria Refinery, 1660 Sinton Road, in Santa Maria, California 93456. The facility will consist of a dual fuel combustion turbine-generator, a supplementally fired heat recovery steam generator (HRSG), and a condensing single automatic extraction steam turbine-generator. The extracted steam and the steam from HRSG will be used by Conoco to supply the heat load to the Crude, Vacuum and Asphalt thermal heaters and steam for tank heating, line tracing and other plant processes. The next electrical power production capacity of the facility will be approximately 43 MW. The primary energy source will be natural gas. Fuel Oil #2 will be used during periods of interruption in the supply of natural gas. The installation of the facility

commenced in the second quarter of 1986.

3. Camden County Energy Recovery Associates

[Docket No. QF86-883-000]

July 11, 1986.

On June 20, 1986, Camden County Energy Recovery Associates (Applicant), of 110 South Orange Avenue, Livingston, New Jersey 07039, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determiantion has been made that the submittal constitutes a complete filing.

The small power production facility will be located at the intersection of Interstate Highway 676 and Morgan Boulevard in the City of Camden, New Jersey. The facility will consist of waterwall steam generators and two turbine generators. The primary energy source will be biomass in the form of municipal solid waste. The net electric power production capacity will be 29.5 MW. Installation of the facility is expected to commence by May 1987.

4. The Borough of Seven Springs

[Docket No. QF86-894-000]

July 14, 1986.

On July 1, 1986, The Borough of Seven Springs (Applicant), of Champion, Pennsylvania 15622 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 7 megawatt hydroelectric facility (FERC P. 3623) will be located on the Youghiogheny River in Fayette and Somerset Counties, Pennsylvania.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

5. O'Brien Energy Systems, Inc.

[Docket No. QF86-890-000]

July 14, 1986.

On July 1, 1986, O'Brien Energy Systems, Inc. (Applicant), of Green and Washington Streets, Downingtown, Pennsylvania 19335, 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 cogeneration facility will be located at the E. I. Du Pont de Nemours and Company, Inc. facility, Washington Road, in Parlin, New Jersey 08859. The facility will consist of two dual fuel combustion turbine-generators, two supplementally fired heat recovery steam generators (HRSGs), and two condensing/extraction steam turbine-generators. The extracted steam and the steam from HRSGs will be used by Du Pont for processing. The net electrical power production capacity of the facility will be approximately 97 MW. The primary energy source will be natural gas. Fuel oil #2 will be used during periods of interruption in the supply of natural gas. The installation of the facility will commence in 1987.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-16050 Filed 7-16-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTON AGENCY

[AMS-FRL-3050-4]

Control of Air Pollution From New Motor Vehicle Engines; Federal Certification Test Results for 1986 Model Year

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 206(a) of the Clean Air Act, as amended August 1977, directs the Administrator of the Environmental Protection Agency to announce in the **Federal Register** the availability of the results of certification tests. These tests are conducted on new motor vehicles and new motor vehicle engines to determine vehicles'/engines' conformity with Federal standards for the control of air pollution caused by motor vehicles. The Federal Certification Test Results for the 1986 model year are now available and may be obtained by writing: U.S. Environmental Protection Agency, Office of Mobile Sources, Certification Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Judy F. Carmickle, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4200.

Dated: July 7, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-16107 Filed 7-16-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Channel 24, Ltd., et al.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City and State	File No.	MM Docket No.
A. Channel 24, Ltd., Salina, KS.	BPCT-860203KG	86-298
B. Christopher Gault, Salina, KS.	BPCT-860410KW	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Multiple Ownership, A
Comparative, A, B
Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–16151 Filed 7–16–86; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; FM–98 et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. FM–98, Mifflinburg, PA	BRH–840329YX	86–214
B. Hale Communications, Mifflinburg, PA.	BPH–840629ID	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Air Hazard, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037, (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86–16152 Filed 7–16–86; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Local Television Associates, Inc., et al

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant City and State	File No.	MM Docket No.
A. Local Television Associates, Inc., Morehead City, NC.	BPCT–851231KE	86–300
B. Morehead City TV, Ltd., Morehead City, NC.	BPCT–860328KE	
C. Elyse G. Wander d/b/a Wander Broadcasting of Morehead City, Morehead City, NC.	BPCT–860328KF	
D. James E. and Rachel J. McManus, Morehead City, NC.	BPCT–860328KG	
E. Crystal Coast Communications, Limited Partnership, Morehead City, NC.	BPCT–860328KJ	
F. Dr. James E. Carson, Morehead City, NC.	BPCT–860328KK	
G. Pine Cone Communications, Limited Part., Morehead City, NC.	BPCT–860328KL	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Air Hazard, A, E, F
Environmental Impact, F
Comparative, A, B, C, D, E, F, G
Ultimate, A, B, C, D, E, F, G

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–16153 Filed 7–16–86; 8:45 am]

BILLING CODE 6710-01-M

Applications for Consolidated Hearing; H. James Sharp et al

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant	City and State	File No.	MM Docket No.
A. H. James Sharp	Live Oak, FL	BPCT–860117KI	86–299
B. Frank A. Baker	Live Oak, FL	BPCT–860328KM	
C. Cardwell-Bussey Partnership	Live Oak, FL	BPCT–860328KN	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

Rule 73.685, A, C
Environmental Impact, A
Air Hazard, A, C
Comparative, A, B, C
Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDQ in this proceeding is available for inspection and copying during norml business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW.,

Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–16154 Filed 7–16–86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–768–DR]

Major Disaster and Related Determinations; Puerto Rico

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–768–DR), dated July 10, 1986, and related determinations.

DATE: July 10, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3616.

Notice

Notice is hereby given that, in a letter of July 10, 1986, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288), as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico resulting from severe storms and flooding during the period April 25 to May 14, 1986, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93–288. I therefore declare that such a major disaster exists in the Commonwealth of Puerto Rico.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Michael J. Chivinski of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Puerto Rico to have been affected adversely by this declared major disaster and are designated eligible as follows:

The Municipalities of Aguada, Aibonito, Anasco, Arecibo, Barceloneta, Barranquitas, Caguas, Camuy, Cayey, Ciales, Coamo, Corozal, Florida, Hatillo, Jayuya, Lares, Luquillo, Manati, Moca, Morovis, Orocovis, San German, San Sebastian, Utuado, and Villalba eligible for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director.

[FR Doc. 86–16088 Filed 7–16–86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

BancTenn Corp. et al.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 7, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303.

1. *BancTenn Corp.*, Kingsport, Tennessee; to engage *de novo* through its subsidiary, BancTenn Mortgage Corp., Kingsport, Tennessee, in making, acquiring, and servicing mortgage loans and other similar extensions of credit secured by real estate pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Koenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National of Nebraska, Inc.*, Omaha, Nebraska; to engage *de novo* through its subsidiary, First National Leasing, Inc., Omaha, Nebraska, in making and servicing of loans under § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, July 11, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86–16079 Filed 7–16–86; 8:45 am]

BILLING CODE 6210-01-M

BMR Bancorp, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such

an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 8, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *BMR Bancorp, Inc.*, Decatur, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Bank of Swainsboro, Swainsboro, Georgia. Applicant has also applied to acquire Bank Management Resources, Inc., Decatur, Georgia, and thereby engage in management consulting services to depository institutions pursuant to § 225.25(b)(11) of Regulation Y.

Board of Governors of the Federal Reserve System, July 11, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-16060 Filed 7-16-86; 8:45 am]

BILLING CODE 6210-01-M

FNBM Financial Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the office 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 August 8, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *FNBM Financial Corporation*, Minersville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of the First National Bank of Minersville, Minersville, Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Commerce Union Corporation*, Nashville, Tennessee; to acquire 100 percent of he voting shares of Central South Bancorp, Franklin, Tennessee, and thereby indirectly acquire Williamson County Bank, Franklin, Tennessee and Planters Bank and Trust Company, Hopkinsville, Kentucky.

C. **Federal Reserve Bank of St. Louis**, (Randall C. Summer, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Eminence Bankshares, Inc.*, Eminence, Missouri; to become a bank holding company by acquiring at least 89.6 percent of the voting shares of Eminence Security Bank, Eminence, Missouri.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *City Bankshares, Inc.*, Oklahoma City, Oklahoma; to acquire 100 of the voting shares of City Bankshares, Inc., Oklahoma City, Oklahoma.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, Califorinia 94105:

1. *Heritage Bancorp, Inc.*, Mesa, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Bank, Mesa, Arizona.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Schreiner Bancshares, Inc.*, Kerrville, Texas; to acquire 100 percent of the voting shares of First National Bank, Fredericksburg, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 11, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-16081 Filed 7-16-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Disease Control

Meperidine Analog (MPTP) Epidemiologic Follow-Up Program; Program Announcement and Notice of Availability of Funds For Fiscal Year 1986

The Centers for Disease Control (CDC), announces the availability of funds in Fiscal Year 1986 for a cooperative agreement to support the California Department of Health Services (CDHS) in the conduct of a Meperidine Analog (MPTP) Epidemiologic Follow-up Program. The Catalog of Federal Domestic Assistance number is 13.283.

Authority

This program is authorized under section 301 of the Public Health Service Act and Pub. L. 99-178.

Availability of Funds

Approximately $700,000 will be available in Fiscal Year 1986 to fund this one award. The award will be funded with a 24-month budget period and a 24-month project period.

Type of Assistance

The award resulting from this announcement will be a cooperative agreement.

Purpose

The purpose of this cooperative agreement is to assist the California Department of Health Services in establishing and maintaining long-term medical follow-up of persons exposed to analogs of meperidine (Demerol) that

contained either the neurotoxic compound 1-methyl-4-phenyl-1,2,3,6-tetrahydropyridine (MPTP) or potentially neurotoxic analogs of MPTP; and in studying associations between human exposure to MPTP and similar compounds and Parkinsonism found in that State. It will also assist them in developing a surveillance program for controlled substance analogs (CSA's), in determining the extent of fentanyl use by narcotics abusers in selected communities, and in developing educational programs to warn persons at high exposure risk of the hazards of using CSA's.

Review of Application

The application is not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Single Source

The provision of support and assistance to only the California Department of Health Services (CDHS) is justified based upon the following reasons:

A. CDHS, unsolicited, has requested the assistance and support of the CDC in the clinical follow-up program, the development of a surveillance program, and the development of an education and prevention program for high risk MA user groups in California.

B. CDHS has developed a close working relationship with the *only* group of MPTP exposed persons in the country.

C. The CDHS is the only institution with the knowledge and expertise to adequately locate and assess the health risk persons who were exposed to MPTP.

D. CDHS has a well-trained staff experienced in the diagnosis and assessment of persons with idiopathic Parkinson's disease from among persons exposed to MPTP.

E. CDHS has one of the few laboratories in the United States known to have employed scientists experienced in analysis of drug samples and biologic fluids for evidence of controlled substance analogs.

F. CDHS has established working relationships with drug treatment clinics, community groups, local health departments, relevant State agencies, and other relevant Federal Agencies necessary for the successful development and implementation of this study in the proposed community.

G. The impetuses of this project are:

- CDHS has acquired considerable and unique knowledge of and experience working with the population and the special exposure problems they have related to the neurotoxin, MPTP, and parkinsonian syndrome.
- The opportunity to assist health officials in California to gain new and useful information on the etiology of Parkinson's disease for future prevention program implementation purposes.
- The opportunity to assist California in developing resources to enable them to assess the extent and health effects of CSA use in the State.
- An opportunity for CDC to maintain its essential active involvement in public health issues with state and local organizations in developing and implementing disease and exposure surveillance and prevention programs.

Information

Information on the project may be obtained from: Mr. Luther E. DeWeese, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, (404) 262-6575 or FTS 236-6575.

Dated: July 11, 1986.

Robert L. Foster,

Acting Director, Office of Program Support Centers for Disease Control.

[FR Doc. 86-16100 Filed 7-16-86; 8:45 am]

BILLING CODE 4160-18-M

Family Support Administration

Proposed Availability of Funding for FY 1986 Targeted Assistance Grants for Services to Refugees and Entrants in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), FSA, HHS.

ACTION: Notice of proposed availability of funding for FY 1986 targeted assistance grants for services to refugees and entrants in local areas of high need.

SUMMARY: This notice announces the proposed availability of funds and award procedures for FY 1986 targeted assistance project grants for services to refugees and Cuban and Haitian entrants under the Refugee Resettlement Program (RRP). These grants are proposed for service provision in localities with large refugee and entrant populations, high refugee and entrant concentrations, and high use of assistance, and where specific needs exist for supplementation of currently available resources. The notice does not propose any changes in the formula under which targeted assistance funds would be allocated to States, in the existing list of counties qualified to receive targeted assistance funds, or in the allowable uses of funds. The notice would permit a State which contains more than one targeted assistance area to specify in its application to ORR the basis on which it proposes to determine the allocation of funds among its targeted assistance areas.

DATE: Comments on the requirements and procedures set forth in this notice will be considered if received by August 18, 1986.

ADDRESS: Address written comments, in duplicate, to: David Howell, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: David Howell, (202) 245-1923.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for targeted assistance grants for services to refugees and Cuban and Haitian entrants in counties where, because of factors such as unusually large refugee and entrant populations, high refugee and entrant concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

A total of $47,850,000 in FY 1986 funds which Congress has designated for this purpose is currently expected to be available for targeted assistance for refugees and entrants.

The purpose of the proposed targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees and Cuban/Haitian entrants.

Services funded under targeted assistance should focus primarily on those refugees who, either because of their considerable and protracted use of public assistance or continued difficulty in securing employment, constitute a major resettlement problem for the affected jurisdiction which cannot be addressed without additional services. Targeted assistance funds should also respond to the needs of difficult-to-place refugees whose inability to secure employment and achieve self-sufficiency cannot be overcome without such special services. In order to ensure sufficient emphasis on service to appropriate clients, it is proposed that each State be required to provide an assurance in its application to ORR that,

if its final FY 1985 dependency rate [1] is at or below the national average, cash assistance recipients (time-eligible or time-expired recipients under any porgram) will make up no less than 50 percent of the FY 1986 targeted assistance clientele, and that if its final FY 1985 dependency rate [1] is above the national average, cash assistance recipients (same as above) will make up no less than an equal percent of FY 1986 targeted assistance clientele.

Funds awarded under this program are intended to support projects which directly enhance refugee and entrant employment potential and increase the ability of refugees and entrants to find and retain jobs, and to provide special services, identified below, where essential to the adjustment of refugees/entrants in targeted assistance communities. Innovative approaches to accomplish these objectives, including strategies which address the employment potential of more than one wage earner in a household unit simultaneously, are encouraged.

The award of funds to States under this notice will be contingent upon the completeness of a State's application as described in section VIII below.

Up to 15% of a local area's allocation may be used for non-employment-related services to meet extreme and unusual needs, provided such needs are clearly demonstrated and such use is approved by the State, or by ORR in the case of State-administered local programs. A State may request a waiver in order to be able to allow a county to use more than 15% for non-employment-related services. ORR will approve such a request only in the most extreme circumstances of need.

Cases in which county plans contain proposed program activities not allowable under section VI, below, may be entertained by a State only where extreme and unusual need exists and is clearly demonstrated therein. Such cases would be considered to involve a change in program scope or objectives, and would, therefore, be subject to ORR prior approval.

II. Authorization

Targeted assistance projects would be funded under the authority of section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c), and section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c) of the INA, as cited above.

III. Eligible Grantees

The Department proposes to limit eligible grantees to those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5. Eligibility for targeted assistance funds for services to Cuban and Haitian entrants would be limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

Under this proposal, State agencies would submit a single application on behalf of all county governments of the qualified counties in that State. This application would contain information as required by section VIII below, pertaining to the State's role as grantee and to its implementation of the FY 1986 targeted assistance program through the review and approval of county targeted assistance plans and the transfer of targeted assistance funds to qualified counties.

Subsequent to the approval of the State's application by ORR, local targeted assistance plans would be developed by the county government or other designated entity and submitted to the State. These plans would propose targeted assistance projects based upon the special needs and capabilities of the targeted refugee and entrant populations, and should give due consideration to the availability of local employment opportunities and outcomes of previously funded projects. Such plans are to be developed in cooperation with voluntary refugee resettlement agencies, the business community, refugees and entrants, and public officials in that area.

In the absence of a statewide county system, or in the absence of an appropriate county-level refugee program agent or agency and with the concurrence of the county government, the State would be permitted to designate a city or other governmental entity, or to procure for the services either a private for-profit or nonprofit organization, to administer the targeted assistance funds for a qualified local area.

In submitting its application, the State agency would be required to provide assurances (described in section VIII below) that targeted assistance funds will be made available to counties in a timely manner, for purposes most appropriate to the nature and extent of need as indicated by each county in its targeted assistance plan. In this regard, the State review of county plans is intended to ensure that targeted assistance programs address identifiable needs in a programmatically sound manner. It is not intended, however, that the local determination of needs and responses to those needs would be removed through a State's exercise of its review responsibility under this program.

In the application, a State with more than one qualified county would also be required to provide county-specific data upon which it will base allocation amounts within the State. Each qualified county would receive an allocation amount relative to its proportion of need as defined by the State's allocation formula. The application would: Describe the types of data and their source(s), describe how they are used to determined the county allocations, and indicate the allocation amounts.

The State agency would also be required to assure that amounts allocated to counties or other qualifying local entities under targeted assistance would not be used to offset funds that have otherwise been obligated to those jurisdictions.

A State's application would also include a description of its plan for the review and approval of county targeted assistance plans; its specifications and requirements for county plans with regard to identification of priority services and target populations, procurement, monitoring and evaluation, and reporting; and a timetable of its process for implementing the FY 1986 targeted assistance program. States may apply for a grant of up to eighteen months, ending no later than March 31, 1988, to continue or expand current activities or to initiate new activities.

Applications submitted in response to this notice are not subject to review by State and areawide clearinghouses under Executive Order 12372, "Intergovernmental Review of Federal Aid Programs."

IV. Qualification and Allocation Formula

The Director of ORR proposes to consider any county which qualified for targeted assistance funds in FY 1984 (as announced at 49 FR 36695, September 19, 1984) as qualified to apply for funds available under this proposal. It is proposed that funds be made available to eligible States on the same basis as that which has been used since FY 1983.

Under the FY 1983 refugee targeted assistance program, a two-stage formula for qualification for, and allocation of, targeted assistance funds was utilized.

The first stage of the formula defined the qualification of counties for targeted

[1] As determined by the Office of Refugee Resettlement.

assistance through three of four equally-weighted criteria which had been selected to collectively indicate local conditions and problems which the proposed program was intended to address. In order to qualify for application for targeted assistance funds, a county (or group of adjacent counties within the same Standard Metropolitan Statistical Area, or SMSA) was required to be above the median or above a selected cutoff point of jurisdiction for which data were reviewed in three of the four following criteria: (1) The number of refugees placed in the county during Federal fiscal years 1980–1982; (2) the ratio of the overall county population to the refugees in item (1), above; (3) the number of refugees in the county who were receiving cash assistance under the programs of aid to families with dependent children (AFDC), including the unemployed parent (UP) portion of that program, and refugee cash assistance (RCA) on October 1, 1982; and (4) the ratio of refugees in item (3) to the number of refugees in item (1). A county which placed above the cutoff point in any three of the above categories qualified to apply for targeted assistance funds. It was then included in the list of qualifying localities for determination of its targeted assistance allocation.

For the proposed FY 1986 targeted assistance program, an initial list of counties was developed and screened according to the qualification criteria used in FY 1983. All counties that received awards for targeted assistance in FY 1983 for either refugees or entrants were included. ORR also screened data on refugee arrivals in FY 1983 through FY 1985 to identify counties that might have received significant numbers of refugees for the first time. A list of 171 counties was derived from this review.

Analysis of the new data for the 171 counties indicated that no jurisdiction would qualify in FY 1986 that had not previously received targeted assistance funds. Further tests were performed to determine whether any area had approached qualification during the past year. This was found not to be the case. Therefore a continuation of original county qualification was determined to be most appropriate for targeted assistance in FY 1986. A list of the qualified counties is provided as Table 1.

Table 1.—Counties which Qualify for Proposed Targeted Assistance Program

County, and State	
Alameda CA	Fresno CA
Contra Costa CA	Los Angeles CA
Merced CA	Middlesex MA
Orange CA	Suffolk MA
Riverside/San Bernardino CA	Hennepin MN
Sacramento CA	Ramsey MN
San Diego CA	Jackson MO
San Francisco CA	Essex NJ
San Joaquin CA	Hudson NJ
Santa Clara CA	Union NJ
Stanislaus CA	New York NY
Denver CO	Multnomah OR
Dade/Broward FL	Philadelphia PA
Hillsboro FL	Providence RI
Palm Beach FL	Harris TX
Honolulu HI	Salt Lake UT
Cook/Kane IL	Arlington VA
Sedgwick KS	Fairfax VA
Orleans LA	King/Snohomish VA
Montgomery/Prince Georges MD	Pierce WA

Note.—The District of Columbia voluntarily withdrew from the targeted assistance program.

The second stage of the 1983 targeted assistance formula was designed to reflect the relative level of need for funds among those counties which qualified to apply under the formula's first stage. The relative degree of need of each qualified locality was indicated by the number of refugees residing in that locality who were not self-sufficient. The Department thus noted the following single criterion as the basis for the allocation of targeted assistance funds among the eligible counties: The number of refugees residing in the county who had been in the United States 36 months or less and who were receiving cash assistance under AFDC, AFDC-UP, or RCA on October 1, 1982.

Taking into consideration the fact that no additional counties were found to meet the criteria used in the original determination of qualification for targeted assistance funding—a finding which reflects the much lower numbers of refugees reaching the U.S. in recent years—ORR proposes, in the allocation of FY 1986 targeted assistance funds, to continue the existing proportional relationship among the States that contain qualified counties.

However, in the case of a State which contains more than one qualified county, ORR proposes to permit the State to determine (in accordance with the requirements set forth in this notice) the appropriate allocation of the State's targeted assistance award among the qualified counties in the State. ORR sees this step as continuing a trend of providing greater authority and flexibility to States in the targeted assistance program and as recognizing that the relative needs of qualified counties within a State may have changed over time. Thus each such State would be responsible for determining an appropriate and equitable basis for allocating the funds among the qualified counties in the State and for including in its application for approval by ORR a description of this allocation basis and the data to be used. Further information on this process is included in section VII, below.

The basis intent of the proposed targeted assistance program remains: To concentrate available funds in those areas where there are appreciable numbers of unemployed and dependent refugees and entrants on whose behalf special self-support efforts are required.

V. Proposed Allocations

The proposed allocation to be available to each State for FY 1986 refugee and entrant targeted assistance is shown in Table 2.

TABLE 2.—PROPOSED FY 1986 ALLOCATIONS TO STATES FOR TARGETED ASSISTANCE

State	Proposed allocation
California	$15,303,462
Colorado	310,679
Florida	20 406,346
Hawaii	342,108
Illinois	1,607,025
Kansas	335,495
Louisiana	261,611
Maryland	828,440
Massachusetts	318,261
Minnesota	975,383
Missouri	196,275
New Jersey	778,101
New York	1,268,566
Oregon	873,602
Pennsylvania	597,984
Rhode Island	427,110
Texas	700,942
Utah	213,086
Virginia	814,519
Washington	1,291,005
Total	47,850,000

Note.—For Florida, the proposed allocation includes $10,527,000 for Jackson Memorial Hospital (Miami) and the Dade County (Miami) public schools. This is equal to the $11,000,000 previously awarded annually for these purposes, less the FY 1986 Gramm-Rudman reduction of 4.3%. The amounts, after the 4.3% reduction, are $5,742,000 for Jackson Memorial and $4,785,000 for the Dade County schools.

The District of Columbia voluntarily withdrew from the targeted assistance program. [TAP8615]

VI. Allowable Activities

Allowable activities under the FY 1986 targeted assistance program would include any activity permissible under section 412(c) of the INA which is directly related to the furtherance of refugee economic self-sufficiency by aiding refugees in finding and retaining jobs, increasing refugee employability potential, and/or enhancing refugee job market possibilities. Creative approaches to such activities are encouraged. Allowable activities

include, for example, job development, job placement, business and employer incentives (such as on-site employee orientation and vocational English training, or bilingual supervisor assistance), business technical assistance, short-term job training specifically related to opportunities in the local economy, and on-the-job training.

Use of targeted assistance funds for venture capital, either as grants or loans, to provide working capital associated with the acquisition of land, buildings, equipment or the operating budget for a business (except in the case of equipment or business operating budgets required for a specific training activity) is specifically not allowed. Proposals which include voluntary corporate participation and a generally high degree of business and refugee group involvement are especially welcome.

Stipends or needs-based payments to program participants would be allowed if no other source of support is available to them and it can be demonstrated that support is essential to their participation in a job preparation or training project. In any case, no more than 30% of funds used for this program component would be allowed to be used for such payments. Essential support services, such as day care and transportation, would be allowable only when it is demonstrated that they are directly related to the employment of those identified as the target population, or are a necessary component in the employability plan of those targeted assistance clients.

Also allowable would be other services which are not directly related to the employment of individual clients but which are nonetheless identified and demonstrated in the county plan to be essential services in addressing extreme and unusual needs of the refugee and/or entrant population in the targeted assistance area. Subject to State review and approval, a maximum of 15% of the allocation amount for each area could be used in funding these services. In the event that the State wishes to support a local area's request to allocate more than 15% of its funds for non-employment-related services, the State would be required to seek formal approval of ORR. Since ORR discourages such arrangements, only the most extreme need will be considered adequate justification to support the requests. Allowable services under this special needs provision could include any activity allowable under section 412(c)(3) of the INA. In order to justify the provision of services for extreme and unusual needs, a county plan would be required to identify the target population and clearly demonstrate the nature and extent of the needs, and must describe how the use of targeted assistance funds for the proposed purposes contributes to the adjustment of the refugee/entrant population in the community.

VII. Application and Implementation Process

Under the FY 1986 targeted assistance program, States would apply for and receive grant awards on behalf of qualified counties in the State. A single allocation would be made to each State by ORR on the basis of an approved State application. The State agency would, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans. The amount which would be available to each qualified county would be determined by the State, as set forth in its application, and approved by ORR. On the basis of the acceptability of these county plans, the State would award the funds to qualified counties of local administering entities.

States would be allowed to submit applications to ORR at any time from the date of publication of the final announcement of availability of funds in the **Federal Register** until September 5, 1986. Reasonable and identifiable planning costs may be incurred by the State during the pre-award period. The award of funds to States with acceptable applications will then be made as soon as possible after such determination, but in any case by September 30, 1986.

Upon notification of the acceptability of its application and the award of funds, a State would notify the qualified counties in its jurisdiction that it is able to review proposed county plans for the use of FY 1986 targeted assistance funds. Due dates, consultation and review procedures, and other aspects of the process of county plan development and submission must be established by the State and included in a timetable in its own application to ORR. A State is required to make the county award(s) in sufficient time to allow continuity or expansion of existing targeted assistance services which the State determines to be acceptable in its county plan review.

States may apply for a grant of up to eighteen months, with the grant period ending no later than March 31, 1988. Except for planning, application preparation and review, procurement processes, and funding for new or expanded activities, States and local areas must use funds awarded under previous targeted assistance grant programs prior to using funds issued under FY 1986 targeted assistance awards. In the event that targeted assistance funds would be appropriated in future years, applications would be received in those years as continuation grant applications.

It should be noted that in instances where a State will also act as the local administering entity and/or provider of direct services, ORR will receive, review, and determine acceptability of individual, local targeted assistance plans. This review process will parallel that of the normal State review of county-administered plans. In addition to the application content requirements specified by this notice, States which are administering local targeted assistance programs must submit their local plans to ORR for review and approval at least 60 days prior to the desired date of program implementation, but no later than December 31, 1986.

VIII. Application Content

In applying for targeted assistance funds, a State agency would be required to provide the following:

1. Assurance that targeted assistance funds will not be used to offset funding otherwise available to counties or local jurisdictions from the State agency in its administration of other programs—e.g., social services, cash and medical assistance, etc.

2. Assurance that the State has consulted with targeted assistance entities (counties) in its development of State application guidelines.

3. A description of, and supporting data for, the State's proposed plan for allocating targeted assistance funds among qualified counties. (Not required for States which contain only one local area that qualifies for the program.) The allocation approach should be based upon objective indicators of refugee and entrant need for targeted assistance services. It might include one or more measures, such as current social service caseload of unserved clients, cash assistance caseload, or a needs assessment study. The application should contain the allocation approach description, the data used in its implementation, and the calculated allocation amount for each county. Data offered should be appropriate to the allocation approach rationale and based on objective, verifiable measures.

4. A description of the State's guidelines for the required content of county targeted assistance plans. Acceptable county plans must minimally include the following:

a. Procedures for carrying out a local planning process for determining targeted assistance priorities and service strategies. All local targeted assistance plans will be developed through a planning process that involves, in addition to representatives of the local planning agency, representatives of the private sector (for example, private employers, Private Industry Council, Chamber of Commerce, etc.), leaders of refugee/entrant community-based organizations, voluntary resettlement agencies where such exist, and other public officials associated with social services and employment agencies.

b. Assurance that all services will be provided by qualified providers (public or private, non-profit or for-profit, agencies or individuals).

c. Identification of refugee/entrant populations to be served by targeted assistance projects, including approximate numbers of clients to be served, a description of characteristics and needs of targeted populations, prioritization of refugee/entrant clients to be served, and justification for the designation of specific client populations.

d. Assurance that, if the State's final FY 1985 dependency rate is at or below the national average, cash assistance recipients (time-eligible or time-expired recipients under any program) will make up no less than 50 percent of the FY 1986 targeted assistance clientele, and that if its final FY 1985 dependency rate is above the national average, cash assistance recipients (same as above) will make up no less than an equal percent of the FY 1986 targeted assistance clientele.

e. Identification and justification of specific strategies to meet needs of targeted populations. These should be justified where possible through analysis of strategies and outcomes from projects previously implemented under the targeted assistance programs, the regular refugee social service programs, and any other services available to the refugee population.

f. Relationship of proposed FY 1986 targeted assistance projects to FY 1984 and 1985 funded projects. Identify procedures which will prevent any duplication of services to individual clients should any components of the two grants overlap.

g. Relationship of targeted assistance projects to other services available to refugees/entrants in the county including State-allocated ORR social service programs.

h. Justification for support services as they relate to the removal of barriers to employment of the specified targeted populations.

i. Analysis of available employment opportunities and relationship of targeted assistance strategies to local employment opportunities. Examples of acceptable analyses of employment opportunities might include surveys of employers or potential employers of refugee clients, surveys of presently effective employment service providers, review of studies conducted by city/county or State institutions on employment opportunities/forecasts which would be appropriate to the refugee population.

j. Statement of projected performance outcomes for each program component including the number of full-time unsubsidized job placements, placements with at least 90 days' retention on the job, etc., at six and twelve month periods.

k. Monitoring and oversight responsibilities to be carried out by the county or qualifying local jurisdiction.

l. Reporting requirements including, at a minimum, the frequency of submission and data elements outlined in (j) above.

m. Justification for any service not directly related to the employment of individual clients as addressing extreme and unusual needs of the refugee and/or entrant population. Adequate justification must include a discussion of the extent of extreme and unusual need and indicate number of refugees/entrants to be served, absence of or limited availability of necessary resources, and the expected results from the provision of the proposed services. Without specific ORR prior approval, a maximum of 15% of the allocation amount for each targeted area is allowed.

n. Program component summary which includes a justification of the projected allocation for the component, including relationship of funds allocated to numbers of clients served, characteristics of clients, projected outcomes and cost per placement. In addition, the program component summary should describe specific services or activities inclusive of equipment for training purposes and stipends (if applicable), duration oftraining and stipends (if applicable), duration of training and services, ancillary services or subcomponents such as day care or language training, and any other activities relevant to determining the basis for the projected cost of the component. Such justification shall constitute the basis for determining the reasonableness of the costs of the services in relationship to client needs and outcomes.

o. Assurance that the local administrative budget will be limited to the amount available as indicated in the schedule below:

TABLE 3.—SCHEDULE OF ALLOWABLE ADMINISTRATIVE COST AMOUNTS

Allocation amount for local targeted assistance area	Allowable percentage for administrative costs	Maximum amount for administrative costs
$500,000 or below	15	$75,000
$500,001 to $600,000	14	84,000
$600,001 to $700,000	13	91,000
$700,001 to $800,000	12	96,000
$800,001 to $900,000	11	99,000
$900,001 and above	10	(1)

[1] Depends on allocation.

Note.—The Targeted Assistance grants are cost-based awards. Neither a State nor a county is "entitled" to a certain amount for administrative costs. Rather, administrative cost requests should be based on and defended as projections of actual needs. The amounts shown above reflect only the maximum which may be claimed.

p. Assurance, from States that elect to administer the program directly or otherwise to provide direct service to the refugee/entrant population (with the concurrence of the county), that the State will not request or use targeted assistance funds for program services in the target area for which it will serve as administering entity until the local targeted assistance plan has been reviewed and approved by ORR. The State must provide ORR with the same information required above under Point 4 for review and prior approval. The State should provide ORR with this plan at least 60 days prior to the date of desired program implementation.

5. A description of the process for awarding funds to the local area, to include.

a. An identification of the local administering entity, procedures for selection of such if other than local government, and award instrument to be used.

b. Assurance that any deviation from having the qualified county administer the TA grant occurs with the concurrance and approval of the designated county or qualified local jurisdiction.

c. A workplan which describes major activities and timetables for their completion, including identification of the period during which local entities could incur planning costs.

d. Procedures for the review and approval of local plans. At a minimum, these procedures must enable the State to ensure that all elements required

under Point 4, above, have been met and that an objective review process is carried out consistent with State requirements.

e. A timetable indicating the approximate dates by which qualifying counties shall receive FY 1986 funds.

f. Assurance that no county will receive funds for the continuation or expansion of an existing project until such time as demonstrable evidence exists that such a project should be continued or expanded, and that, if an existing project is deficient in its performance, a corrective-action plan has been submitted to, and determined acceptable by, the State.

g. Other requirements which the State considers appropriate to ensure an orderly funding process which accommodates the need to provide timely funding without prematurely funding projects or activities for which previously awarded targeted assistance funds could be used, where limited project activity has occurred, or where performance assessments cannot be made.

6. A description of the State's plan for monitoring and evaluating the targeted assistance programs. The plan must minimally include the following:

a. Provision for consolidating program data to measure overall progress of program—i.e., number of persons being removed from cash assistance, number of persons in target populations placed on jobs and retaining jobs for 90 days.

b. Provision for verifying and assessing quality of data submitted, corrective actions to be taken, and followup.

c. Provision for relating program data to financial data to determine service costs as well as cost effectiveness of service components.

d. Provision for timely submission of complete, accurate, and unduplicated outcome data on all components of individual targeted assistance plans so that categories or types of projects can be tracked and assessed.

e. Description of State's plan for fiscal and programmatic monitoring of local projects, including frequency of on-site monitoring.

f. Description of the State's procedures for reviewing changes in county plans which require prior approval in accordance with 45 CFR Part 74, Subpart L, and the appropriate cost principles. The State agency shall continue to exercise all programmatic responsibility for issues relating to previous targeted assistance awards to qualifying local jurisdictions. These responsibilities cover determinations about modifications to an approved scope of work and amendments to grant awards. Where modifiations involve grant period or carry-over, the State agency shall require the concurrence of ORR in order to affect such changes in either FY 1984, 1985, or 1986 awards.

7. Projected line item and budget justification of State administrative costs not to exceed 5% of the total award

8. Assurance that the State will adhere to the provisions of its approved Cost Allocation Plan for Public Assistance Programs as mandated under 45 CFR Part 95, Subpart E.

9. Assurance that the State will make available to the county or designated local entity not less than 95% of the amount of its formula allocation for purposes of implementing the activities proposed in its plan.

10. Assurance that the State will not support county administrative costs in excess of the amounts allowed under this notice.

11. Assurance that the State will follow or mandate that its subrecipients will follow appropriate procurement standards in the acquisition of services. Applicable standards are outlined in Subpart P of the Department's grants administration regulations, 45 CFR Part 74. In essence, this subpart provides that agencies of government (e.g., State, county) follow the provisions of Attachment O of OMB Circular A–102 and that non-profit organizations follow provisions of Attachment O of OMB Circular A–110. Both attachments are included as appendices to 45 CFR Part 74. The exception would involve a situation in which an agency of government (e.g., State, county) sought to acquire services from another agency of government (e.g., county or county welfare agency). In such cases, the procurement standards of the agency of government (State, county) acquiring the services would apply.

IX. Review, Technical Assistance, and Award Procedure

Applications will be reviewed on a non-competitive basis to determine acceptability. Such determination will be based on the completeness of the submission (according to the requirements of section VIII, above), satisfactory progress by the grantee, and ORR's determination that continued funding is in the best interest of the Government. The Department will provide technical assistance to the applicant if it is necessary in order to develop a proposal which warrants the award of funds at the proposed allocation amount and if such assistance is requested by the applying State agency. Final determination as to the acceptability of applications is at the discretion of the Director of ORR.

X. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441, Subparts E and F, Services: Requirements and Limits Applicable to Specific Services—
Abortions and Sterilizations
45 CFR Part 16, Procedures of the Departmental Grant Appeals Board
45 CFR Part 74, Administration of Grants
45 CFR Part 75, Informal Grant Appeals Procedures
45 CFR Part 80, Nondiscrimination Under Programs Receiving
Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81, Practice and Procedure for Hearings Under Part 80 of this Title
45 CFR Part 84, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance
45 CFR Part 91, Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
45 CFR Part 95, Subpart E, General Administration—Grant Programs (Public assistance and medical assistance)—Cost Allocation Plans

XI. Reporting and Recordkeeping

Applications for grants under this announcement are to be submitted on Standard Form 424 which has current OMB approval (0960–0184). In completing Form 424, States must address the criteria listed in section VIII.

Financial reporting is to be provided semiannually on Standard Form 269 (80–R0180). These reporting requirements directly follow Department grants administration regulations at 45 CFR Part 74.

ORR requires grantees to report semiannually on their oversight of the implementation of county plans for targeted assistance and to report outcomes. Instructions specific to the Reporting Requirements for Targeted Assistance Grants for Services for Refugees and Entrants in Local Areas of High Need (Form ORR–12) were approved by the Office of Management and Budget. (Approval number: 0960–0334).

(No Catalog of Federal Domestic Assistance number has been assigned)

Dated: July 10, 1986.

Billie F. Gee,

Acting Director, Office of Refugee Resettlement.

[FR Doc. 86–16141 Filed 7–16–86; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting

The following advisory committee meeting is announced:

Ad Hoc Advisory Committee on Hypersensitivity to Food Constituents

Date, time, and place. August 20, 21, and 22, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open committee discussion, August 20, 9 a.m. to 12:30 p.m.; open public hearing, 1:30 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 4:15 p.m.; open committee discussion, August 21, 9 a.m. to 10:30 a.m., 1 p.m. to 4 p.m.; open public hearing, 10:30 a.m. to 12 m.; open committee discussion, August 22, 9 a.m. to 12 m.; Mary C. Custer, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

General function of the committee. The committee reviews and evaluates available information relevant to adverse reactions in humans associated with use of food constituents.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, or issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss allergic-type adverse reactions resulting from exposure to legumes, seafood, cow's milk, eggs, tree nuts, chocolate, grains, molds, and yeasts. The committee will discuss the clinical signs and symptoms that can follow exposure to these foods and the severity, pathogenesis, prevalence, and treatment of these adverse reactions. The committee will also discuss and consider labeling of packaged foods, labeling of foods in food-service establishments, currently required toxicity testing for food additives, and procedures available for the immunotoxicity testing of food constituents.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committeee deliberation. Every advisory committee meeting shall have an open public hearing portion. Wheter or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: July 11, 1986.

James W. Swanson,

Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 86–16065 Filed 7–16–86; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Privacy Act of 1974; Addition of Routine Use to Existing Systems of Records

AGENCY: Public Health Service, HHS.

SUMMARY: The Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) and the Health Resources and Services Administration (HRSA) are proposing to add a new debt collection routine use to six systems of records.

DATES: PHS invites interested parties to submit comments on the proposed routine use on or before August 18, 1986. The new routine use will become effective 30 days after the date of publication unless PHS receives comments which would result in a contrary determination.

ADDRESS: Please submit comments to: PHS Privacy Act Officer, Office of Organization and Management Systems, Room 17–41, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Comments received will be available for inspection at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Johanna O. Bonnelycke, PHS Privacy Act Staff Specialist, Office of Organization and Management Systems, Room 17–41, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3917. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (5 U.S.C. 5514) requires that Federal agencies increase their efficiency in collecting debts owed to the Government. Therefore, ADAMHA and HRSA are proposing to disclose to the Department of the Treasury, Internal Revenue Service (IRS), information necessary to identify

delinquent debtors, so that IRS can offset debts owed to ADAMHA and HRSA against any income tax refunds which may be due to the debtor.

Before making any disclosures to IRS under the proposed new routine use, ADAMHA and HRSA will follow the due process procedures set forth in the Office of Management and Budget Guidelines (48 FR 15556 and 15559, April 11, 1983). Such due process steps include (1) sending written notice to the debtor to inform him/her that the claim is overdue, and (2) providing an opportunity for the individual to enter into a written agreement satisfactory to the agency for repayment of any outstanding debts. Only after all other debt collection efforts have been exhausted, will ADAMHA and HRSA report the debt to IRS for offset against any income tax refund.

The proposed new routine use will be added to the following systems of records:

Alcohol, Drug Abuse, and Mental Health Administration:

09–30–0014—Saint Elizabeths Hospital Financial System, HHS/ADAMHA/NIMH, last published 50 FR 25469, June 19, 1985.
09–30–0023—Records of Contracts Awarded to Individuals, HHS/ADAMHA/OA, last published 49 FR 22713, May 31, 1984.
09–30–0027—Grants and Cooperative Agreements: Research, Research Training, Research Scientist Development, Education, Demonstration, Fellowships, Clinical Training, Community Service, HHS/ADAMHA/OA, last published 49 FR 22714, May 31, 1984.
09–30–0031—Saint Elizabeths Hospital Management Information Reporting System, HHS/ADAMHA/NIMH, last published 49 FR 22716, May 31, 1984.

Health Resources and Services Administration:

09–15–0044—Health Education Assistance Loan (HEAL) Program Loan Control Master File, HHS/HRSA/BHPR, last published 51 FR 16221, May 1, 1986.
09–15–0045—HRSA Loan Repayment/Debt Management Record System, HHS/HRSA/OA, last published 49 FR 42637, October 23, 1984.

The proposed new routine use, which will be added as the last routine use to each of the above systems, reads as follows:

Alcohol, Drug Abuse, and Mental Health Administration

* * * * *

ADAMHA may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's name, address, Social Security number, and other information necessary to identify the debtor; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the debtor.

* * * * *

Health Resources and Services Administration:

* * * * *

HRSA may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's name, address, Social Security number, and other information necessary to identify the debtor; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the debtor.

* * * * *

Dated: July 10, 1986.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

[FR Doc. 86–16122 Filed 7–16–86; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6657–A2]

Alaska Native Claims Selection; Saguyak, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Saguyak Incorporated for approximately 1,584 acres. The lands involved are in the vicinity of Clarks Point, Alaska.

Seward Meridian, Alaska

T. 15 S., R. 57 W. (Unsurveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in THE ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until August 18, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–16056 Filed 7–16–86; 8:45 am]

BILLING CODE 4310–JA–M

Proposed All-American Pipeline Extension; McCamey, TX to Webster, TX; Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management will prepare a Supplemental Environmental Impact Statement (SEIS) for the McCamey, Texas, to Webster, Texas, proposed extension of the All-American crude oil transmission pipeline and will conduct public scoping meetings in connection with the preparation of that document.

The All-American Pipeline Company originally proposed, in 1983, to construct a 30-inch diameter heated crude oil transmission pipeline from a point near Santa Barbara, California, to McCamey, Texas, where the crude oil was to be transferred to existing pipelines for transmission to the Gulf Coast. The Bureau of Land Management, together with the California State Lands Commission, prepared a joint Federal-State Environmental Impact Statement/Environmental Impact Report which considered the impacts of both constructing and operating the proposed project on public and private lands crossed along that route. The Final EIS/EIR was published in January 1985, and a right-of-way grant was issued in May 1985.

Since All-American filed the original application, however, it has decided to construct and operate a 460-mile pipeline extension from McCamey to Webster, Texas, on Galveston Bay just south of Houston, Texas. The extension, as proposed, would be a 30-inch-diameter pipe, with heating capability and a capacity of 300,000 barrels per day. Due to its role as lead Federal agency on the original EIS, the BLM has been named Federal lead agency for a Supplemental EIS (SEIS) to be prepared for the proposed pipeline extension.

The pipeline would carry crude oil produced in California's Santa Barbara channel and Kern County fields. Some Alaskan crude could also be transferred to the All-American line from the existing Four Corners pipeline, which crosses the new All-American line at Cadiz, California. The thick, heavy, onshore California crude will not flow well without being heated; therefore, the pipeline would be insulated and the oil heated at heater stations to allow passage through the pipeline.

The proposed extension would begin at McCamey, Texas. Construction of the line west of McCamey is nearly complete. The extension would begin from the present eastern end of the line rather than from a large separate facility, such as a refinery or tank farm. From McCamey, the proposed extension would proceed eastward, along the route of Interstate 10 to a point near Junction, Texas. From there, it would pass near Fredricksburg, San Marcos, San Antonio, Austin, Columbus and Rosenburg, and southeast to a tank farm in Webster, Texas. The proposed extension would cross Upton, Crockett, Sutton, Kerr, Gillespie, Blanco, Hays, Caldwell, Bastrop, Fayette, Colorado, Wharton, Fort Bend, Brazoria and Galveston Counties. Four pumping stations would be constructed along the proposed route.

The SEIS will be prepared by an interdisciplinary team which will consider the following general issues: groundwater (particularly the Edwards Aquifer in central Texas), surface water, system safety, oil spill potential, terrestrial and aquatic biology, archaeological and paleontological resources, existing land uses, visual resources, air quality, geologic hazards (such as subsidence and sinkholes) and unique existing features (such as the Caverns of Sonora, which lie within two miles of the proposed extension route).

The SEIS will also consider several routing alternatives, including two major alternative routes passing both north and south of the proposed route and the Edwards Aquifer of Central Texas. A northern route alternative would deviate from the proposed route alignment at McCamey, initially following close to U.S. Highway 67. It would then pass south of San Angelo and Brownwood, continue eastward between Waco and Temple, and move southeasterly pass College Station to rejoin the proposed route near Rosenburg. The southern alternative would deviate from the proposed route near Sonora, running southward to a point near Brackettville, then proceed eastward to the south of San Antonio and on toward Yoakum and Wharton, rejoining the proposed route near Rosenburg.

Ten public scoping meetings will be conducted prior to actual preparation of the SEIS, in order to receive public comments, concerns and interests which should be addressed in the document. Issues raised during these meetings will be considered in the SEIS in addition to those issues which have already been described.

Date, Time, and Location

August 11, 1986

1:00 p.m.

Austin, Texas

Room 2.102—Second Floor, Joe C. Thompson Conference Center, 26th & Red River Streets

7:00 p.m.

Fredericksburg, Texas

District Courtroom, Gillespie County Courthouse, Main Street

August 12, 1986—7:00 p.m.

Yoakum, Texas

Yoakum National Bank, 301 W. Grand Street

August 13, 1986—7:00 p.m.

San Antonio, Texas

Central A—Second Floor, San Antonio Convention Center, 200 E. Market Street

August 14, 1986—7:00 p.m.

Del Rio, Texas

Dink Wardlaw Agricultural Complex, 300 E. 17th Street

August 18, 1986—7:00 p.m.

Ozona, Texas

Crockett County Courthouse, 907 Avenue D

August 17, 1986—7:00 p.m.

Brownwood, Texas

City Chambers—City Hall, 110 S. Greenleaf

August 20, 1986—7:00 p.m.

Temple, Texas

Ponderosa Motor Inn, 2625 S. 31st Street

August 21, 1986—7:00 p.m.

College Station, Texas

Room 101—Community Center, 1300 New Jersey

August 22, 1986—7:00 p.m.

League City, Texas

City Council Chambers, 102 W. Walker

FOR FURTHER INFORMATION CONTACT: William S. Haigh, Project Manager, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351-6428.

Dated: July 11, 1986.

Gerald E. Hillier,

District Manager.

[FR Doc. 86-16096 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-010-06-4352-10]

Designation of the Limestone Salamander Area of Critical Environmental Concern; Corrections

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice that certain public lands in the Folsom Resource Area, Bakersfield District, California are designated as an Area of Critical Environmental Concern (ACEC)—Corrections.

SUMMARY: The following corrections are made to a notice published in the **Federal Register** on Tuesday, June 10, 1986, on pages 21020 and 21021. The legal description for the public land designated as an ACEC are corrected as follows:

Mount Diablo Meridian, California

T. 1S., R. 18E.,
Sec. 25, that portion of SE¼SE¼ and SE¼SW¼SE¼ located South of Right-of-Way (ROW) S 1742 (44 LD. 513).
Sec. 35, NE¼SE¼, SE¼SE¼, S½SW¼ SE¼, NE¼SW¼SE¼,
Sec. 36, E½NW¼NE¼, SW¼NW¼NE¼, SW¼NE¼, NW¼SE¼, N½SW¼, S½S½NW¼, NE¼SE¼NW¼.
T. 4S., R. 18E.,
Sec. 2, Lots 1, 2, NE¼SW¼, S½ SW¼ SW¼, NE¼SW¼SW¼, SE¼SE¼ NW¼†SW¼.
T. 3S., R. 17E.,
Sec. 23, SE¼SE¼NW¼, N½NW¼SE¼, NW¼NE¼SE¼, S½SE¼SE¼NE¼.

The final "T&R" listed in the June 10 Notice should have read "T.4S., R. 17E.," instead of "T.4S., R. 18E."

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Folsom Resource Area Manager, 63 Natoma Street, Folsom, California 95630; (916) 985-4474.

Dated: July 10, 1986.

David N. Harris,

Acting Area Manager.

[FR Doc. 86-16136 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

Miles City, MT, District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Miles City District Office (MT-020-06-4410-02), Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Miles City District Advisory Council will be held August 28, 1986, at 10 a.m. in the conference room at the Miles City District, Bureau of Land Management Resource Area Offices, Miles City Plaza, Miles City Montana 59301.

The agenda is as follows:

1. Council resolutions on (a) BLM sale authority for excess wild horses and burros and (b) control of noxious weeds on public lands.
2. Nomination process for new Council members.
3. Update on noxious weeds and grasshopper control.
4. Advice in setting District priorities for Fiscal Year 1987.

The meeting is open to the public. The public may make oral statements before the Advisory Council or file written statements for the Council's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Mat Millenbach,

District Manager.

[FR Doc. 86–16138 Filed 7–6–86; 8:45 am]

BILLING CODE 4310–DN–M

[NV–050–06–4212–11; N–43028]

Notice of Realty Action; Lease/Purchase for Recreation and Public Purposes, Clark County, NV

The following described public land in Moapa Valley, Clark County, Nevada has been identified and examined and is hereby classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the **Federal Register**.

Mount Diablo Meridian, Nevada

T. 14 S., R. 66 E.,
Sec. 34, SE¼NW¼SE¼.
Containing 10 acres ±.

This parcel of land contains approximately 10 acres. Clark County intends to use the land for firestation purposes. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.
2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.
2. Those rights for access road purposes which have been granted to the Church of Jesus Christ Latter Day Saints by Permit No. N–42329 under the Act of October 21, 1976, 90 Stat. 2776, 43 USC 1761.
3. Those rights for public utility purposes which have been granted to Moapa Valley Water Company by Permit Number N–11028 under the Act of February 15, 1901.
4. These rights for public highway purposes granted to Nevada Department of Transportation by Permit Number Nev–060130 under the Act of November 9, 1921, 42 Stat. 216.
5. Those rights for public utility purposes granted to Overton Power District No. 5 by permit numbers CC–020948 and Nev–044096 under the Act of February 15, 1901.
6. Those rights associated with range improvement project Number 4019.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: June 30, 1986.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 86–16049 Filed 7–16–86; 8:45 am]

BILLING CODE 4310–HC–M

[UT–040–06–4212–14, U–55649]

Realty Action; Lease of Public Land in Beaver County, UT With Option to Purchase

AGENCY: Bureau of Management, Interior.

ACTION: Pursuant to the Recreation and Public Purpose Act (R&PP) of 1926, as amended (43 U.S.C. 869 et. seq.), public lands described as the SESWNWSE, SWSENWSE, Section 3, T. 28 S., R. 9 W., SLBM, totaling 5 acres have been examined and determined to be suitable for classification for lease or conveyance. The lands will not be offered for lease until at least 60 days after the date of publication of this Notice in the **Federal Register.** The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of this action is to make land available to Milford City, to be used for development of public recreation facilities.

DATE: Comments should be submitted to the address listed below by September 5, 1986. Any comments or objections received during the comment period will be evaluated and the State Director may vacate or modify this realty action.

ADDRESS: Detailed information concerning this action is available at the Beaver River Resource Area Office, 444 South Main, Cedar City, Utah 84720 (801) 586–2458. For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the above address.

SUPPLEMENTARY INFORMATION: The lease and subsequent conveyance will be subject to the provisions of the R&PP Act, applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. The mineral estate, including oil and gas, will be retained in Federal ownership.
2. A right-of-way shall be reserved thereon, for ditches and canals

constructed by authority of the Untied States, Act of August 30, 1980 (26 Stat. 391; 43 U.S.C. 945).

In the absence of any objections, on the 60th day from the date of this publication, this realty action notice will become the final determination of the Department of the Interior.

Dated: July 8, 1986.

M.S. Jensen,

District Manager.

[FR Doc. 86-16097 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-DQ-M

[ID-940-06-4211-09-NRDF]

Public Hearing; Egin-Hamer Road Plan Amendment

AGENCY: Bureau of Land Management (BLM), Department of the Interior.

ACTION: Notice of public hearing on the proposed Engin-Hamer Road plan amendment and draft environmental impact statement (EIS).

DATES: Two public hearings will be held. The first will be on August 12, 1986, in Idaho Falls, Idaho, at the Public Library Conference Room, 457 Broadway, at 7:00 p.m. The second will be on August 14, 1986, in Boise, Idaho, at the Boise Public Library Auditorium, 715 South Capitol Boulevard, at 7:00 p.m.

The dealine to preregister to give testimony at the hearing is August 11, 1986.

SUPPLEMENTARY INFORMATION: Fremont and Jefferson Counties in Eastern Idaho have applied for a right-of-way across public land to construct a year-round gravel road approximately 10 miles long. The BLM had prepared and distributed a draft EIS that documents the predicted environmental impacts of the proposal and five alternatives.

Since the road would pass through the Nine-Mile Knoll Area of Critical Environmental Concern (ACEC), and the management constraints of the ACEC include prohibition of new roads, a land use plan amendment would be required to grant the right-of-way.

The purpose of the hearing is to receive testimony on the proposed plan amendment and on the draft EIS.

Testimony will be limited to 10 minutes for each speaker. Preregistration to give testimony is requested no later than August 11, 1986.

FOR FURTHER INFORMATION CONTACT: To preregister to give testimony at the hearing in Idaho Falls, telephone Tom Dyer (208)529-1020 or write to BLM, Idaho Falls District, 940 Lincoln Road, Idaho Falls, Idaho 83401, Attention: Tom Dyer.

To preregister to give testimony at the hearing in Boise, telephone Gary Wyke at (208)334-1952 or write to BLM, Idaho State Office, 3380 American Terrace, Boise, Idaho 83706, Attention: Gary Wyke. Please give your name and address, and group affiliation, if any. A limited number of the draft EIS are available from the same two sources.

Dated: July 11, 1986.

Larry L. Woodard,

Associated State Director, Bureau of Land Management.

[FR Doc. 86-16082 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-GG-M

Emergency Road Closure; Little Dan Access Road, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of road closure.

SUMMARY: Pursuant to 43 CFR 8364.1 the Bureau of Land Management is closing the Little Dan Access Road, Mendocino County, California. This is a temporary emergency measure.

DATE: The closure is effective on the date of publication of this notice in the **Federal Register** and will remain in effect until the road is repaired for safe use.

FOR FURTHER INFORMATION CONTACT: John Lloyd, Arcata Resource Area Manager, P.O. Box 1112, 1125 16th Street, Arcata, California 95521. Telephone (707) 822-7648.

SUPPLEMENTARY INFORMATION: The Little Dan Access Road is located in:

T. 23 N., R. 17 W., MDM,
Sec. 13,
T. 23 N., R. 16 W., MDM,
Sec. 7, 8, 18.

The purpose of this closure is to protect people and property from hazardous road conditions. Vehicle use on this road will be prohibited except for administrative use, emergency use, and landowner access.

Dated: July 9, 1986.

Van Manning,

Ukiah District Manager.

[FR Doc. 86-16093 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-06-4220-11; CA 7098 WR and CA 7789 WR]

California; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, Sacramento District, proposes that three land withdrawals affecting approximately 45,425 acres at Fort Hunter Ligget Military Reservation continue for an additional 25 years. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received by October 15, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 978-4815.

The Department of the Army proposes that two existing land withdrawals made by Executive Order No. 8630 of July 24, 1941, and Department of the Army and Department of Agriculture Secretarial Order of April 12, 1957, as authorized by the Act of July 26, 1956 (Pub. L. 804), be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

Fort Hunter Ligget is located approximately 75 miles south of the City of Salinas and 35 miles north of the City of San Luis Obispo in the central coast area of California in Monterey County, affecting certain lands in the following described townships and ranges:

Mount Diablo Meridian

Tps. 21, 22, and 23 S., R. 5 E.,
Tps. 21, 22, 23, and 24 S., R. 6 E.,
Tps. 23 and 24 S., R. 7 E.,
Tps. 23 and 24 S., R. 8 E.

A more complete legal land description of the lands involved is available by contracting the California State Office in Sacramento or the Bakersfield District Office in Bakersfield.

The purpose of the withdrawals is to protect lands in support of various military field training center exercises. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals

Operations, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

July 11, 1986.

[FR Doc. 86-16094 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-06-4220-11; CA 7225 WR]

California; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, Sacramento District, proposes that a land withdrawal affecting 65 acres in the Tahoe National Forest continue for an additional 25 years for the Martis Creek Dam and Lake flood control project. The land will remain closed to surface entry and mining but will be opened to mineral leasing subject to the consent of the Department of the Army.

DATE: Comments should be received by October 15, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 978-4815.

The Department of the Army, Corps of Engineers, proposes that the existing land withdrawal made by Public Land Order No. 5076 of June 18, 1971, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The withdrawal is described as follows:

Mount Diablo Meridian

T. 17 N., R. 17 E.,

Sec. 18, lot 10;

Sec. 30, SE¼NE¼.

The areas described aggregate 65 acres in Nevada and Placer Counties.

The purpose of the withdrawal is to protect lands for flood control purposes. The withdrawal segregates the lands from operation of the public land laws generally, including the mining and mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal except that the lands would be opened to mineral leasing, subject to the provisions of section 6 of the Defense Withdrawals Act of February 28, 1958 (72 Stat. 30; 43 U.S.C. 158), which provides that consultation shall be made with the Secretary of Defense regarding the disposition of or exploration for any minerals in the land.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

July 11, 1986.

[FR Doc. 86-16095 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-06-4220-11; S 071209 WR]

California; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Pacific Southwest Region, proposes that a land withdrawal containing 40 acres for a range experiment station continue for an additional 50 years. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received by October 15, 1986.

ADDRESS: Comments should sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 978-4815.

The U.S. Forest Service proposes that the existing land withdrawal made by Pulbic Land Order No. 3309 of January 17, 1964, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The withdrawal is described as follows:

Mount Diablo Meridian

T. 10 N., R. 10 E.,

Sec. 22, SW¼SW¼.

The area described contains 40 acres in El Dorado County.

The purpose of the withdrawal is to protect unique resource values in the form of an experimental tree plantation. The withdrawal segregates the land from operation of the public land laws generally, including the mining but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be preapared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

July 11, 1986.

[FR Doc. 86-16089 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-06-4220-11; SAC 056152 WR and SAC 057245 WR]

California; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration, Western Pacific Region, proposed that two land withdrawals aggregating approximately 220 acres continue for an additional 20 years for maintenance of air navigation facilities. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received by October 15, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 978-4815.

The Federal Aviation Administration proposes that two existing land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The withdrawals are described as follows:

Mount Diablo Meridian

SAC 057245 WR

Public Land Order No. 2411 of June 26, 1961:
T. 20 S., R. 12 E.,
Sec. 34, S½SW¼.

The area described contains 80 acres in Fresno and Monterey Counties.

SAC 056152 WR

Public Land Order No. 3455 of September 30, 1964:
T. 32 S., R. 20 E.,
Sec. 31, Northeast 10 acres of lot 6, North 20 acres of lot 7, SE¼SW¼NE¼, SE¼NE¼, E½NW¼SW¼, and NE¼SE¼.

The area described contains approximately 140 acres in San Luis Obispo County.

The purpose of the withdrawals is to protect lands for the maintenance of air-to-ground communications essential to flight safety for civil aviation, commercial airlines, and military aircraft. The withdrawals segregate the lands from operation of the public land laws generally, including the mining but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

July 11, 1986.

[FR Doc. 86-16090 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-06-4220-11; CA 8206 WR]

California; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, Sacramento District, proposes that a 131-acre land withdrawal at the Presidio of Monterey continue for an additional 25 years for military purposes. The land will remain closed to surface entry and mining but has been and will remain open to mineral leasing.

DATE: Comments should be received by October 15, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 978-4815.

The Department of the Army, Corps of Engineers, proposes that the existing land withdrawal made by the Executive Order of November 23, 1866, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714.

The area involves approximately 131 acres of public land at the Presidio of Monterey which is located about 128 miles south of the City of San Francisco in Monterey County, affecting the following townships and ranges:

Mount Diablo Meridian

T. 15 S., R. 1 W.,
T. 15 S., R. 1 E.

A more complete legal land description of the site is available by contacting the California State Office in Sacramento or the Bakersfield District Office in Bakersfield.

The purpose of the withdrawal is to protect the land in support of the Defense Language and U.S. Army Research Institutes. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Sharon N. Janis,

Chief, Branch of Lands & Minerals Operations.

July 11, 1986.

[FR Doc. 86-16091 Filed 7-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CA-910-06-7122-10-1018; CA 18882]

Exchange of Public and Private Lands; Imperial and Riverside Counties; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action CA 18882.

SUMMARY: The following described lands in Imperial County have been determined to be suitable for disposal by exchange under sec. 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

San Bernardino Meridian, California

T. 13S., R. 19E.,
Sec. 7: lot 7, 8, E½W¼, SE¼;
Sec. 8: SW¼;
Sec. 17: W½;
Sec. 18: E½;
Sec. 19: E½.

Containing 1440.24 acres of public land, more or less.

In exchange for these lands, the United States will acquire the following described lands in Riverside County from The Nature Conservancy:

San Bernardino Meridian, California

T. 4S., R. 6E.,
Sec. 1: NE¼SE¼;
Sec. 2: lots 2 and 5, E½ SE¼ NW¼.
T. 4S., R. 7E.,
Sec. 6: SE¼SE¼.

Containing 179.95 acres of non-Federal lands, more or less.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire a portion of the non-Federal lands within the proposed 13,030 acre preserve for the Coachella Valley fringe-toed lizard. The lizard is federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire approximately 6,700 acres within the preserve. The land being acquired does not constitute habitat for the lizard, but provides a sand source required for the continuing production of active sand dune areas that are critical habitat for the lizard. Other State or Federal agencies will acquire the remaining portion for the preserve. The public interest will be well served by this exchange.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws, and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two years from the date of publication, whichever occurs first.

The exchange will be on an equal value basis. Full equalization of value will be achieved by acreage adjustment or by a cash payment to the United States by The Nature Conservancy in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Land transferred out of public ownership will be subject to the reservation of a right-of-way to the United States of ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

FOR FURTHER INFORMATION CONTACT: John Sullivan, Indio Resource Area (714) 351–6663. Information relating to this exchange, including the environmental assessment and land report, is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, California 92507.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District Office, Bureau of Land Management, at the above address. Objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: July 10, 1986.

Gerald E. Hiller,

District Manager.

[FR Doc. 86–16139 Filed 7–16–86; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–710005

Applicant: Government of Brazil

The applicant requests a permit to transit the United States with a shipment of 12 golden-headed lion tamarins (*Leontopithecus chrysomelas*) enroute from Japan to Brazil for enhancement of survival of the species. The animals were illegally exported from Brazil to Japan and are being returned by the Japanese government.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Rd, Rm 611, Arlington, VA 22201.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2 # when submitting comments.

Dated: July 14, 1986.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–16158 Filed 7–16–86; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF JUSTICE

[Civil Division Directive No. 163–86]

Redelegation of Authority to Branch Directors, Heads of Offices and United States Attorneys in Civil Division Cases

Section 1. Authority to compromise or close cases and to file suits and claims.

(a) Delegation to Deputy Assistant Attorneys General. The Deputy Assistant Attorneys General are authorized to act for, and to exercise the authority of, the Assistant Attorney General in charge of the Civil Division with respect to the institution of suits, the acceptance or rejection of compromise offers, and the closing of claims or cases, unless any such authority is required by law to be exercised by the Assistant Attorney General personally or has been specifically delegated to another Department official.

(b) Delegation to United States Attorneys, Branch, Office and Staff Directors and Attorneys-in-Charge of Field Offices.

(1) Subject to the limitations imposed by paragraph (c) of this section and the authority of the Solicitor General set forth in 28 CFR 0.163, United States Attorneys, Branch, Office and Staff Directors, and Attorneys-in-Charge of Field Offices are hereby authorized, with respect to matters asssigned to their respective components, to reject any offer in compromise and to accept offers in compromise and close claims or cases in the manner and to the same extent as Deputy Assistant Attorneys General, except that United States Attorneys, Directors, and Attorneys-in-Charge may not accept any offers in compromise of, or settle administratively, any claim or case against the United States where the principal amount to be paid by the United States exceeds $200,000. Nor may these officials close (other than by compromise or by entry of judgment), any claim or case on behalf of the United States where the gross amount involved exceeds $200,000 or accept any offers in compromise of any such claim or case in which the difference between

the gross amount of the original claim and the proposed settlement exceeds $200,000 or 10 percent of the original claim, whichever is greater.

(2) United States Attorneys, Directors, and Attorneys-in-Charge are authorized to file suits, counterclaims, and cross-claims, or to take any other action necessary to protect the interests of the United States in all nonmonetary cases, in all routine loan collection and foreclosure cases, and in other monetary claims or cases where the gross amount of the original claim does not exceed $200,000.

(3) United States Attorneys may redelegate in writing the above-conferred compromise and suit authority to Assistant United States Attorneys who supervise other Assistant United States Attorneys who handle civil litigation.

(c) Limitations on delegations. The authority to compromise cases, file suits, counterclaims, and cross-claims, or take any other action necessary to protect the interests of the United States, delegated by paragraphs (a) and (b) of this section, may not be exercised, and the matter shall be submitted for resolution to the Assistant Attorney General, Civil Division, when:

(1) For any reason, the proposed action, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in the above paragraphs.

(2) Because a novel question of law or a question of policy is presented, or for any other reason, the proposed action should, in the opinion of the officer or employee concerned, receive the personal attention of the Assistant Attorney General, Civil Division.

(3) The agency or agencies involved are opposed to the proposed action. (The views of an agency must be solicited with respect to any significant proposed action if it is a party, if it has asked to be consulted with respect to any such proposed action, or if such proposed action in a case would adversely affect any of its policies.)

(4) The U.S. Attorney involved is opposed to the proposed action and requests that the matter be submitted to the Assistant Attorney General for decision.

(5) The case is on appeal, except as determined by the Director of the Appellate Staff.

Section 2. Action Memoranda.

(a) Whenever an official of the Civil Division or a United States Attorney accepts a compromise, closes a claim or files a suit or claim pursuant to the authority delegated by this Directive, a memorandum fully explaining the basis for the action taken shall be executed and placed in the file. In the case of matters compromised, closed, or filed by United States Attorneys, a copy of the memorandum must be sent to the appropriate Branch or Office of the Civil Division.

(b) The compromising of cases or closing of claims or the filing of suits or claims, which a United States Attorney is not authorized to approve, shall be referred to the appropriate Branch or Office within the Civil Division, for decision by the Assistant Attorney General. The referral memorandum shall contain a detailed description of the matter, the United States Attorney's recommendation, the agency's recommendation where applicable, and a full statement of the reasons therefor.

Section 3. Return of civil judgment cases to agencies. Claims arising out of judgments in favor of the United States which cannot be permanently closed as uncollectable may be returned to the referring Federal agency for servicing and surveillance whenever all conditions set forth in USAM 4–2.230 have been met.

Section 4. Authority for direct reference and delegation of Civil Division cases to United States Attorneys.

(a) Direct reference to United States Attorneys by agencies. The following civil actions under the jurisdiction of the Assistant Attorney General, Civil Division, may be referred by the agency concerned directly to the United States Attorney for handling in trial courts subjects to the limitations imposed by paragraph (c) of this section. United States Attorneys are hereby delegated the authority to take all necessary steps to protect the interests of the United States, without prior approval of the Assistant Attorney General, Civil Division, or his representatives. Agencies may, however, if special handling is desired, refer these cases to the Civil Division. Also, when constitutional questions or other significant issues arise in the course of such litigation, or when an appeal is taken by any party, the Civil Division should be consulted.

(1) Money claims by the United States (except penalties and forfeitures) where the gross amount of the original claim does not exceed $200,000.

(2) Single family dwelling house foreclosures arising out of loans made or insured by the Department of Housing and Urban Development, the Veterans Administration and the Farmers Home Administration.

(3) Suits to enjoin violations of, and to collect penalties under, the Agricultural Adjustment Act of 1938, 7 U.S.C. 1376, the Packers and Stockyards Act, 7 U.S.C. 203, 207(g), 213, 215, 216, 222, and 228a, the Perishable Agricultural Commodities Act, 1930, 7 U.S.C. 499c(a) and 499h(d), the Egg Products Inspection Act, 21 U.S.C. 1031 *et seq.*, the Potato Research and Promotion Act, 7 U.S.C. 2611 *et seq.*, the Cotton Research and Promotion Act of 1966, 7 U.S.C. 2101 *et seq.*, the Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*, and the Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. 601 *et seq.*

(4) Suits by social security beneficiaries under the Social Security Act, 42 U.S.C. 402 *et seq.*,

(5) Social security disability suits under 42 U.S.C. 423 *et seq.*

(6) Black lung beneficiary suits under the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 921 *et seq.*

(7) Suits by Medicare beneficiaries under 42 U.S.C. 1395ff.

(8) Garnishment actions authorized by 42 U.S.C. 659 for child support or alimony payments.

(9) Judicial review of actions of the Secretary of Agriculture under the food stamp program, pursuant to the provisions of 7 U.S.C. 2022 involving retain food stores.

(10) Cases referred by the Department of Labor for the collection of penalties or for injunctive action under the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970.

(11) Cases referred by the Department of Labor solely for the collection of civil penalties under the Farm Labor Contractor Registration Action of 1963, 7 U.S.C. 2048(b).

(12) Cases referred by the Interstate Commerce Commission to enforce orders of the Interstate Commerce Commission or to enjoin or suspend such orders pursuant to 28 U.S.C. 1336.

(13) Cases referred by the United States Postal Service for injunctive relief under the nonmailable matter laws, 39 U.S.C. 3001 *et seq.*

(b) Delegation to United States Attorneys. Upon the recommendation of the appropriate Director, the Assistant Attorney General, Civil Division, may delegate to United States Attorneys the compromise or suit authority involving any claims or suits involving amounts up to $750,000 where the circumstances warrant such delegations. All delegations pursuant to this subsection shall be in writing and no United States Attorney shall have authority to compromise or close any such delegated case or claim except as is specified in the required written delegation or in section 1(c) of this directive. The limitations of section 1(c) of this

directive also remain applicable in any case of claim delegated hereunder.

(c) Cases not covered. Regardless of the amount in controversy, the following matters normally will not be delegated to United States Attorneys for handling but will be retained and personally handled or supervised by the appropriate Branch or Office within the Civil Division:

(1) Civil actions in the Claims Court.

(2) Cases within the jurisdiction of the Commercial Litigation Branch involving patents, trademarks, copyrights, etc.

(3) Cases before the United States Court of International Trade.

(4) Any case involving bribery, conflict of interest, breach of fiduciary duty, breach of employment contract, or exploitation of public office or any fraud or False Claims Act case where the amount of single damages, plus forfeitures, if any, exceeds $200,000.

(5) Any case involving vessel-caused pollution in navigable waters.

(6) Cases on appeal, except as determined by the Director of the Apellate Staff.

(7) Any case involving litigation in a foreign court.

(8) Criminal proceedings arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

(9) Nonmentary civil cases, including injunction suits, declaratory judgment actions, and applications for inspection warrants, and cases seeking civil penalties, arising under statutes enforced by the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration (relating to odometer tampering), except as determined by the Director of the Office of Consumer Litigation.

Section 5. Adverse decisions. All final judicial decisions adverse to the Government involving any direct reference or delegated case must be reported promptly to the Assistant Attorney General, Civil Division, attention Director, Appellate Staff. Consult Title 2 of the United States Attorney's Manual for procedures and time limitations.

Section 6. This directive supersedes Civil Division Directive No. 145–81 regarding redelegation of the Assistant Attorney General's authority in Civil Division cases to branch directors, heads of offices, and United States Attorneys.

Section 7. This directive applies to all cases pending as of the date of this directive and is effective immediately.

Richard K. Willard,

Assistant Attorney General, Civil Division.

[FR Doc. 86–16051 Filed 7–16–86; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Proposed Consent Decree Pursuant to Clean Water Act; Ashland Oil, Inc.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on July 7, 1986 a proposed consent decree in *United States of America* v. *Ashland Oil, Inc.*, Civil Action No. 86–127, was lodged with the United States District Court for the Eastern District of Kentucky. The proposed consent decree concerns the discharge of pollutants from a crude oil refinery in Catlettsburg, Kentucky which is owned and operated by Ashland Oil, Inc. The proposed consent decree requires the defendant to comply with its National Pollutant Discharge Elimination System permit and pay a civil penalty for past violations. The consent decree also requires defendant to make modifications to its wastewater treatment system in accordance with a schedule set forth in the decree, and conduct toxicity testing and engineering studies. Stipulated penalties are mandated for failure to comply with the requirements of the decree. The defendant is also required to pay a $762,500 civil penalty for past violations of the Clean Water Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America* v. *Ashland Oil, Inc.*, D.J. Ref. 90–5–1–1–2555.

The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Kentucky, U.S. Post Office and Courthouse, Barr and Limestone Streets, Lexington, Kentucky 40591 and at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.50 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–16047 Filed 7–16–86; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act; Benny Hunn, et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Benny Hunn, et al.*, Civil Action No. CV84–2715–A, has been lodged in the United States District Court for the Western District of Oklahoma.

The proposed consent decree concerns violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos codified at 40 CFR 61.20, *et seq.* (1983) and the Clean Air Act, 42 U.S.C. 7401, *et seq.* during the demolition of a school building in Sentinel, Oklahoma. The proposed decree requires the defendants to comply with the Clean Air Act and the asbestos NESHAP regulations. The defendants are also required to make diligent efforts to locate the demolished building remains and report to the U.S. Environmental Protection Agency on the results of those efforts.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Divison, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Benny Hunn, et al.*, D.J. Ref. No. 90–5–2–1–736.

The propose consent decree may be examined at the Office of the United States Attorney, Room 4434, U.S. Courthouse and Federal Office Building, 200 NW. 4th Street, Oklahoma City, Oklahoma 73120, and at the Region 6 Office of the Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Reources Divison of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be

obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $.80 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division, Department of Justice.

[FR Doc. 86-16048 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Proposed Vacation of Final Judgment; Loews, Inc.; et al.

Notice is hereby given that Loews Corporation ("Loews") has filed with the United States District Court for the Southern District of New York a motion to vacate the final judgment in *United States v. Loew's Incorporated, et al.*, Equity No. 87-273, as amended, insofar as it applies to Loews; and the Department of Justice ("Department"), in stipulations also filed with the court, has consented to vacating the judgment as to Loews, but has reserved the right to withdraw its consent pending receipt of public comments. The complaint in this case (filed on July 20, 1938) alleged that eight of the major motion picture companies, including Loew's Incorporated, had combined and conspired to restrain trade in, and had monopolized and attempted to monopolize, the production, distribution, and exhibition of motion pictures in the United States. Following decisions of the district court and the United States Supreme Court, a judgment was entered as to Loew's Inc. on February 6, 1952. The judgment required Loew's Inc. to divide its distribution and exhibition businesses by creating a new company to which Loew's Inc. transferred its theatre assets. Loew's Inc. and the new theatre company, which subsequently became known as Loews Corporation, were enjoined from vertically reintegrating without prior court approval.

The judgment as applicable to Loews and its exhibition business also prohibited joint ownership or operation of theatres with competitors, the use of various licensing arrangements, and the acquisition of additional theatres without prior court approval. In 1974, the judgment was modified to permit Loews to acquire theatres newly constructed by or for it, without court approval. In 1980, the judgment was again modified to permit Loews to acquire existing theatres, except for certain theatres in specified markets, without court approval, and to permit Loews, subject to certain restrictions, to engage in the distribution of motion pictures. In 1985, Loews sold substantially all of its assets in the motion picture exhibition business to an independent company. That company, not known as Loews Theatre Management Corp., being the sucessor to Loews Corporation, is bound by the judgment.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that vacating the judgment insofar as it applies to Loews would serve the public interest. Copies of the complaint and final judgment (as modified), Loews motion papers, the stipulation containing the Government's tentative consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection at Room 7233, Antitrust Division, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202-633-2481), and at the office of the Clerk of the United States District Court for the Southern District of New York, Federal Courthouse, Foley Square, New York, New York 10007. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments to the Department regarding the proposed vacation of the decree as to Loews. Such comments must be received within the sixty day period established by the court order, and will be filed with the court. Comments should be addressed to John W. Clark, Chief, Professions and Intellectual Property Section, Antitrust Division, Department of Justice, Washington, DC 20530 (telephone 202-724-6335).

Dated: July 9 , 1986.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-16116 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research

Notifications: Engine Manufacturers Association, et al.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("EMA") has filed a written notificaiton on behalf of EMA and the Ontario Research Foundation ("ORF") simultaneously with the Attorney General and The Federal Trade Commission of a project entitled: DEVELOPMENT OF A TRAP-BASED DIESEL EMISSION CONTROL SYSTEM FOR HEAVY DUTY DIESEL ENGINES. The notification discloses (1) the identities of the parties to the project and (2) the nature and objectives of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to this project are EMA, on behalf of itself and its members, and ORF. EM is an Illinois not-for-profit corporation with its principal place of business at One Illinois Center, 111 East Wacker Driver, Chicago, Illinois 60601. ORF has been incorporated by Special Act of the Province of Ontario and has its principal place of business at Sheridan Park Research Community, 2395 Speakman Drive, Mississauga, Onterio L5k 1B3.

EMA's current members are:

Briggs & Stratton Corporation
Caterpillar Tractor Company
Cummins Engine Company, Inc.
Deere & Company
Detriot Diesel Allison Division of General Motors Corporation
Deutz Corporation
Ford Tractor Operations
Iveco Trucks of North America, Inc.
Kohler Company
Mack Trucks, Inc.
Mercedes-Benz Truck Company, Inc.
Navistar International Corporation
Onan Corporation
Perkins Engines, Inc.
Saab-Scania AB
Teledyne Total Power
Volvo Truck Corporation
Waukesha Engine Division of Dresser Industries, Inc.
White Engines, Inc.

With the exception of Briggs & Stratton Corporation, Kohler Company, Teledyne Total Power, and Waukesha Engine Division, all current EMA members are participants in the project.

The purpose of the project is to conduct research, inquiries, investigations, and studies relating to the development and evaluation of a prototype diesel emission control system for heavy duty diesel engines. The primary objective of the project is to develop a prototype system capable of regeneration under normal conditions for heavy duty truck cycles and assisting the heavy duty diesel engine manufacturing industry in meeting the

diesel particulate emission standards adopted by the Environmental Protection Agency for introduction in 1991. EMA and ORF anticipate the development of a prototype trap-based diesel emission control system encompassing a primary trap regeneration system and a regeneration subsystem that incorporates advance burner technology to promote and control the regeneration process.

ORF is responsible for the solicitation and selection of product supplies to provide hardware necessary for its research and development efforts. Each supplier whose products are selected for inclusion in the project will be required by ORF to execute, prior to beginning work on the project, and agreement providing for the non-exclusive licensing of patent rights to EMA and its designees.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-16117 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notifications; Petroleum Environmental Research Forum

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), Petroleum Environmental Research Forum ("PERF") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of PERF. The change consists of the addition of the following to the membership of PERF:

Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125

and

Phillips Petroleum Company, 468 Frank Phillips Building, Bartlesville, Oklahoma 74004.

The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The original notification disclosing the identities of the original parties to the venture and the objectives of PERF and the area of its planned activity was published at 51 FR 8903, on March 14, 1986. Supplementary notifications disclosing the identity of additions to the membership of PERF were published at 51 FR 20897, on June 9, 1986, and at 51 FR 22365, on June 16, 1986.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-16118 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 86-21]

John H. Milvany, M.D., Pawtucket, RI; Hearing

Notice is hereby given that on March 4, 1986, the Drug Enforcement Administration, Department of Justice, issued to John H. Mulvany, M.D. an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration AM3274278 and deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, August 12, 1986, in the U.S. Tax Court Courtroom, 13th Floor, U.S. Customs House, No. 2 India Street, Boston, Massachusetts.

Dated: July 11, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-16086 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-58]

Regal Pharmaceutical Co., Inc., Bedford, MA; Hearing

Notice is hereby given that on May 21, 1985, the Drug Enforcement Administration, Department of Justice, issued to Regal Pharmaceutical Co., Inc., an Order To Show Cause as to why the Drug Enforcement Administration should not deny its applications for registration executed on April 28, 1983, and April 28, 1984, and any other applications pending for registration as a distribution under 21 U.S.C. 823(d).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Thursday, August 14, 1986, in the U.S. Tax Court Courtroom, 13th Floor, U.S. Customs House, No. 2 India Street, Boston, Massachusetts.

Dated: July 11, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-16084 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-30]

Rudolfo Torres, M.D., Madison, ME; Hearing

Notice is hereby given that on April 7, 1986, the Drug Enforcement Administration, Department of Justice, issued to Rudolfo Torres, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application for a DEA Certificate of Registration which was executed on July 16, 1985 for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Thursday, August 14, 1986, in the U.S. Tax Court Courtroom, 13th Floor, U.S. Customs House, No. 2 India Street, Boston, Massachusetts.

Dated: July 11, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-16083 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-64]

Andre G. Valentine, M.D., Phoenix, AZ, Woodside, New York; Hearing

Notice is hereby given that on November 1, 1985, the Drug Enforcement Administration, Department of Justice, issued to Andre G. Valentine, M.D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AV4991192, and deny his pending application for renewal of such registration and for transfer of such registration from Woodside, New York to Phoenix, Arizona.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing have been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Wednesday, August 6, 1986, in

Courtroom No. 10, Room 309, U.S. Claims Court, 717 Madison Place, NW., Washington, DC.

Dated: July 11, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-16085 Filed 7-16-86; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least monthly of all agency requests for records disposition authority (records schedules) which include records being proposed for disposal or which reduce the records retention period for records already authorized for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before September 15, 1986.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the title of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

This public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval

1. Department of the Army (N1-AU-86-27, N1-AU-86-32, N1-AU-86-38, N1-AU-86-39, N1-AU-86-41, N1-AU-86-42, and N1-AU-86-43). Intermediate mapping products.

2. Department of the Army, Office of the Quartermaster General, Graves Registration Service (N1-92-86-1). Records relating to World War I burials.

3. Department of the Navy, Chief of Naval Operations, Naval Data Automation Command (N1-NU-86-2). A comprehensive schedule of all ordnance material records, including 33 permanent items.

4. Department of Agriculture, U.S. Forest Service (N1-95-86-6). Program Planning and Allocation Database printouts located in field offices.

5. Environmental Protection Agency, Office of Mobile Sources (NC1-412-85-14). General correspondence and administrative records relating to the evaluation and monitoring of mobile sources of air pollution.

6. Federal Communications Commission, Private Radio Bureau, Licensing Division (NC1-173-84-4). Applications, licenses, and associated records relating to regulation of two-way radio communications systems.

7. Department of Health and Human Services, Health Care Financing Administration (N1-440-86-1). Intermediary accounting data relating to Arkansas Blue Cross/Blue Shield program including computer print-outs, batch processing forms, and related documents for processing and clearance of high claims payments.

8. Department of Labor, Labor-Management Services Administration (N1-317-86-2). Statistical breakdown of commercial vessel activities for various U.S. ports during 1966.

9. Panama Canal Commission (NC1-185-84-3). General correspondence relating to administrative or housekeeping activities such as office organization, staffing, procedures, communications, expenditure of funds, training, travel, supplies, and office services.

10. Small Business Administration (N1-302-86-1). Comprehensive schedule covering records of the Small Business Administration.

11. Department of Transportation, Federal Highway Administration (NC1-406-84-2; NC1-406-85-1 through NC1-406-85-9). Comprehensive Schedule for Federal Highway Administration Field Records.

12. Department of the Treasury, United States Secret Service (N1-87-86-2). Polygraph examinations for applicants maintained by the agency's Forensic Services Division and examinations performed by Forensic Services Division for other government agencies.

Dated: July 10, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86-16096 Filed 7-16-86; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL CAPITAL PLANNING COMMISSION

Master Plan Submission Requirements

AGENCY: National Capital Planning Commission.

ACTION: Notice of adoption and availability of amendments to Master Plan Submission Requirements, Site and Building Plans Requirements, and Procedures for Intergovernmental Cooperation in Federal Planning in the National Capital Region.

The Master Plan Submission Requirements list the required contents and procedures for the submission of master plans for Federal installations in the National Capital Region and for District of Columbia installations. The Site and Building Plans Requirements list the requirements for preparation and submission of site and building plans of Federal and District of Columbia agencies. The Procedures for Intergovernmental Cooperation in Federal Planning in the National Capital Region identify the types of plans which will be reviewed by the Commission, the Federal and non-Federal agencies to which plans will be circulated, and the process by which the Commission consults with these agencies. The Procedures also indicate non-Federal plans which will be given a Federal interest review by the Commission.

On September 5, 1985, the National Capital Planning Commission ("Commission") approved proposed amendments to the Master Plan Submission Requirements, Site and Building Plans Requirements, and Procedures for Intergovernmental Cooperation in Federal Planning in the National Capital. The amendments to the Master Plan Submission Requirements and the Site and Building Plans Requirements require the provision of certain reduced-size drawings in master plan and project plan submissions in a form that will permit their reproduction by standard copying machine to facilitate distribution of copies to members of the Commission. The amendments to the Master Plan Submission Requirements and Procedures for Intergovernmental Cooperation in Federal Planning in the National Capital Region also provide an expanded review period of sixty days, whenever possible, for review by the District of Columbia Government of Federal plans and proposals, consistent with the review period already established for jurisdictions in the National Capital Region outside of the District of Columbia.

Notice of the availability of the amendments with a summary of their effect was published in the **Federal Register** on September 26, 1985 (50 FR 39059). Interested persons or agencies were advised that they could submit written comments to the Commission on or before October 30, 1985.

The Defense Intelligence Agency, the U.S. Postal Service, and the Fairfax County government concurred in and/or endorsed the amendments. The Defense Nuclear Agency, Prince George's County's Planning Director, and the Chesapeake Division of the Naval Facilities Engineering Command advised the Commission that they had no comments on the proposal.

The Office of the Chief of Engineers of the U.S. Army raised one issue with respect to the map scales specified in the proposed amendments, indicating that it would be difficult to apply the preferred scales to Fort Belvoir because of the large size of that facility. The amendments contain no change in the preferred map scales for master plans, and since this section of the requirements calls for "preferred" rather than required map scales, there will be no problem in accommodating the Department of the Army in this matter. (The master plans for several of the largest installations in the Region, including the Beltsville Agricultural Research Center, the U.S. Marine Corps Development and Education Command at Quantico, and Fort Belvoir, have all been prepared at smaller scales than the "preferred" scale, consistent with practical mapping requirements for such large sites.) The preferred map scales will be left unchanged because, except for the extremely large installations in the region, these preferred scales will provide for master plans of good readable quality and practical size.

The Commission adopted the amendments on November 7, 1985. They are identical to the proposed amendments approved by the Commission on September 5, 1985.

Copies of the final amendments have been mailed to the Federal and District agencies affected.

Copies of the final amendments or further information may be obtained from Robert E. Gresham, Assistant Executive Director for Operations, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576, telephone (202) 724–0176.

Katherine Barns Soffer,

General Counsel.

[FR Doc. 86–16052 Filed 7–16–86; 8:45 am]

BILLING CODE 7520–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

1. Date: July 31, 1986—August 1, 1986.
Time: 8:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations program, submitted to the Division of General Programs, for projects beginning after January 1, 1987.

2. Date: August 1, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for University Teachers applications in Art History; and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

3. Date: August 4, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in History II: European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

4. Date: August 4–5, 1986.
Time: 8:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations program, submitted to the Division of General Programs, for projects beginning after January 1, 1987.

5. Date: August 5, 1986.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications submitted for the Constitutional Fellowships for University Teachers and for Constitutional Fellowships for College Teachers and Independent Scholars, submitted to the Office of the Bicentennial, for projects beginning after January 1, 1987.

6. Date: August 5, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

7. Date: August 6, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in History I: American History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

8. Date: August 11, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

9. Date: August 12, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Music and Dance; History and Criticism, submitted to the Division of Fellowships and Seminars,

for projects beginning after January 1, 1987.

10. Date: August 13, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Romance & Classical Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

11. Date: August 13, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American Literature, Studies and Theater, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

12. Date: August 14, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

13. Date: August 12, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Music and Dance, History and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

14. Date: August 15, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in English Literature; Composition and Rhetoric; Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

15. Date: August 15, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Philosophy & Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

16. Date: August 18, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for University Teachers applications in History II: Latin American and Non-Western History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

17. Date: August 18, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Comparative Literature; Germanic, Slavic and Non-Western Literatures; Literary Theory and Criticism; and Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

18. Date: August 18, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Latin American and Non-Western History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

19. Date: August 19, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

20. Date: August 19, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in American Literature & American Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

21. Date: August 21, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Classical and Romance Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

22. Date: August 21, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

23. Date: August 22, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Far Eastern, Germanic, Slavic and Comparative Literatures; Literary Theory and Criticism; Film and Media, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

24. Date: August 22, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Social Sciences, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

25. Date: August 25, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Anthropology, Sociology, Psychology and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

26. Date: August 27, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Political Science, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

27. Date: August 27, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Political Science and Economics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

28. Date: August 28, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1987.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider

information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 786–0322.

Susan H. Metts,

Director of Administration.

[FR Doc. 86–16113 Filed 7–16–86; 8:45 am]

BILLING CODE 7536–01–M

Humanities Panel Meetings; Advisory Committee Notice of Changes

This is to announce changes in meetings of the Humanities Panel Advisory Committee.

The meeting to be held on July 27–28, 1986 in Room M–14, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC to review applications submitted for the "Humanities Instruction in Elementary and Secondary Schools", for projects beginning after November 1986 has been changed.' It will be held on July 28–29, 1986 in Room M–14 of the National Endowment for the Humanities.

The meeting was announced on page 23862 of the **Federal Register** dated July 1, 1986.

The meeting to be held on July 17–18, 1986 to review applications submitted for the Humanities Projects in Museums and Historical Organizations, for projects beginning after January 1, 1987 in Room 415 has been cancelled.

The meeting was announced on page 21993 of the **Federal Register** dated June 17, 1986.

Susan H. Metts,

Director of Administration.

[FR Doc. 86–16114 Filed 7–16–86; 8:45 am]

BILLING CODE 7536–01–M

National Endowment for the Arts

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on August 1–2, 1986, from 9:00 a.m.–5:30 p.m. and on August 3, 1986, from 9:00 a.m.–3:00 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 1, from 9:00 a.m.–4:30 p.m., and on August 2, from 9:00 a.m.–3:00 p.m. Topics for discussion will include: Program Review/ Guidelines for the Theater, Museum, Expansion Arts, Music Fellowships and Challenge Programs; Policy discussion on the Future of Advancement Program, Long-Term Enhancement/Challenge III and the Locals Test Program Evaluation.

The remaining sessions of this meeting on August 1, 1986, from 4:30–5:30 p.m.; on August 2, 1986, from 3:00–5:30 p.m.; and on August 3, from 9:00 a.m.–3:00 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including of information given in confidence to the agency by grant applicants, and for related discussion and development on confidential materials and projections regarding FY 1988 and future year budget levels to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

July 14, 1986.

[FR Doc. 86–16126 Filed 7–16–86; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations.

DATES: Interested parties are invited to submit written data, comments, or view with respect to these permit applications by August 15, 1986. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations may be found at Title 45, Part 670 of the Code of Federal Regulations. Copies are available from the National Science Foundation.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

- To take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird or to attempt to engage in such conduct)
- To collect any plant native to Antarctica in specially protected areas
- To enter any Specially Protected Area or certain Sites of Special Scientific Interest
- To import into or export from the United States any mammal or bird native to Antarctica or any plant collected in a Specially Protected Area
- To introduce to Antarctica any nonindigenous plant or animal.

The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commission, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific Interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or nursing) or the scientific names and numbers of native plants to be collected in a Specially Protected Area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objectives of the Antarctic Conservation Act, that is, the conservation and protection of antarctic flora and fauna and the antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act. Permit applications involving native mammals or native birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The applications received by the National Science Foundation are as follows:

1. Applicant

Arthur L. DeVries, 524 Burrill Hall, University of Illinois, Urbana, Illinois.

A. Activity for which permit requested

Introduction of a non-indigenous species into Antarctica. The applicant proposes to collect up to 20 specimens of the fish *Notothenia angustata* in New Zealand and transport them to Antarctica where they will be maintained in a closed water aquarium. They are to be used in experiments on the role of blood glycopeptide antifreezes in prevention of freezing body fluids.

B. Location

McMurdo Station, Antarctica.

C. Dates

October 1986–January 1987.

2. Applicant

G.L. Kooyman, University of California–San Diego, LaJolla, California 92093.

A. Activity for which permit requested

Taking, Import into U.S.A. The applicant proposes to take Emperor Penguins and Weddell seals as follows:

Emperor penguin adults will be held briefly to clamp either a depth recorder or velocity meter, and radio transmitter to the back feathers between the wings. Blood samples will be taken from 20 adult birds and 15 chicks. Isotopes of O^{18} and H^3 will be injected into these birds to determine energetics of resting and foraging by means of doubly-labeled water procedures.

Carcases of adults, chicks and eggs will be salvaged.

Depth recorders and radio transmitters will be clamped to a glue mounted platform on the backs of up to 15 seals. These recorders will monitor foraging behavior over approximately 10 days.

B. Location

Cape Washington.

C. Dates

October 1986–February 1987.

3. Applicant

Donald B. Siniff, 109 Zoology Building, University of Minnesota, Minneapolis, Minnesota 55455.

A. Activity for which permit requested

Taking; Import into U.S.A., Enter specially protected area.

This request is for permission to take seals in the McMurdo Sound and eastern Ross Sea region in support of continuing research on the ecology and behavior of Weddell seals in that area. Up to 1200 Weddell seals may be tagged with plastic numbered tags in both rear flippers. Up to 2000 animals may be approached up to 10 times for the purposes of identifying age-sex category and reading tags. Blood samples (less than 50 cc) may be collected from up to 100 females and their pups and 50 males from among the tagged population.

Permission is also requested to walk through the Specially Protected Area at Cape Crozier on Ross Island in order to have access to seals at the ice shelf—sea ice interface just offshore.

Permission is also requested to sacrifice up to 5 adult seals if unique scientific return exists, and to salvage and import material from natural mortalities and from seals sacrificed by the New Zealand Antarctic Research Program.

During the survey and tagging operations, directed toward Weddell seals, other Antarctic seals species may be encountered. Permission to approach and tag these species is requested on a contingency basis due to the rarity but scientific importance of sightings in the McMurdo Sound area.

B. Location

McMurdo Sound, Antarctica.

C. Dates

October 1986—October 1987.

4. Applicant

Robert B. Dunbar, Department of Geology and Geophysics, Rice University, Houston, Texas 77251

A. Activity for which permit requested

Enter Site of Special Scientific interest. The applicant proposes to enter the vicinity of the Cape Crozier Site of Special Scientific Interest to deploy a single wire rope instrument moring. The applicant will not approach penguins or rookeries.

B. Location

Cape Crozier Site of Special Scientific Interest

C. Dates

October 1986—January 1987.

5. Applicant

Lowell E. Starr, John A. Kelmelis, U.S. Geological Survey, Reston, Virginia 22092.

A. Activity for which permit requested

Enter Specially Protected Areas and Sites of Special Scientific Interest. The applicants propose to enter each area a maximum of three times during the season for geodetic surveying. No specimens will be taken from these areas.

B. Location

Cape Royds and Cape Crozier Sites of Special Scientific Interest; Beaufort Island Specially protected Area.

C. Dates

November 1986–January 1987.

6. Applicant

Wayne Z. Trivelpiece, Point Reyes Bird Observatory, Stinson Beach, California 94970.

A. Activity for which permit requested

Taking; Enter Site of Special Scientific Interest. The applicant is continuing a study of the population biology of Adelie, Chinstrap and Gentoo penguins, and the relationship between the penguin species and their avian predators: Skuas, Sheathbills, Gulls, and Giant Petrels. Banding of the following species is proposed:

Adelie Penguin—2,000
Gentoo Penguin—1,500
Chinstrap Penguin—500
Brown Skuas—as necessary
South Polar Skua—as necessary
Sheathbills—as necessary
S. Giant Fulmars—as necessary

B. Location

Western Shore of Admiralty Bay Site of Special Scientific Interest.

C. Dates

October 1986–February 1987.

7. Applicant

Anna C. Palmisano, NASA—Ames Research Center, Moffett Field, California 94035.

A. Activity for which permit requested

Enter Sites of Special Scientific Interest. The applicant proposes to enter sea ice areas adjacent to the Cape Royds and Cape Crozier Specially Protected Areas to take ice core and water samples as part of a study of sea ice microalgae.

B. Location

Cape Royds Site of Special Scientific Interest.

Cape Crozier Site of Special Scientific Interest.

C. Dates

October 1986—January 1987.

8. Applicant

William M. Hamner, Department of Biology, University of California, Los Angeles, California 90024.

A. Activity for which permit requested

Import into US.A. The applicant requests permission to import bird specimens into the U.S.A. Specimens were either collected under a previously issued permit, or salvaged during an April 1986 antarctic cruise of the *RV Polar Duke*. Specimens were frozen and applicant requests permission to import them during the period of this permit application.

Species	Number
Cape Petrel	7
Snow Petrel	9
Wilson's Storm Petrel	31
Black-bellied Storm Petrel	4

B. Location

Not Applicable

C. Dates

December 1986–May 1987.

9. Applicant

Mark A. Chappell, Biology Department, University of California, Riverside, California 92521.

A. Activity for which permit requested

Take, Import into U.S.A. The applicant proposes to take specimens as part of studies of the physiology and ecology of seabirds, specimens to be taken are as follows:

Species	Number	Age	Disposition
Adelie penguin	8	Chicks	Sacrificed.
	25	Chicks	Released unharmed.
	5	Adults	Released unharmed.
	90	Eggs	Sacrificed.
Blue-eyed Shag	8	Chicks	Sacrificed
	25	Chicks	Released unharmed.
	5	Adults	Released unharmed.
	50	Eggs	Sacrificed.
Antarctic tern	10	Eggs	Sacrificed.
South Polar skua	10	Eggs	Sacrificed.
Southern Blackbacked gull	10	Eggs	Sacrificed.

No more than one egg or chick will be taken from any nest, so activities should have little effect on reproductive success (all of these species normally lay eggs in excess of the number of chicks they rear). Whenever possible hatchlings will be returned to their nests to further reduce potential impact.

B. Location

Specimens will be collected from Torgerson and Cormorant Islands (near Palmer Station).

C. Dates

November 1986–February 1988.

10. Applicant

James T. Staley, University of Washington, Seattle, Washington 98195.

A. Activity for which permit requested

Taking, Import into U.S.A. The applicant proposes to take 6 Adelie and 6 Chinstrap penguin eggs as part of the on-going NSF project "Microbial and Vertebrate Chitin Degradation in the Antarctic Environment."

B. Location

Palmer Station, Antarctica.

C. Dates

November 1986–March 1988.

Authority to take action under the Antarctic Conservation Act of 1978 including publication of this notice, has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Peter E. Wilkniss,

Director, Division of Polar Programs.

[FR Doc. 86–16058 Filed 7–16–86; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-400]

Carolina Power and Light Co.; Shearon Harris Nuclear Power Plant; Receipt of Petition for Director's Decision

Notice is hereby given that by petition dated July 2, 1986, the Coalition for Alternatives to Shearon Harris requested that the Director for Nuclear Reactor Regulation issue a show cause order to require Carolina Power and Light Co. (CP&L) to address a number of issues before issuance of the operating license for the Shearon Harris facility. The basis for the requested action is the May 27, 1986 resolution by Chatham County, North Carolina withdrawing its approval of the emergency response plan, the recent events in the Soviet Union, questions concerning implementation of the emergency response plan and allegations concerning CP&L's radiation protection program and inadequate welds at the Shearon Harris facility.

The petition is being considered pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the local Public Document Room of the Shearon Harris facility located at the Wake County Public Library, 104 Fayetteville Street, Raleigh, North Carolina 27601.

Dated at Bethesda, Maryland this 10th day of July, 1986.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 86-16133 Filed 7-16-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443A, 50-444A]

Public Service Company of New Hampshire, et al.; Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters

The Commission has received, pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, additional advice from the Attorney General of the United States, dated July 1, 1986, with respect to the proposed purchase by EUA Power Company of an ownership interest in the captioned nuclear plant and subsequent partial transfer of construction permit Nos. CPPR-135 and CPPR-136. The Attorney General's advice letter reads as follows:

You have requested our advice pursuant to section 105(c) of the Atomic Energy Act of 1954, as amended, in connection with the purchase by EUA Power Company of an ownership interest in the above-captioned nuclear facility.

EUA Power Company, a wholly-owned subsidiary of Eastern Utilities Associates will purchase an interest totalling approximately 12% of two Seabrook units from Central Vermont Public Service Corporation, Central Maine Power Company, Bangor Hydro-Electric Company, Maine Public Service Company and Fitchburg Gas and Electric Light Co.

Our review of the information submitted in connection with the present application, as well as other relevant information, has disclosed no evidence that the proposed participation by EUA Power Company in the Seabrook Units would either create or maintain a situation inconsistent with the antitrust laws under section 105(c). We do not, therefore, believe it is necessary for the Commission to hold an antitrust hearing in this matter.

Any person whose interest may be affected by this proceeding may, pursuant to §2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed not later than 30 days after initial publication of this notice in the **Federal Register** with the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Planning and Program Analysis Staff, Office of Nuclear Reactor Regulation.

Dated in Bethesda, Maryland, this 11th day of July 1986.

For the Nuclear Regulatory Commission.

Jesse L. Funches,

Director Planning and Program Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 86-16134 Filed 7-16-86; 8:45 am]

BILLING CODE 7590-01-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Delegation of Authority to the General Counsel and the Deputy General Counsel

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of delegated authority.

SUMMARY: This document revises a previous delegation of authority from the Commission to its General Counsel. The authority delegated relates to the filing of briefs by the parties in review proceedings before the Commission. Since that previous delegation of authority, the Commission has made clear that it may rule on issues that have not been stated in the directions for review but may have been added by the Commission in a later order. To facilitate the briefing of such additional issues, the Commissioners authorize the General Counsel to have stated in the briefing notice issued by the Executive Secretary of the Commission issues that were not stated in the direction for review but which a Commission member wishes to be briefed. The revised delegation of authority embodies this authorization.

EFFECTIVE DATE: July 17, 1986.

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

SUPPLEMENTARY INFORMATION: On February 19, 1981, the Commission published notice in the **Federal Register** of a delegation of authority to its General Counsel. 46 FR 13054-055. The General Counsel was thereby empowered to instruct the Executive Secretary to issue requests for briefs in cases reviewed by the Commission but was not authorized to add issues. The Commission has since determined that certain revisions in that delegation of authority are necessary.

The new delegation of authority formalizes a procedure for requesting parties to brief issues in addition to those that are stated in a direction for review. The Commission has recently made clear that it has jurisdiction, under section 12(j) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 661(j), to consider all issues raised by a Judge's report that has been directed for review:

the Commission held that it is not limited to considering the issues stated in a direction for review but may in a supplemental order invite the parties to brief additional issues. *See, e.g., Hamilton Die Cast, Inc.*, 86 OSAHRC _____, 12 BNA OSHC 1797, 1986 CCH OSHD ¶ 27,576 (No. 83–308, 1986). This revised delegation of authority makes clear that those additional issues may be stated in the briefing notice issued by the Commission's Executive Secretary. Like the current delegation, the new delegation does not permit the General Counsel to add any issues at his own instance. He may instruct the Executive Secretary to add an issue to the briefing notice only if a Commissioner so requests by memorandum. In the past, individual members have stated issues for briefing in their directions for review; the new delegations make clear that each member may also do so in the briefing notice.

The new delegation of authority deletes certain language from the present delegation that could be construed as an unnecessary limitation on the authority of the General Counsel to determine when to issue a briefing order in a particular case. Finally, the new delegation of authority applies to both the General Counsel and the Deputy General Counsel; the position of Deputy General Counsel did not formally exist at the time of the present delegation.

Accordingly, notice is given pursuant to the Freedom of Information Act, 5 U.S.C. 552, that the Commission hereby adopts a Delegation of Authority and Direction for the General Counsel and the Deputy General Counsel concerning requests for briefs in cases before the Commission. The Delegation, which supersedes the delegation of February 19, 1981, and which is effective immediately, states:

Delegation of Authority and Direction for the General Counsel and the Deputy General Counsel. The General Counsel and the Deputy General Counsel are hereby empowered on behalf of the members of the Commission to instruct the Executive Secretary of the Commission:

(1) To issue requests for briefs under Commission Rule 93, 29 CFR 2200.93; and

(2) To state on the briefing notice additional issues that any Commission Member has, by memorandum to the General Counsel, stated that the parties should be invited to discuss. This delegation of authority does not empower the General Counsel or the Deputy General Counsel to waive the submission of briefs, to alter or delete issues, or otherwise to add to the issues.

Dated: July 10, 1986.

E. Ross Buckley,

Chairman.

Dated: July 10, 1986.

Robert E. Rader, Jr.,

Commissioner.

Dated: July 11, 1986.

John R. Wall,

Commissioner.

[FR Doc. 86–16115 Filed 7–16–86; 8:45 am]

BILLING CODE 7600–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–24145]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

July 10, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisons of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested person wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 4, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20539, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of any attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Mississippi Power & Light Company (70–7762)

Mississippi Power & Light Company ("MP&L") P.O. Box 1640, Jackson, Mississippi 39115–1640, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment with this Commission to its previously filed application-declaration, pursuant to section 6(a), 7, 9(a), 10 and 12(d) of the Act and Rule 50(a)(5) thereunder.

Pursuant to prior orders in this matter, MP&L caused to be issued $30 million of adjustable rate pollution control bonds ("Bonds") in five series. The Bonds contain an optional redemption provision, and a rate adjustment mechanism that allows MP&L to fix the interest rate periodically at an adjusted level for three years, or to fix the rate permanently at that level until maturity. In both instances, the bondholders have a concurrent right to tender the Bonds to MP&L for the principal amount plus accured interest. The Bonds are then remarketed, with the same redemption option.

MP&L decided to fix a permanent interest rate to maturity on the 1982 Series B Bonds and the 1982–A Series A Bonds on the fixed rate date of July 1, 1986 for each series. To insure marketability, MP&L now proposes to waive its right to optionally redeem those two bond series for thirteen years from their fixed rate date, and, should MP&L decide to fix the rates, to give the same waiver for the remaining three series from their applicable fixed rate dates, if such waivers appear desirable to price the Bonds economically.

American Electric Power Service Corporation, et al. (70–7269)

American Electric Power Company, Inc. ("AEP"), a registered holding company, and American Electric Power Service Corporation ("Service Corporation"), a subsidiary service corporation of AEP, both located at 1 Riveside Plaza, Columbus, Ohio 43215 have filed a declaration pursuant to sections 6(a), 7 and 12(b) of the Act and Rules 45 and 50(a)(2) thereunder.

During the period August 31, 1986 to December 31, 1988, the Service Corporation proposes to issue short-term notes to banks aggregate amounts not to exceed $20 million outstanding at any one time. All notes will mature not more than 270 days after issuance or renewal. None will mature later than June 30, 1989. The notes to banks will be sold under various lines of credit with different terms, including rates at prime. AEP will unconditionally agree that if the Service Corporation should fail to make any payment of principal or interest with due at maturity, AEP shall pay to such bank the amount due and upaid by the Service Corporation.

Louisiana Power & Light Company (70–7270)

Louisiana Power & Light Company ("Company"), 142 Delaronde Street,

New Orleans, Louisiana 70714, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a), 7 and 12(c) of the Act and Rules 42(b)(2) and 50(a)(5) thereunder.

The Company proposes to issue and sell, pursuant to negotiated public offering(s) or private placement(s), up to $280 million aggregate principal amount of its first mortgage bonds, in one or more series, from time to time not later than December 31, 1987 with maturities of from five to thirty years ("Bonds"). The Company may negotiate the terms and conditions of the Bonds.

The Company proposes to use the net proceeds derived from the issuance and sale of Bonds for the refunding prior to their respective maturities of $75 million aggregate principal amount of its First Mortgage Bonds, 16% Series due April 1, 1991, $50 million aggregate principal amount of its First Mortgage Bonds, 15¾% Series due December 1, 1988, $55 million aggregate principal amount of its First Mortgage Bonds, 13½% Series due November 1, 2009, and/or $100 million aggregate principal amount of its First Mortgage Bonds, 16¼% Series due December 1, 1991, or the repayment of short-term borrowings incurred for the purpose.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-16112 Filed 7-16-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 11, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Centerior Energy Corporation Common Stock, No Par Value (File No. 7-9049)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 1, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-16146 Filed 7-16-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Committee Establishment; National Airspace Review Enhancement

Announcement: Notice is given of the establishment of the Federal Aviation Administration (FAA) National Airspace Review Enhancement Advisory Committee. The Administrator of the FAA is the sponsor of the committee. The membership will include experts from the Government, the aviation industry, and those representing viewpoints of other elements of the aviation community. Nonfederal members of the committee do not become Government employees. They serve without compensation and at their own expense. The committee will make recommendations on the operational aspects of transition into future generation national airspace systems, it will assist in identifying and implementing changes to those and existing systems.

Public Interest: The Secretary of Transportation has determined that the establishment and use of the committee is necessary in the public interest in connection with performance of duties imposed on the FAA by law. Meetings of the committee will be open to the public, except as provided for in section 10(d) of the Advisory Committee Act.

Issued in Washington, DC, on June 27, 1986.

Brooks C. Goldman,

Associate Administrator for Administration.

[FR Doc. 86-16072 Filed 7-16-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Randolph and Montgomery Counties, NC

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 statment will be prepared for a proposed highway project in Randolph and Montgomery Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: J.M. Tate, District Engineer, Federal Highway Administrtion, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 856-4270.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the North Carolina Department of Transportation (NCDOT) will prepare an environmental impact statement (EIS) on a proposed US 220 improvement from Ulah to Steed in Randolph and Montgomery Counties. This project is a segment of the planned development and completion of a four-lane freeway or expressway from Greensboro to Rockingham. Planning, environmental and location studies are being initiated.

Alternatives under consideration include (1) the "no-build," (2) improving the existing US 220 roadway, and (3) major relocation alternatives for construction of a new facility.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting and a meeting with local officials will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media.

The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and

federally assisted programs and projects apply to this program).

J.M. Tate,

District Engineer, FHWA.

[FR Doc. 86-16054 Filed 7-16-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: July 10, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510-0018
Form Number: TFS 1133C
Type of Review: Extension
Title: Claim Against the United States for the Proceeds of a Government Check or Check

Clearance Officer: Douglas C. Lewis, Financial Management Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 86-16148 Filed 7-16-86; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: July 11, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0173
Form Number: IRS Form 4563
Type of Review: Extension
Title: Exclusion of Income From Sources in United States Possessions
OMB Number: 1545-0714
Form Number: IRS Form 8027 and 8027-T
Type of Review: Extension
Title: Employer's Annual Information Return of Tip Income and Allocated Tips (8027); and Transmittal of Employer's Annual Information of Tip Income and Allocated Tips (8027-T)

Clearance Officer: Garrick Shear (202) 566-6150 Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Robert Neal (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, DC 20503.

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 86-16149 Filed 7-16-86; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATE: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 11, 1986.

By direction of the Administrator.

Raymond S. Blunt,

Director, Office of Program Analysis and Evaluation.

Extension

1. Department of Veterans Benefits
2. Escrow Agreement for Postponed Exterior Onsite Improvements
3. VA Form 26-1849
4. On occasion
5. Individuals or households; Businesses or other for-profit
6. 32,000 responses
7. N/A
8. Not applicable

Revision

1. Department of Medicine and Surgery
2. Appraisal of Applicant
3. VA Form Letters 10-341a
4. On occasion
5. Individuals or households; Non-profit institutions
6. 35,000 responses
7. 8,750 hours
8. Not applicable

Revision

1. Department of Veterans Benefits
2. Compliance Inspection Report
3. VA Form 26-1839
4. On occasion
5. Individuals or households; Small business or organizations
6. 661,000 responses
7. N/A
8. Not applicable

[FR Doc. 86-16119 Filed 7-16-86; 8:45 am]

BILLING CODE 8320-01-M

Availability of VA Publications Index

AGENCY: Veterans Administration.

ACTION: Notice of availability.

SUMMARY: The Veterans Administration (VA) publishes and makes available for public inspection at Central Office and all field activities the Veterans Administration Publications Index (I-03-1), as required by the Freedom of Information Act (FOIA) (5 U.S.C. 552 (a)(2)). The purpose of this notice, issued pursuant to 5 U.S.C. 552(a)(2), is to advise the public that the VA has determined that publication of the index or supplements thereto more frequently than annually is impracticable and not cost effective. During the past year, the Agency's Publications Service has received fewer than 12 calls from the

public and veterans organizations requesting information relevant to the Index. In addition, only 230 copies of the Index were sent out during the last two years (prior to the January 1986 edition) to non-VA recipients. The current cost of publishing the Index is $42,123.75. It is estimated that the cost of publishing three quarterly supplements to the Index will add $22,155.50 to the current cost.

Based on the low number of requests for the Index and the requirement to meet budgetary constraints on printing costs, the VA will not publish the Index or supplements thereto more frequently than once a year.

ADDRESS: Copy(ies) of the VA Publications Index may be obtained by writing the Administrator of Veterans Affairs (731), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Mr. David N. Stone, Director, Paperwork Management and Regulations Service (73), Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420, telephone number (202) 389-3616.

Dated: July 10, 1986.

Thomas K. Turnage,

Administrator.

[FR Doc. 86-16120 Filed 7-16-86; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Proposed Amendment of Systems Notice; New and Revised Routine Use Statements

Notice is hereby given that the Veterans Administration is considering revising a routine use statement for one system of VA records and adding a new routine use statement to 14 systems of VA records. A routine use will be revised for the system of records entitled, "Physician, Dentist and Supervisory Nurse Professional Standard Board Action File-VA" (29VA11) as set forth on page 715 of "Privacy Act Issuances, 1984 Compilation, Volume V and 50 FR 43054." A new routine use will be added to the following systems of records which are contained in Privacy Act Issuances, 1984 Compilation, Volume V" on the page(s) indicated:

02VA135 Applicants for Employment Under Title 38, U.S.C.-VA on page 699.
09VA05 Employee Unfair Labor Practice Charges and Complaints, Negotiated Agreement Grievances and Arbitrations-VA on pages 702 and 703.
11VA51 Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA Laws, Regulations, Etc.,-VA on pages 703 and 704.
13VA047 Individuals Submitting Invoices/Vouchers For Payment-VA on pages 705 and 706.
14VA135 Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, Others) Personnel Records-VA on page 706.
23VA136 Patient Fee Basis Medical and Pharmacy Records-VA on page 711 and 712, and 50 FR 23099.
24VA136 Patient Medical Records-VA on pages 712 and 713, and 50 FR 11610.
27VA047 Personnel and Accounting Pay System-VA on pages 713 and 714, 50 FR 23101, and 51 FR 6858.
28VA119 Personnel Registration Under Controlled Substance Act-VA on pages 714 and 715.
32VA00 Veteran, Employee and Citizen Health Care Facility Investigation Records-VA on pages 716 and 717.
34VA11 Veteran, Patient, Employee and Volunteer Research and Development Project Records-VA on pages 717 and 718, and 50 FR 28867.
63VA05 Grievance Records-VA on pages 743 and 744.
66VA53 Inspector General Complaint Center Records-VA on pages 745 and 746.
73VA14 Health Professional Scholarship Program-VA on page 748.

The VA will also revise the paragraph pertaining to the system manager for the system of records entitled, "Veteran, Employee and Citizen Health Care Facility Investigation Records-VA" (32V00) to properly identify the responsible office.

It is the policy of the Veterans Administration to communicate with other Federal Agencies, State licensing boards of jurisdiction, and appropriate nongovernmental entities about the professional performance history of licensed former employees. This includes those who have been terminated because of incompetence or who have resigned or retired and whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients of either the private sector or other Federal Agencies.

The professional performance history of VA personnel or other relevant information is contained in several VA Privacy Act systems of records. The professional performance history of certain VA personnel is contained in a part of the VA Privacy Act system of records entitled, "Physician, Dentist, and Supervisory Nurse Professional Standard Board Action File-VA" (29VA11).

Routine Use No. 7 was added to this system of records to permit disclosure of professional performance history information to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity. This routine use is proposed for revision to allow the VA to disclose this information to other Federal agencies, and as part of ongoing computer matches to accomplish these purposes. Of course, any computer matches undertaken by the Agency will be done in compliance with the OMB computer matching guidelines.

Additionally, a new routine use is being proposed for other VA systems of records that contain information which the Agency may wish to disclose for the following reasons. The proposed new routine use will permit disclosure of identifying information, including name, birthdate, social security number, address, and professional degree, to other Federal Agencies, State licensing boards of jurisdiction and/or the Federation of State Medical Boards or similar nongovernmental entities which maintain records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order to verify that an applicant for a VA professional position which requires a license, certification, or registration or a VA employee in such a position, has a valid and unencumbered license, certification, or registration and is a member in good standing of the profession. The proposed new routine use will also allow the VA to disclose to Federal Agencies, State licensing boards of jurisdiction and/or the Federation of State Medical Boards or other appropriate nongovernmental entities, without their specific request for such disclosure, sensitive relevant information which may be detrimental to a terminated registered, certified or licensed professional. See section 204(b) of Pub. L. 99-166, 99 Stat. 941, 952 (1985).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine uses to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before August 18, 1986 will be considered. All written comments received will be available for public inspection only in room 132, Veterans Services Unit, at the above address and only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until September 1, 1986.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise

published in the Federal Register by the Veterans Administration, the new and revised routine use statements included herein are effective August 18, 1986.

Approved: July 9, 1986.

Thomas K. Turnage,

Administrator.

1. In the system identified as 02VA135, "Applicants for Employment Under Title 38, U.S.C.—VA appearing on page 699 of the Federal Register publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

02VA135

SYSTEM NAME:

Applicants for Employment Under Title 38, U.S.C.—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

7. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

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2. In the system identified as 09VA05, "Employee Unfair Labor Practice Charges and Complaints, Negotiated Agreement Grievances and Arbitrations—VA" appearing on pages 702 and 703 of the Federal Register publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

09VA05

SYSTEM NAME:

Employee Unfair Labor Practice Charges and Complaints, Negotiated Agreement Grievances and Arbitrations—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

5. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

3. In the system identified as 11VA51, "Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA Laws, Regulations, Etc.—VA" appearing on pages 703 and 704 of the Federal Register publication, "Privacy Act Issuances, 1984 Compilation, Volume V," and amended at 50 FR 8044, February 27, 1985, the following routine use is added:

11VA51

SYSTEM NAME:

Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA Laws, Regulations, Etc.—VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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12. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

4. In the system identified as 13VA047, "Individuals Submitting Invoices/Vouchers for Payment—VA" appearing on pages 705 and 706 of the Federal Register publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

13VA047

SYSTEM NAME:

Individuals Submitting Invoice/Vouchers For Payment-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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9. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned

or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

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5. In the system identified as 14VA135, "Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, Others) Personnel Records-VA" appearing on page 706 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

14VA135

SYSTEM NAME:

Individuals Serving on a Fee Basis or Without Compensation (Consultants, Attendings, Others) Personnel Records-VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

7. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

6. In the system identified as 23VA136, "Patient Fee Basis Medical and Pharmacy Records-VA appearing on pages 711 and 712 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," and amended at 50 FR 23099, May 30, 1985, the following routine use is added:

23VA136

SYSTEM NAME:

Patient Fee Basis Medical and Pharmacy Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

9. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

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7. In the system identified as 24VA136, "Patient Medical Records-VA" appearing on pages 712 and 713 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," and amended at 50 FR 11610, March 22, 1985, the following routine use is added:

24VA136

SYSTEM NAME:

Patient Medical Records-VA.

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ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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26. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

8. In the system identified as 27VA047, "Personnel and Accounting Pay System-VA" appearing on pages 713 and 714 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," and amended at 50 FR 23101, May 30, 1985, and 51 FR 6858, February 26, 1986, the following routine use is added:

27VA047

SYSTEM NAME:

Personnel and Accounting Pay System-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

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22. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing

boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

9. In the system identified as 26VA119, "Personnel Registration Under Controlled Substance Act-VA" appearing on pages 714 and 715 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

28VA119

SYSTEM NAME:

Personnel Registration under Controlled Substance Act-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

6. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, professional or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

10. In the system identified as 29VA11, "Physician, Dentist, and Supervisory Nurse Professional Standards Board Action File-VA" appearing on page 715 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," and amended at 50 FR 43054, October 23, 1985, routine use No. 7 is revised to read as follows:

29VA11

SYSTEM NAME:

Physician, Dentist and Supervisory Nurse Professional Standards Board Action File-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

7. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

11. In the system identified as 32VA00, "Veteran, Employee and Citizen Health Care Facility Investigation Records-VA appearing on pages 716 and 717 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added and the system manager and address is revised to read as follows:

32VA00

SYSTEM NAME:

Veteran, Employee and Citizen Health Care Facility Investigation Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

11. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Medical Inspector, Office of the Medical Inspector (10A6), VA Central Office, Washington, DC 20420.

* * * * *

12. In the system identified as 34VA11, "Veteran, Patient, Employee and Volunteer Research and Development Project Records-VA" appearing on pages 717 and 718 of the **Federal Register** publication, "Privacy Act Issuances, 1984 Compilation, Volume V," and amended at 50 FR 28867, July 16, 1985, the following routine use is added:

34VA11

SYSTEM NAME:

Veteran, Patient, Employee and Volunteer Research and Development Project Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIE OF USERS AND PURPOSES OF SUCH USES:

* * * * *

9. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State

Medical Boards or a similar nongovernment entity which maintains records concerning individual's employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or speciality, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entitles about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

13. In the system identified as 63VA05, "Grievance Records-VA" appearing on pages 743 and 744 of the Federal Register publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

63VA05

SYSTEM NAME:

Grievance Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

11. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or speciality, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

14. In the system identified as 66VA53, "Inspector General Complaint Center Records-VA" appearing on pages 745 and 746 of the Federal Register publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

66VA53

SYSTEM NAME:

Inspector General Complaint Center Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

8. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

15. In the system identified as 73VA14, "Health Professional Scholarship Program—VA" appearing on page 748 of the Federal Register publication, "Privacy Act Issuances, 1984 Compilation, Volume V," the following routine use is added:

73VA14

SYSTEM NAME:

Health Professional Scholarship Programs—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

10. Records from this system of records may be disclosed to a Federal Agency or to a State or local government licensing board and/or to the Federation of State Medical Boards or a similar nongovernment entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications, or registrations necessary to practice an occupation, profession or specialty, in order for the Agency to obtain information relevant to an Agency decision concerning the hiring, retention or termination of an employee or to inform a Federal Agency or licensing boards or the appropriate nongovernment entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal Agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

* * * * *

[FR Doc. 86-16121 Filed 7-16-86; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 137
Thursday, July 17, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 17, 1986, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

General—1—Title: Amendment of Parts 2, 15, and 90 of the Commission's Rules and Regulations to Allocate Frequencies in the 900 MHz Reserve Band for Private Land Mobile Use. Summary: The Commission will consider whether to adopt a Second Report and Order in this proceeding.

General—2—Title: Amendment of Parts 2, 15, and 90 of the Commission's Rules and Regulations to Allocate Frequencies in the 900 MHz Reserve Band for Private Land Mobile Use. Summary: The Commission will consider whether to adopt a Report and Order which addresses release of spectrum in the 900 MHz band for use by the Private Land Mobile Radio Services.

General—3—Title: Amendment of Part 2 and Part 22 of the Commission's Rules systems. Summary: In this proceeding, the Commission considers whether to adopt a proposal to allocate additional frequencies for cellular radio, or alternatively, to adopt a proposal creating a general purpose mobile radio service.

General—4—Title: Amendment of Parts 2, 22 and 25 of the Commission's Rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the Use of Radio Frequencies in a Land Mobile Satellite Service for the provision of Various Common Carrier Services. (GEN Docket 84-1234) Summary: The Commission will consider whether to adopt a First Report and Order to allocate frequencies for a new mobile satellite service (MSS).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

Issued: July 10, 1986.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-16156 Filed 7-14-86; 4:29 pm]

BILLING CODE 6712-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:53 p.m. on Friday July 11, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Farmers State Bank of Clarissa, Clarissa, Minnesota, which was closed by the Deputy Commissioner of Commerce for the State of Minnesota on Friday, July 11, 1986; (2) accept the bid for the transaction submitted by first State Bank of Rush City, Rush City, Minnesota, an insured State nonmember bank; (3) approve the application of First State Bank of Rush City, Rush City, Minnesota, for consent to purchase certain assets of and assume the liability to pay deposits made in Farmers State Bank of Clarissa, Clarissa, Minnesota, and for consent to establish the sole office of Farmers State Bank of Clarissa as a branch of First State Bank of Rush City; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 14, 1986.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-16157 Filed 7-14-86; 4:30 pm]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO.: 86-15697.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 17, 1986, 10:00 a.m.

THE FOLLOWING ITEM HAS BEEN CONTINUED FROM THE MEETING OF JULY 10, 1986: Notice of Proposed Rulemaking 11 CFR 110.3, 110.4, 110.5 and 110.6.

* * * * *

DATE AND TIME: Tuesday, July 22, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

DATE AND TIME: Thursday, July 24, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Draft AO 1986-22—Keith Bland on behalf of WREX-TV
Public financing of Primary and General Election Presidential candidates: Notice of Proposed Rulemaking
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 86–16208 Filed 7–15–86; 2:31 pm]

BILLING CODE 6715–01–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 10, 1986.

TIME AND DATE: 11:00 a.m., Thursday, July 10, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE DISCUSSED: In addition to the previously announced item, the Commission also discussed the following:

2. Secretary of Labor on behalf of James Corbin, etc. v. Sugartree Corporation, etc., Docket No. KENT 84–255–D. (Consideration of Motions)

It was determined by a unanimous vote of Commissioners that this item be included on the agenda and no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–16167 Filed 7–15–86; 9:34 am]

BILLING CODE 6735–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 11, 1986.

TIME AND DATE: 10:00 a.m., Thursday, July 24, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED: The Commission will consider and act upon the following:

1. Kenneth W. Hall v. Clinchfield Coal Company, Docket No. VA 85–8–D. (Issues include whether the administrative law judge properly dismissed the complaintants discrimination complaint.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–16168 Filed 7–15–86; 9:34 am]

BILLING CODE 6735–01–M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, July 23, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 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. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 15, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–16231 Filed 7–15–86; 3:17 pm]

BILLING CODE 6210–01–M

federal register

Thursday
July 17, 1986

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 32 and 52
Federal Acquisition Regulation (FAR); Prompt Payment; Proposed Rule

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 32 and 52

Federal Acquisition Regulation (FAR); Prompt Payment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The proposed rule adopts as Subpart 32.9, Prompt Payment, the provisions of the Prompt Payment Act (Pub. L. 97–177) and the related Office of Management and Budget (OMB) Circular A–125, "Prompt Payment," and Attachments 1 and 2 of that Circular. The proposal also revises Subpart 32.5, Progress Payments Based on Costs, to make it consistent with OMB Circular A–125.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 15, 1986 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW, Room 4041, Washington, DC 20405.

Please cite FAR Case 84–30 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act.

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities because the substance of the FAR changes will not significantly impact the practices that already exist within the Department of Defense and the civilian agencies. The proposed rule flows directly from the Prompt Payment Act (Pub. L. 97–177) and corresponding implementing policies issued by OMB in OMB Circular A–125 and its two attachments. The Act and the OMB Circular are directed toward the objective of helping both small and large entities obtain improved payment of their invoices.

B. Paperwork Reduction Act.

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed FAR revisions do not impose any new information collection requirements that were not already in place in agency procedures. The proposed revisions essentially incorporate the policy and procedures already published in OMB Circular A–125 into the Governmentwide acquisition regulation.

List of subjects in 48 CFR Parts 32 and 52

Government procurement.

Dated: July 11, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 32 and 52 be amended as set forth below:

1. The authority citation for Parts 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 32—CONTRACT FINANCING

2. Section 32.501–2 is amended by removing the word "and" at the end of paragraph (a)(2); by removing the period at the end of paragraph (a)(3) and inserting in its place a semicolon and the word "and"; and by adding paragraph (a)(4) to read as follows:

§ 32.501–2 Unusual progress payments.

(a) * * *

(4) The contractor provides adequate consideration. See 32.501–4.

* * * * *

3. Section 32.501–4 is amended by revising paragraph (b) to read as follows:

§ 32.501–4 Consideration for progress payments.

* * * * *

(b) Occasionally, unanticipated circumstances arise during contract performance which, under the policies of this subpart, result in the contract being amended to provide for (or modify) progress payments. In such cases, adequate new consideration is required.

* * * * *

4. Section 32.502–1 is amended by revising paragraph (c) to read as follows:

§ 32.502–1 Use of customary progress payments.

* * * * *

(c) The contracting officer ordinarily will not provide for progress payments if the contract items are quick turnover types for which progress payments are not a customary commercial practice. Examples of items customarily not subject to progress payments include (1) subsistence, (2) clothing, (3) medical and dental supplies, and (4) standard commercial items not requiring a substantial accumulation of predelivery expenditures by the contractor. If progress payments are granted in a circumstance such as these, the contracting officer shall certify that such financing was in the best interests of the Govenment. The certification shall include full justification and specify the financing cost implications of the Government considered by the contracting officer. The certification shall also become part of the official contract file.

* * * * *

5. Part 32 is amended by adding a new Subpart 32.9, consisting of sections 32.900 through 32.908, to read as follows:

Subpart 32.9—Prompt Payment

Sec.

32.900 Scope of subpart.
32.901 Applicability.
32.902 Definitions.
32.903 Policy.
32.904 Responsibilities.
32.905 Payment standards.
32.906 Determining due dates.
32.907 Interest penalties.
32.908 Contract clause.

Subpart 32.9—Prompt Payment

32.900 Scope of subpart.

This subpart prescribes policies, procedures, and a contract clause for implementing the provisions of the Prompt Payment Act (Pub. L. 97–177) and OMB Circular A–125, "Prompt Payment."

32.901 Applicability.

This subpart does not apply to purchases of utilities (gas, water, electricity) when late payment charges are included in the contract or established by tariff or state regulatory commissions.

32.902 Definitions.

"Invoice payment" means a disbursement of monies under a contract or other authorization for supplies or services rendered by the contractor which have been received and accepted by the Government.

"Contract financing payment" means a disbursement of monies to a contractor for operating capital incidental to contract performance, such as a progress payment, advance payment, and interim cost reimbursement.

"Designated payment office" means the place designated in the contract for forwarding invoices and requests for contract financing payment (e.g.,

disbursing office) or, in certain instances, for approval.

"Prompt payment discount" means an invoice payment reduction voluntarily offered by the contractor if payment is made by the Government prior to the due date. A prompt payment discount may be stated in the contract or annotated on the contractor invoice in terms of discount percentage and discount period (e.g., 2%/10 days). The discount period starts with the later of (1) date of invoice receipt by designated payment office or (2) date of Government's receipt of goods or services rendered by the contractor.

"Payment date" means the date on which a check is issued or an electronic wire transfer is made.

"Proper invoice" means an invoice which meets the minimum standards specified in the Prompt Payment clause at 52.232–25.

"Receiving report" means a written evidence indicating acceptance of supplies or services by the Government official responsible for receiving the supplies or services rendered (see 46.6).

"Days" means calendar days, unless otherwise indicated.

32.903 Policy.

It is the policy of the Government to pay contractors promptly and in accordance with the payment terms specified in the contracts. Such terms will comply with sound cash management practices that adequately protect the financial interests of the Government. Payments will be made as close to but no later than the due date established in the Prompt Payment clause (52.232–25). Prompt payment discounts offered by the contractor shall only be taken when invoice payments are made within the discount period. Agencies shall pay an interest penalty, without request from the contractor, for late invoice payments or improperly taken prompt payment discounts. The interest penalty shall be absorbed from funds available for the administration or operation of the program on which the penalty was incurred.

32.904 Responsibilities.

Agency heads are required to establish the necessary payment practices and procedures that will ensure timely invoice and contract financing payments to the contractor. Such practices and procedures must also comply with cash management controls described in the Treasury Fiscal Requirements Manual 6–8040.20.

32.905 Payment standards.

(a) Invoice payments shall be made as close as possible to, but not later than, the due date established in the Prompt Payment clause at 52.232.25. All payments shall be based on the designated payment office's verification of properly prepared documentation, such as invoices, receiving reports, and contract financing requests.

(b) If an invoice is determined by the designated payment office to be defective, then the contractor must be notified of the defect within 15 days after receipt of the invoice at the designated payment office. This notification of defects period is 3 days for meat and meat food products and 5 days for perishable agricultural commodities.

(c) The receiving report should be submitted to the appropriate office within four work days after Government acceptance, unless other arrangements have been made. The receiving report shall, as a minimum, include the following:

(1) Contract number or other authorization for supplies or services rendered;

(2) Description of supplies or services rendered by contractor;

(3) Quantities received and accepted, if applicable;

(4) Date supplies or services were delivered;

(5) Date supplies or services were accepted by the designated Government official;

(6) Signature, printed name, title, mailing address, and telephone number of the Government official responsible for the receiving report; and

(7) If a certified invoice replaces a separate receiving report, it must also contain the information described in (1) through (6).

(d) The contract financing payment request shall be prepared in accordance with the contract financing terms included in the contract (e.g., Progress Payments clause).

(e) The designated payment office will annotate all invoices, receiving reports, and contract financing requests with the date that the documentation was received by the designated payment office (e.g., date stamp).

(f) Checks will be issued or electronic wire transfers will be made on the same day on which the payment action is dated.

32.906 Determining due dates.

(a) The due date for invoice payment will be the 30th day after receipt of a proper invoice by the designated payment office or the 30th day after the supplies or services are accepted by the Government, whichever is later. Exceptions are noted below:

(1) The due date on contractor invoices for meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), as further defined in Pub. L. 98–181, will be the 7th day after product delivery.

(2) The due date on contractor invoices for agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), will be the 10th day after product delivery, unless another date is specified in the contract.

(3) Agency heads are authorized to prescribe longer periods, if justified.

(b) The Prompt Payment clause at 52.232–25 specifies that, unless otherwise established by the contracting officer under a special provision in accordance with agency procedure, acceptance should occur within 30 days following contractor delivery of supplies or services. If acceptance is not completed within this period and there is no disagreement over quantity, quality, or compliance with any other contract provision, acceptance shall be deemed as having occurred on the 30th day following the date of delivery for the purpose of computing interest penalties. This applies only to the computation of interest penalties, and it does not compel the disbursing officer to make payment prior to obtaining a receiving report.

(c) When a prompt payment discount is taken, payment will be made as close as possible to, but not later than, the expiration of the discount period.

(d) The due date for payment on contratcor financing requests will normally be 5 to 10 days after receipt of a proper contract financing payment request by the designated payment office (early payment is considered to be 2 days after receipt). A longer payment period is authorized if the designated payment office cannot accomodate payment in 5 to 10 days. Agency heads may also adopt longer periods as policy (e.g., 30th day after receipt). Payment before the 5th day is generally unacceptable, unless otherwise determined to be necessary by the agency head.

32.907 Interest penalities.

(a) An interest penalty shall be paid when all of the following conditions are met:

(1) The designated payment office received a proper invoice from the contractor, or if the invoice was defective, the designated payment office failed to give timely notice to the contractor (32.905(b));

(2) The appropriate office obtained a receiving report and there was no disagreement over quantity, quality, or compliance with any other contract provision; and

(3) The designated payment office made invoice payment to the contractor more than 15 days after the due date (3 days for meat or meat food products and 5 days for perishable agricultural commodities).

(b) If the designated payment office failed to notify the contractor of a defective invoice in a timely manner (32.905(b)), an adjusted due date will be established for the corrected invoice. The adjusted date will be the original due date plus the number of days allowed to correct the invoice minus the number of days it took to notify the contractor beyond the notification of defects period. Calculation of an interest penalty, if any, will be based on the adjusted due date.

(c) An interest penalty shall be paid by the designated payment office if a prompt payment discount is taken after the discount period has expired and the resultant underpayment to the contractor is not corrected within 15 days of the expiration of the discount period (3 days for meat and meat food products and 5 days for perishable agricultural commodities). This penalty will be added to the repayment amount and calculated on the discount taken for the period beginning with the first day after the end of the discount period through the repayment date.

(d) The interest rate shall be the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) and published in the **Federal Register** semiannually on or about January 1 and July 1. This rate is referred to as the "Renegotiation Board Interest Rate." The interest period will be inclusive from the first day after the due date through the payment date. The interest penalty amount will be separately stated on the check or the designated paying office's accompanying remittance advice. Adjustments will be made by the designated payment office for errors in calculating interest, if requested by the contractor.

(e) If an interest penalty is owed but not paid, the interest penalty will also accrue interest until it is paid. Any interest penalty remaining unpaid for any 30-day period will be added to the invoice amount, if also unpaid, and interest penalties will accrue monthly on the combined amount.

(f) Interest penalties under the Prompt Payment Act will not continue to accrue (1) after the filing of a claim for such penalties under the Disputes clause (52.233–1) or (2) for more than one year. Interest penalties of less than $1.00 need not be paid.

(g) No interest penalty shall be paid to the contractor as a result of delayed contract financing payments.

(h) Interest penalties are not required on payment delays due to disagreement between the Government and contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld in accordance with terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the Disputes clause.

32.908 Contract clause.

The contracting officer shall insert the Prompt Payment clause at 52.232–25 or an alternate prompt payment clause into all contracts except utility contracts exempted by 32.901. Agency heads are authorized to prescribe alternate clauses which stipulate different standards for determining due dates on invoice payments and contract financing payments or establish different payment procedures (e.g., lease payments).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.232–25 is added to read as follows:

52.232–25 Prompt Payment.

As prescribed in 32.908, the contracting officer shall insert the following clause:

PROMPT PAYMENT (AUG 1986)

(a) The Prompt Payment Act (Pub. L. 97–177), as implemented in Federal Acquisition Regulation Subpart 32.9, applies to all payments made under this contract. This clause stipulates payment terms and the basis for determining interest penalties owed the contractor for late payment by the Government. "Invoice payment" means a disbursement of monies under a contract or other authorization for supplies or services rendered by the contractor which have been received and accepted by the Government. "Contract financing payment" means a disbursement of monies to a contractor for operating capital incidental to contract performance, such as a progress payment, advance payment, and interim cost, reimbursement voucher.

(b) Invoice Requirements. An invoice is the contractor's written request for payment under the contract for supplies or services rendered to the Government. An invoice shall be prepared and submitted to the designated payment office in quadruplicate (one copy shall be marked "original"), unless otherwise specified. A proper invoice must include the following:

(1) Name and address of the contractor;

(2) Invoice date;

(3) Contract number or other authorization for supplies and services rendered (including order number and contract line item number);

(4) Description, quantity, unit of measure, unit price, and extended price of supplies or services rendered;

(5) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading;

(6) Name and address of contractor official or office to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);

(7) Name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice; and

(8) Any other information or documentation required by other provisions of the contract (such as evidence of shipment).

(c) Payment Due Date for Invoices. For purposes of determining if an interest penalty is due:

(1) A proper invoice will be deemed to have been received when it is received by the designated payment office in this contract;

(2) Payment shall be considered made on the date on which a check or wire transfer for such payment is dated;

(3) The payment due date shall be the 30th day from the later of (A) the date of actual receipt of a proper invoice by the designated payment office or (B) the date the supplies or services are accepted by the Government, except as follows:

(i) The due date for meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)) and further defined in Pub. L. 98–181 to include poultry, poultry products, eggs, and egg products, will be the 7th day after product delivery;

(ii) The due date for agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), will be the 10th day after product delivery, unless another date is specified in the contract;

(4) Unless otherwise specified by the contracting officer under a special provision in the contract, the acceptance date for purposes of computing interest penalties owed the contractor shall be deemed to have occurred on the 30th day following the date of contractor delivery of supplies or services, if acceptance has not been completed within this period and there is no disagreement over quantity, quality, or compliance with any other contract provision;

(5) An interest penalty shall not be paid if the designated payment office made invoice payment to the contractor within 15 days after the due date (3 days for meat or meat food products and 5 days for perishable agricultural commodities);

(6) The following periods of time will not be included in the determination of an interest penalty:

(i) The period between the designated payment office's receipt of a defective

invoice and notification of defects to the contractor, but this may not exceed 15 days (3 days for meat or meat food products and 5 days for perishable agricultural commodities); and

(ii) The period between defect notice and resubmission of the corrected invoice by the contractor to the designated payment office.

(d) Contract Financing Payments. Requests for contract financing payments shall be submitted as specified in this contract or as directed by the contracting officer. Contract financing payments will be made as expeditiously as possible, normally within 5 to 10 days but not later than 30 days after receipt of an approved contract financing payment request by the designated payment office. Contract financing payment shall not be assessed an interest penalty for payment delays.

(e) All days referred to in this clause are calendar days.

(End of clause)

Alternate I (Aug 1986). If payment may be made through electronic wire transfer, insert the following as paragraph (f) to the above clause:

(f) Electronic Wire Transfer. Payments under this contract will be made by the Government either by check or wire transfer (through the Treasury Financial Communications System (TFCS) or the Automated Clearing House (ACH)), at the option of the Government.

(1) For payment through TFCS, the contractor shall include the following information with each invoice of $25,000 or more (excluding prompt payment discount):

(i) Name, address, and telegraphic abbreviation of the financial institution receiving payment;

(ii) The American Bankers Association 9-digit identifying number of the financial institution receiving payment if the institution has access to the Federal Reserve Communications System;

(iii) Payee's account number at financial institution where funds are to be transferred; and

(iv) If financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains electronic funds transfer messages. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(2) For payment through ACH, the contractor shall include the following information with each invoice:

(i) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for TFCS);

(ii) Number of account to which funds are to be deposited;

(iii) Type of depositor account ("C" for checking, "S" for savings);

(iv) If the contractor is a new enrollee to the ACH system, an SF 1199A, "Direct Deposit Sign-up Form," must be completed before payment can be processed. Contractors can obtain this form at any financial institution.

[FR Doc. 86-16044 Filed 7-16-86; 8:45 am]

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federal register

Thursday
July 17, 1986

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Improved Seat Safety Standards; Proposed Rule

Availability of Proposed Advisory Circulars on Analytic Methods on Impact Dynamics and Dynamic Evaluation of Transport Airplane Seats; Notices

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 25040; Notice No. 86-11]

Improved Seat Safety Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to upgrade the standards for occupant protection during emergency landing conditions in transport category airplanes by revising the passenger restraint requirements and impact injury criteria. These proposed changes are based on the results of research testing and service experience and are intended to increase airplane occupant protection during emergency landing conditions.

DATE: Comments must be received on or before January 14, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25040, 800 Independence Avenue SW., Washington, DC 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked: Docket No. 25040. Comments may be inspected in Room 916 weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Iven Connally, Regulations Branch (ANM-112), Transport Standards Staff, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2120.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in duplicate, to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. Substantive changes to these proposals will be evaluated as to their significance and, if appropriate, a supplemental notice of proposed rulemaking will be prepared and issued to seek public comment on the alternative proposals. All comments will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25040." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

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

Background

The standards currently contained in Part 25 of the Federal Aviation Regulations (FAR) concerning the strength of seats, berths, and safety belts in transport category airplanes have evolved from the simple Department of Commerce requirement contained in Aeronautics Bulletin 7-A, as amended January 1, 1932, which stated, "Seats or chairs, even though adjustable, in open or closed airplanes shall be firmly secured in place. . . ." Bulletin 7-A also contained a requirement that seat belts must be strong enough to withstand a tensile load of 1,000 pounds per belt occupant. Bulletin 7-A was later recodified as Part 04 of the Civil Air Regulations (CAR) which specified that the seats must be strong enough to withstand loads of 170 pounds multiplied by the design load factors of the airplane. One hundred and seventy pounds was, and still is, considered to be the minimum occupant weight for which a seat must be designed. These strength requirements remained in Part 04 until it, in turn, was recodified as Parts 03 and 04b of the CAR for normal, utility, and acrobatic categories and transport category, respectively.

In order to enhance the protection of occupants in an emergency landing, Parts 03 and 04b were amended in 1946 to include the following load factors:

	Part 04b—Transport category	Part 03	
		Normal and utility categories	Acrobatic category
Forward	6.0g	9.0g	9.5g
Sideward	1.5g	1.5g	3.5g
Downward	4.5g	3.0g	9.5g
Upward	2.0g	(1)	(1)

(1) None specified.

These regulations required that safety belts sustain the emergency landing loads and that seats sustain the most critical of the emergency landing loads, flight loads, landing loads, and pilot forces. The forward load factor for acrobatic category airplanes was subsequently reduced to 9.0g.

Shortly after Parts 03 and 04b were reidentified as Parts 3 and 4b, respectively, a safety factor of 1.33 was applied to each of the above load factors for seat and safety belt attachments in 1952. Part 4b was also amended at that time to increase the forward emergency landing load factor for transport category airplanes from 6.0 to 9.0g. Part 4b was recodified as Part 25 of the FAR is 1965; however, the emergency landing load factors have remained unchanged since 1952.

In the meantime, a system was developed to enable the manufacturers of certain articles (i.e., materials, parts, processes or appliances) to control the design and quality of those articles. Generally, the articles involved were vendor items that were used on several different aircraft models. In this regard, standards appropriate to the article involved were developed and issued in the form of a Technical Standard Order (TSO). The standards contained in a

TSO are generally based on standards developed by an industry professional group. Because a TSO is not a "rule" within the meaning of the Administrative Procedure Act, compliance with the standards contained in a TSO is not mandatory. If, however, the manufacturer of an article elects to show compliance with an applicable TSO, he is authorized by the FAA to mark the article accordingly. Such FAA authorization, in effect, acknowledges that the article meets the standards of the TSO. The TSO authorization does not necessarily relieve the aircraft manufacturer of all responsibility for the article because the certification basis for the aircraft may contain requirements that go beyond the standards of the TSO. The aircraft manufacturer is not required to use articles that have TSO authorization; however, in the absence of TSO authorization, the standards of the TSO frequently serve as an acceptable means of compliance with objective certification rules.

One of the earliest sets of standards issued under the TSO system was TSO–C22 applicable to safety belts. This TSO incorporated by reference National Aircraft Standards (NAS) Specification 802 as revised May 15, 1950, with certain specified exceptions. The strength standards of TSO–C22 have remained unchanged since that time.

Similarly, TSO–C25 adopted the standards of NAS Specification 806, as revised January 1, 1956, with certain specified exceptions, for seats and berths. Seats and berths authorized under TSO–C25 were known as "Type I transport (6g forward load)" seats. Because seats and berths authorized under this TSO did not meet the 9g forward load requirement, they were not eligible for installation on transport category airplanes with certification bases subsequent to the 1952 amendment of Part 4b.

Technical Standard Order-C39 was subsequently issued for seats and berths used in other aircraft. This TSO adopted the standards of NAS Specification 809 dated January 1, 1956, again with certain specified exceptions. Seats intended for use in transport category airplanes were designated as "Type I transport (9g forward load)." This TSO also established standards for Types II, III, and IV seats used in normal and utility category airplanes, acrobatic category airplanes, and rotorcraft, respectively. Unlike the earlier NAS Specification 806, Specification 809 specified load application points and a test block that represented the geometry of a seat occupant.

Consideration was given to increasing the emergency landing load factors in 1969 and 1975. Notice of Proposed Rulemaking (NPRM) 69–33 (34 FR 13036; Aug. 12, 1969) proposed to increase the upward and sideward load factors for transport category airplanes to 4.5g and 3.0g, respectively; and NPRM 75–26 (40 FR 24802; June 10, 1975) proposed to specify the safety belt strength of normal, utility, and acrobatic category airplanes, based on representative accident conditions, and the addition of a rearward load factor of 1.5g for transport category airplanes. In both instances, commenters indicated that the proposed changes were unrealistic and unnecessary and that the resulting increase in airplane weight would cause an undue economic burden. In view of the prevailing state-of-the-art in seat design, understanding of crash dynamics and service record, the FAA concurred. Each proposal was withdrawn, accordingly.

Discussion

Current Seat Requirements

Current standards concerning design and performance of transport category airplane seats are contained in §§ 25.785 (Seats, berths, safety belts, and harnesses) and 25.561 (Emergency landing conditions), and in TSO–C39a (Seats). Section 25.785(a) requires that each seat (including a crewmember seat as well as a passenger seat), berth, safety belt, harness, and adjacent part of the airplane be designed such that the occupant that experiences the inertial forces specified in § 25.561 will not suffer serious injury in an emergency landing. The inertial forces of § 25.561(b) are specified as ultimate forces experienced by the occupant. These load factors are stated in subparagraph (b)(3) as 2.0g upward, 9.0g forward, 1.5g sideward, and 4.5g downward (except that a lesser force that will not be exceeded when the airplane absorbs the landing loads resulting from impact with an ultimate descent velocity of five f.p.s. at design landing weight may be used for downward loads). There is no specific requirement for passenger seat strength in the rearward direction. These load factors also apply to the supporting structure of each item of mass that could injure an occupant if it came loose in a minor crash landing.

Section 25.785(i) requires that "each seat, berth, and its supporting structure must be designed for an occupant weight of 170 pounds, considering the maximum load factors, inertial forces, and reactions between the occupant, seat, and safety belt, harness or both, at each relevant flight and ground load condition (including the emergency landing conditions prescribed in § 25.561)." Section 25.785(i)(2) further requires that pilot seats be designed for the reactions of pilot control forces. Section 25.785(i)(3) requires that the inertial forces specified in § 25.561 must be multiplied by a factor of 1.33 in determining the strength of attachments to the structure of seats, berths, belts, and harnesses.

The structural analysis and testing of seats, berths, and their supporting structure may be determined: (1) By assuming that the critical load in each direction acts separately; and (2) by using selected load combinations if the strength in each specified direction is substantiated.

Technical Standard Order-C39a, which adopted NAS–809, gives strength standards corresponding to those contained in the respective Parts of the FAR:

	Part 25—Transport	Part 23—Normal and utility	Part 23—Acrobatic	Parts 27 and 29—Rotorcraft
Upward	2.0g	3.0g	4.5g	1.5g
Forward	9.0g	9.0g	9.0g	4.0g
Sideward [1]	3.0g	3.0g	3.0g	2.0g
Downward	[2]6.0g	[2]7.0g	[2]9.0g	[4]4.0g
Rearward: [3]				

450 lbs. 300 lbs. for G.W. less than or equal to 5,000 lbs.
450 lbs. for G.W. greater than 5,000 lbs.

[1] The TSO specifies that the sideward load given in NAS-809 need not exceed the requirements of the applicable Part.
[2] The reason for the down loads exceeding those prescribed in the emergency landing conditions of the applicable Part is to provide for the reduced weight gust load factor or special landing requirements which, in some cases, may be greater than the emergency landing loads.
[3] Pilot and copilot seats only.

Technical Standard Order-C39a requires static testing of seats to demonstrate compliance with the strength requirements. A static test block is specified for use in static testing, and the load application points are defined for forward, sideward, and rearward facing seats.

Studies

It has been generally recognized in recent years that improvements in passenger survivability during minor crash landings may be achievable without imposing an undue engineering or economic burden. To this end, the FAA and NASA Langley Research Center contracted with airplane manufacturers to review and evaluate transport airplane accident data and define areas where possible improvement in passenger safety could be achieved on transport airplanes in survivable accidents (see References Nos. 1–4).

Additionally, the FAA Technical Center, along with the Civil Aeromedical Institute (CAMI), recently released a report entitled, "Crash Injury Protection in Survivable Air Transport Accidents—U.S. Civil Aircraft Experience from 1970 to 1978" (see Reference No. 5). The purpose of this report was twofold: (1) to compile a data base on passenger seat and restraint system performance in survivable accidents, and (2) to determine if a correlation exists among occupant, seat and restraint system performance, airframe and floor deformation, and passenger injuries and fatalities.

Based on the FAA assessment of the above studies, four major areas of concern that must be addressed in order to achieve the goal of improved occupant restraint and protection became apparent:

1. A definition of the survivable crash environment is necessary in order to establish crash loads and displacements.

2. An understanding of the crash response mechanism of structural components and of the complete airplanes in these scenarios is required.

3. Validated analytical modeling and test engineering methods must be developed.

4. Human factors and injury mechanisms for occupants of transport category airplanes must be defined.

On September 21, 1984, the FAA published an outline of its intentions to establish state-of-the-art seat and occupant restraint system design standards (49 FR 37111; September 21, 1984). These seat and occupant restraint system design standards were envisioned on the basis of results stemming from the agency's current crash dynamics engineering and development program. This program, which was fully addressed under the aforementioned FAA outline, includes elements such as the quantification of the impact characteristics of current airplanes, the development of analytical modeling techniques, full-scale component and airplane impact testing, and the assessment of human impact injury criteria.

The generation of data and initial anaylses of these data for the crash dynamics engineering and development program have been completed. Although the final data analyses have not been completed, the initial analyses provide sufficient insight for the definition of dynamic performance standards for transport category airplane seats. The FAA intends to aggressively pursue completion of the data analyses concurrent with consideration of comments received in response to this notice to expedite completion of this rulemaking action. The seat and occupant restraint system standards proposed in this notice could be modified somewhat, if warranted, by the final data analysis. If substantive changes are deemed appropriate to the seat strength standards proposed herein, the FAA will develop an appropriate supplemental notice and seek public comment prior to their adoption.

An evaluation of the crash dynamic characteristics of transport category airplanes indicates that the present Part 25 requirements, with a few exceptions, provide adequate protection for the occupants. A review of existing accident data has shown that, for survivable accident scenarios, the airplane structure remains substantially intact and provides a livable volume for the occupants throughout the impact sequence. This finding was confirmed by the results of the FAA/NASA controlled impact demonstration involving a remotely controlled, fully instrumented transport category airplane. From preliminary review of accident data, it was found that incidents of undesirable seat performance were usually related to cabin floor displacement and excessive lateral inertial loads. From those studies, it became evident that the identified seat deficiencies could be eliminated by establishing dynamic test standards providing the same level of impact injury protection and structural performance as that provided by the airplane structure itself. In this regard, dynamic test standards representative of two distinct survivable impact scenarios were developed. These standards, which are defined in the form of cabin floor pulses and respective performance standards, provide a means of demonstrating the occupant impact protection feature of seats and ensure that the level of safety provided by the seats is consistent with that provided by the airplane structure.

In order to establish dynamic test standards, it is essential to understand the mechanics and interrelationship of the crash event, the airplane structure and furnishings, and the occupants. To that end, the FAA has previously noted its intent to use crash dynamics analytical techniques in the development of dynamic test standards for transport category airplane seats. The weighted dependency of the transport crash dynamics program on analytical techniques stems from the fact that few full-scale impact tests have been conducted with current generation transport airplanes as compared to those with general aviation airplanes and rotorcraft. In the absence of a comparable comprehensive, full-scale impact test data base, analytical methods provide the best means to evaluate the many variations in crashes, airplane structural differences, and the occupants' responses to those variables.

The dynamic test standards proposed in this notice were derived from a combination of interim crash dynamics analytical modeling tecniques, full-scale transport category airplane fuselage section drop tests, transport category airplane seat dynamic tests, and full-scale transport category airplane impact tests. The correlation of the crash dynamics analytical modeling techniques with the results of the FAA/NASA controlled impact demonstration and the respective parametrical studies continues. The final results of these analyses are not expected to significantly change the proposed dynamic performance standards but will serve to further substantiate their content.

The airframe and seat manufacturers also assisted in the development of the proposed criteria by conducting feasibility studies of seat designs which would meet the criteria without imposing a severe weight penalty. Current production seats and seats designed to meet the new criteria were extensively tested to determine redesign requirements and associated weight penalties, if any.

The seat and occupant restraint system standards proposed in this notice will apply only to transport category airplanes for which application for a type certificate is made after the effective date of the proposed rules. These standards could, however, be made applicable to existing transport category airplanes on a retrofit basis or future production airplanes, if warranted, by future rulemaking. Commenters are therefore specifically invited to forward information concerning the cost and operational impact that would result from such future rulemaking.

Proposed Changes

The present rules require occupant restraint systems of transport category airplanes to be tested to static ultimate loads to demonstrate that a seat has the strength and other properties required to provide the desired performance in all the principal loading directions. Although the dynamic nature of crash loads was recognized early, it was not practical; and, for some configurations, it was not possible to realistically account for all parameters affecting dynamic crash loads. For this reason, a static load condition was selected which

would accommodate the high peak impulse type loads, to the extent possible with the prevailing state-of-the-art, and yet withstand a relatively high sustained load.

As a direct result of knowledge gained from the agency's crash dynamics program, dynamic test standards for seats of transport category airplanes are now proposed. Such standards could demonstrate both occupant response and seat/restraint system structural performance; and they would provide a more representative evaluation of the interaction of the occupant, the seat, and the restraint system, and yield data for impact injury analyses.

Two dynamic test conditions were selected based on impact scenarios developed from analyses of survivable ground impact data. The combined vertical and longitudinal test condition stimulates ground impact following a high rate vertical descent. This test condition emphasizes occupant vertical loading and evaluates the means provided to reduce spinal injury under the loads typically resulting from an impact of this nature. The second test, with a predominately longitudinal component, simulates horizontal impact with a ground level obstruction. This test condition is proposed to provide an assessment of the occupant restraint system and seat structural performance. The selection of these two dynamic test standards is consistent with the results of the crash scenario studies. Based on the analyses completed to date, the dynamic test standards proposed in this notice are considered appropriate for all transport category airplanes, regardless of size. Should the completion of data analyses or pubic comments indicate that airplane size is a significant factor, the standards contained in any final rule resulting from this notice could be modified for certain sizes of airplanes, as warranted.

The seat dynamic tests proposed in this notice would be conducted with an anthropomorphic dummy meeting the standards of 49 CFR Part 572, or equivalent. This dummy is an accepted industry standard that provides a level of repeatability. The 170 pound, 50th percentile dummy was selected because it would provide the most injury protection for the widest range of occupant weights. For example, a seat design optimized for a lightweight occupant, i.e. 5th percentile, could bottom out or collapse if occupied by a significantly heavier occupant. A seat designed optimized for a heavy weight occupant, i.e. 95th percentile, may be excessively rigid, absorb little impact energy, and thus result in spinal injuries if occupied by a significantly lighter occupant.

An integral part of any test procedure is definition of the pass or fail criteria. This notice addresses the pass or fail criteria by defining a performance criteria that directly relates selected parameters measured during the dynamic test to injury criteria based on human impact injury limits. By using the proposed performance criteria, the occupant/seat protection system's potential for preventing or minimizing injuries from both primary and secondary impacts would be evaluated. Several possible human impact injury criteria that addressed all areas of the human body, such as the head, chest, lower torso, and extremities, were evaluated. Data sources included military specifications, Federal motor vehicle safety standards, and other available literature. It was concluded that the performance criteria should ideally protect an occupant from debilitating injuries. The performance criteria should also be easily and repeatedly measured for practical application and user acceptance.

Of primary concern are secondary head impacts which can inflict debilitating injuries and result in concussion and unconsciousness. The most widely used and accepted measure of potential head injury, which is adopted for this proposal, is the Head Injury Criterion (HIC), used in Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). As proposed, the HIC would be applied when the results of the seat dynamic tests show that structure or other equipment items are within the occupant's head strike envelope. That determination could be made by replicating in the dynamic test any structure or other equipment items located in the proximity of the occupant. The head's acceleration time history would then be measured during the dynamic test and evaluated with the HIC should secondary impact occur. The transport airplane seat dynamic test series conducted at the FAA Civil Aeromedical Institute (CAMI) indicated that secondary head impacts with current transport category airplane seat backs typically result in values of HIC less than the proposed pass or fail criteria. Some seats with stub seat backs or localized projections may, however, not comply with the proposed pass or fail criteria, and the HIC would provide a quantitative assessment of those designs.

Spinal injuries are frequently incurred in airplane crashes. The Dynamic Response Index (DRI), which is based on a single, lumped-mass, damped spring model of the spine and respective supported mass, has traditionally been used to predict probability of spinal injury in the performance evaluation of airplane ejection seats. The DRI has been correlated with ejection seat testing and service experience to provide a level of confidence for the application. Inherent differences in function, geometry, dynamic pulse exposure, and occupant restraint between transport category airplane seats and ejection seats, and the difficulty of selecting the most representative acceleration measurement point in the occupant/seat systems did, however, make direct application of DRI as a performance criteria for transport category airplane seats appear questionable. A series of dynamic tests of seats in various impact orientations was, therefore, studied by CAMI to relate the DRI, determined from measured accelerations at the seat pan, to pelvic loads measured in the spinal base of a modified Part 572 anthropomorphic dummy. Additional testing with transport category airplane seats with a lap belt restraint system indicated that the pelvic load peaks while the modified Part 572 anthropomorphic dummy is still seated in a predominately upright position. These tests show that the spinal load injury criteria developed during the DRI/pelvic load correlation dynamic tests do have application for the assessment of the dynamic performance of transport category airplane seats. A 1500 pound pelvic load is proposed as a performance criterion to assess the probability of spinal injury in evaluating the results of the proposed seat dynamic tests. This would be a straighforward, easily measured quantity that would require no additional analysis or interpretation and that would assure a low probability of spinal injury.

Some persons have suggested that seats should be designed for a forward impulse load of 20g. It must be noted that the load factor alone does not define an impulse load. Equally significant are the pulse duration and change in velocity during the pulse. While pulse durations and changes in velocity appropriate to 20g could have been proposed, the resulting tests would have an increased impact velocity and less crash energy. Because energy is a critical factor in demonstrating both the structural performance of the seat and restraint system as well as crash injury protection, such criteria would not provide a higher level of safety. Further, extensive redesign of floor and other fuselage structure would have been necessary in order to retain the seats

under the much higher loading conditions. Instead, peak load factors, pulse durations, and changes in velocity consistent with the capabilities of typical transport airplanes in crash were selected for this proposed rulemaking.

The crash scenario investigations have shown that localized cabin floor deformation can occur in survivable crashes. This has been confirmed by the controlled impact demonstration and drop tests involving transport category airplanes. The inability of some seats to accommodate such deformation, remain in place, and restrain the occupants can contribute significantly to the degree of injury. A requirement that floor deformation be simulated during the dynamic tests is therefore proposed as a means of demonstrating the tolerance of the seat attachments to the floor deformation that could occur in an actual crash.

In conjunction with the proposed seat dynamic test standards, the static strength requirements of § 25.561(b)(3) would also be increased where warranted. Present industry design standards, with certain exceptions, are providing adequate protection for the occupants of transport category airplanes. Section 25.561(b)(3) would be amended to reflect current industry practice and to ensure that the current level of safety is maintained. The lateral static strength requirement of § 25.561(b)(3)(iii) would be further increased to 4.5g to be more consistent with the lateral strength of the airframe and to provide additional protection for the occupants in a yawed, horizontal impact. The increased lateral static strength would also limit the obstruction of aisle space that could otherwise hinder rapid evacuation of the airplane occupants. A rearward static strength requirement of 1.5g would be added because rearward facing compartments have failed in crashes due to rebound loads. This would ensure that such compartments would not fail and allow their contents to fall on occupants. Seats, items of mass, and their support structure would generally be able to meet this rearward strength requirement because of the much greater strength requirements in the forward and lateral directions.

It must be noted that other sections of Part 25, such as §§ 25.785, 25.787, 25.789, and 25.963 incorporate the static strength requirements of § 25.561(b)(3) by reference. Consideration was given to applying the increased static strength requirements only to seats and seat support structure. This approach was not pursued further because it would be inconsistent not to protect occupants from items of mass that come loose under the same crash conditions that the seats must withstand. Section 25.963 pertains to fuel contained within the fuselage compartment. Again, it would be inconsistent not to protect occupants from fire due to a ruptured fuel tank under the same crash conditions that the seats must withstand. As a practical matter, however, the current 9g forward load factor would generally remain the critical design condition for such tanks.

Section 25.561(d) and a corresponding provision in new § 25.562 would be added to clarify that the rapid evacuation of occupants following impact must not be impeded by structural deformation.

In summary, this amendment would increase the capability of the occupant seat and restraint system of transport category airplanes to absorb a crash impact and to provide occupant protection from items of mass that may become loose on impact. The principal elements of the proposals are to:

1. Add two specific dynamic impact conditions that are related to a floor level pulse and to associated occupant and seat restraint conditions.

2. Add a standard requiring use of an anthropomorphic test dummy (ATD), as defined by 49 FR 572, Subpart B (a 50-percentile male), or equivalent, for the seat and occupant restraint assessment during the emergency landing dynamic impact conditions.

3. Add performance criteria for human tolerance to impact. Loads or test values measured on the ATD must not exceed the criteria.

4. Increase the static design load factors for occupant restraint.

5. Increase the static design load factors on items of mass located in the passenger or crew compartment that may injure an occupant if the object came loose in an emergency landing.

6. Add a requirement to restrain passengers and fixed items of mass to 1.5g in the rearward direction.

References

The following reports have been included in the docket and are available for public inspection. In addition, copies may be obtained from the National Technical Information Service, Springfield, Virginia 22161.

1. NASA Contractor Report 166089, FAA Report DOT/FAA/CT-83-23, Analytical Modeling of Transport Aircraft Crash Scenarios to Obtain Floor Pulses (April 1983).

2. NASA Contractor Report 165851, FAA Report DOT/FAA/CT-82/69, Transport Aircraft Crash Dynamics (March 1982).

3. NASA CR-165849, DOT-FAA-CT-82-86, Commercial Jet Transport Crashworthiness (1982).

4. NASA Contractor Report 165850, FAA Report No. FAA-RD-74-12, Transport Aircraft Accident Dynamics (March 1982). This report is also published as FAA Report DOT/FAA/CT-82-70.

5. FAA Report DOT/FAA/CT-82-118, Crash Injury Protection in Survivable Air Transport Accidents—U.S. Civil Aircraft Experience from 1970-1978, (March 1983).

6. DOT/FAA/CT-83/42, NASA-TM-85654, Structural Response of Transport Airplanes in Crash Situations (November 1983).

7. DOT/FAA/CT-84/10, Seat Experiments for the Full-Scale Transport Aircraft Controlled Impact Demonstration (February 1985).

Economic Impact

This economic impact statement focuses on the costs and benefits of the proposal as it relates to passenger seats. The proposed standards also apply to crewmember seats, but these seats are expected to require little or no change because many are equipped with shoulder harnesses and are of stronger construction. In addition, they represent only a small potential economic impact compared to passenger seats. The airplane structure and interior are not expected to require any modification and, therefore, there is no cost impact.

Benefits

It is difficult to determine the reduction in prospective casualty loss that may result from this proposal to improve the safety of passenger seats. It involves estimating casualty loss that would occur from presently designed seats that would not occur from seats designed to improved standards. Identification in accident reviews of fatalities or injuries caused by lack of seat strength or seat attachment deficiencies is difficult because of incomplete knowledge of the crash dynamics, injury mechanisms, and survivor testimony relating to the crash. In addition, post-crash fires consume necessary data. Nevertheless, there are some data available which can offer insight into prospective benefits.

The FAA has reviewed many accidents to determine seat performance. The following conclusions concerning seat adequacy were noted in the FAA study of March 1983 (Reference No. 5): "Although injuries and fatalities seem to be decreasing in the more recent survivable crashes, seat performance continues to be a factor in these crashes. Failures ranging from seat pan collapse to complete breakaway of the seat assembly from the floor are reported. Floor or cabin deformation frequently is a cause of seat failure. Failing injuries, due to either bending over the restraint system or secondary

impact with the aircraft interior, appear to be common."

The study indicated that there were 327 fatalities and 294 serious injuries to passengers involved in accidents where seats could have been a contributing factor. The FAA estimates that as a result of improvements in fire safety, in the air traffic control system, in training of crewmembers and in the aircraft, the prospective casualty rate will be 50 percent of that in the study.

As mentioned previously, it is impossible to calculate the number of persons who would have become casualties with the existing standards that would be saved because of the new standards. A review of the analysis of the accidents indicates that it is likely that only a small percentage of the passengers would be helped. FAA estimates that there would be about 3 to 15 percent reduction in fatalities and about a 2 to 9 percent reduction in serious injuries. Based on the 3 to 15 percent reduction in fatalities, it is estimated that there would be a reduction of 1.5 to 7.5 fatalities per million seats per year, or half that for the current fleet size of 500,000 seats.

Costs

Generally, the FAA determines costs by questioning the most knowledgeable people and comparing their data with its own. In this case, several seat manufacturers were queried but they preferred not to provide data at this time pending the results of tests of current seats to determine the feasibility of designing and producing seats that would meet the proposed standards. Delays in testing and analysis may occur, and the results of cost estimates are likely to be controversial. Nevertheless, this is an important safety matter that has generated substantial public interest. For this reason, the FAA has decided to proceed with rulemaking with the realization that advances in the state-of-the-art for seat design discussed below and public comment may impact the cost estimates.

Some insight can be gained by examining some of the components of the cost. There are two basic elements in the cost of a seat: the increase in manufacturing cost, and cost impact of any increase in the weight of the seat. Seats for transport category airplanes each currently range in price from about $1,000 to $1,200 and weigh about 19 to 22 pounds.

The proposal is likely to require changes in the design of the current seat. The cost elements for a newly designed seat consist of the fixed and variable costs. The fixed costs are composed of the following:

1. Engineering design.
2. Construction of prototypes.
3. Development and certification testing.
4. Tooling and training.
5. Documentation.

Not all the fixed costs will be attributable to this proposal since new designs are periodically produced as part of the normal process in seat manufacturing. Improvements are normally made in aesthetics, configuration, comfort, weight, durability, and manufacturing efficiencies. The cost allocation that would result from this proposal and other improvements is open to question. At least half the costs would be attributable to improvements other than those required by this proposal. Because only about half of the fixed cost would be attributable to this proposal and about 200,000 seats would be manufactured in a 10-year period, the fixed cost per seat should be modest. As shown in Table 1, the FAA estimates the fixed costs for five manufacturers to be $1.1 million with a range of plus or minus half that.

The variable cost or recurring costs consist of the materials, labor, and expendables used in the manufacture of the seat. The additional materials are likely to be less than 2 or 3 pounds of metal, including scrap, and thus contribute only modestly to cost. Additional labor requirements are also expected to be modest, since basically the same work tasks will be done. For example, the time to forge two similar but slightly different structural elements is likely to be the same. The FAA estimates the increase in fabrication costs to be about 3 percent or $33.

Table 1.—Seat costs

Development Cost (Fixed Cost)	
Design Cost—1,000 hours @ $75 per hour (assumes one iteration of design)	$75,000
Prototype Cost—20 seats @ $5,000 per seat (assumes two different prototypes)	100,000
Testing Cost—10 seats @ $4,000 per seat (assumes testing of two different designs)	40,000
Tooling Costs	200,000
Documentation	25,000
Total one time cost/manufacturer	$440,000
Five Manufacturers—Total	$2,200,000
Attributable to seat standard 50 pct	$1,100,000
Fabrication (estimated at 3 pct)	$33
Weight Increase (3 pct)	0.6 lbs.
Additional gallons of fuel/year	9
At $.80/gallon	$7.20/seat/year.

The increase in weight of the structure that would result from this proposal cannot be determined with any certainty at this time. The FAA estimates the weight increase to be 0.6 pounds at this time. Weight increase is a significant cost to the industry. Each one pound of weight increase can cause 15 gallons of additional fuel burn per year. At 80 cents per gallon, this is $12 per pound/year; however, through improved design and the use of higher strength to weight materials, the weight of a newly designed seat meeting the proposed standards may actually be lighter than the present seat.

The service life of a seat can vary widely. Some seats have been in service for more than 20 years. Others are replaced earlier because the operators want higher density seating or lower seat weights. For the purpose of this analysis, the life of a seat will be assumed to be 10 years.

The annual seat cost is developed by annualizing the development cost (fixed cost) over a 10-year period at a 10 percent discount rate and adding it to the annualized seat fabrication cost and the cost of the increased weight. The total estimated annual cost as indicated in Table 2 is estimated to range from $11 to $43.

Table 2.—Annualization of seat costs

Development Costs	$1,000,000
Annual Cost (10 years—10 percent discount rate)	$179,000
Number of Seats/Year	20,000
Cost/Seat/Year	$9.00
Fabrication Cost/Seat/Year	5.40
Weight Penalty	7.20
Total Cost/Seat/Year	21.60

Range in costs (.05 to 2): $11 to $43 per seat per year.

The FAA expects that, with the exception of seats, there will be no need to modify the airplane structure, interior furnishings, or the occupant restraint systems as a result of the proposal and therefore estimates that there will be no additional costs for these items.

The cost estimates in this analysis reflect the best information currently available to the FAA but, for reasons that follow, the range of costs cited earlier are, in fact, the upper limit of costs likely to be encountered. Preliminary testing indicates that one seat manufacturer is producing seats that apparently already meet the dynamic test requirements of the proposal. If this is proven to be so it is likely that other manufacturers may likewise produce seats meeting the proposed standards and, therefore, the proposed rule will have only minimal cost impact to the aviation industry. If

all or most seat manufacturers produce seats meeting this proposed standard prior to its adoption, no cost of meeting the proposed seat test standards will be attributable to this NPRM. To fully ascertain and evaluate the cost impact of recent advances in the state of the art of seat design the FAA strongly urges industry and the public to provide whatever data, information or comments they may have relating to this proposal.

Comparison of Benefits and Costs

As previously mentioned, the benefits are expected to range between 1.5 to 7.5 fatalities avoided per million seats per year, and the cost per seat per year is expected to range from $11 to $43 or $11 million to $43 million based on 1,000,000 seats. Therefore, using the range of cost discussed earlier, which we believe represents the upper limit of cost likely to be encountered, the costs per fatality avoided can range from $1.5 million, based on $11 million total cost and 7.5 fatalities, to $28.7 million, based on $43 million total cost and 1.5 fatalities. While these proposals do not promise to provide financial benefits equal to their monetary cost when subjected to the economic evaluation conducted to date, they do offer unquantifiable benefits to society which outweigh their cost. Although the impact of additional cost should never be minimized, air carriers and the traveling public stand to benefit to the extent that such costs purchase additional increments of safety.

This proposed rulemaking is an integral part of the overall FAA plan to improve transport category airplane occupant safety. The true benefits of the proposed rulemaking, taken in conjunction with the other FAA rulemaking concerning occupant safety, are actually broader than those identified in this comparison of benefits and costs due to the synergistic effect of the proposal together with benefits from the other evolving occupant safety enhancements.

The FAA concludes that the proposed changes to Part 25 contained in this notice are warranted because they will contribute to an overall enhancement of transport category airplane safety and utility which will both promote and enhance public confidence in, and utilization of, the U.S. air transportation system.

A Regulatory Evaluation containing additional details on costs and benefits is provided in the docket relating to this NPRM.

Trade Impact

The proposal would have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the U.S. In the U.S., foreign manufacturers would have to meet U.S. requirements and thus would gain no competitive advantage. In foreign countries, foreign manufacturers could have some minor cost advantage if the foreign airline did not require the improved seat. However, U.S. manufacturers could continue the manufacture of the current type seats for the foreign market, and thus little impact is anticipated.

Regulatory Flexibility

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The proposal would change Part 25 of the FAR. Part 25 prescribes airworthiness standards for the issue of type certificates for transport category airplanes. The FAA size threshold for a determination of a small entity for airplane manufacturers is 75 employees; that is, any airplane manufacturer with more than 75 employees is considered not to be a small entity. The manufacturers of transport category airplanes, such as Boeing, Gates Learjet, and McDonnell Douglas, are all large manufacturers. It is clear that this proposal does not impact small entities.

Conclusion

For the reasons given earlier in the preamble, the FAA has determined that this is not a major regulation as defined in Executive Order 12291; and the FAA certifies that this regulation, if promulgated, would not have a significant economic impact on a substantial number of small entities. Since this regulatory document concerns a matter on which there is substantial public interest, the FAA has determined that this document is significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety, Tires.

The Proposed Amendment

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

Accordingly, the Federal Aviation Administration (FAA) proposes to amend Part 25 of the Federal Aviation Regulations (FAR), 14 CFR Part 25, as follows:

1. The authority citation for Part 25 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983), 49 CFR 1.47(a).

2. By amending § 25.561 by revising paragraphs (b)(3) (i), (iii), and (iv), and by adding new paragraphs (b)(3) (v) and (d) to read as follows:

§ 25.561 General.

* * * * *

(b) * * *

(3) * * *

(i) Upward—3.5g.

* * * * *

(iii) Sideward—4.5g.

(iv) Downward—6.5g.

(v) Rearward—1.5g.

* * * * *

(d) Seats, items of mass, and their supporting structure must not deform under any loads up to those specified in paragraph (b)(3) of this section in any manner that would impede subsequent rapid evacuation of occupants.

3. By adding a new § 25.562 to read as follows:

§ 25.562 Emergency landing dynamic conditions.

(a) The airplane must be designed as prescribed in this section to protect each occupant during an emergency landing condition when—

(1) Proper use is made of seats, safety belts, and shoulder harnesses provided for in the design; and

(2) The occupant experiences ultimate dynamic loads resulting from the conditions prescribed in this section.

(b) Each seat approved for crew or passenger occupancy during takeoff and landing must successfully complete dynamic tests, with an occupant simulated by a 170 pound, anthropomorphic test dummy, as defined by 49 CFR Part 572, Subpart B, or its equivalent, in accordance with each of the following emergency landing conditions:

(1) A change in vertical velocity (ΔV) of not less than 35 feet per second with the airplane's longitudinal axis canted downward 30 degrees with respect to the horizontal plane and with the wings level. Peak floor deceleration must occur in not more than 0.08 seconds after impact and must reach a minimum of 14g.

(2) A change in longitudinal velocity (ΔV) of not less than 44 feet per second with the airplane's longitudinal axis horizontal and yawed 10 degrees either

right or left, whichever would cause the greatest likelihood of the upper torso restraint system (where installed) moving off the occupant's shoulder, and with the wings level. Peak floor deceleration must occur in not more than 0.09 seconds after impact and must reach a minimum of 16g.

(c) Where floor rails are used to attach the seating devices to the airframe for the conditions of paragraphs (b)(1) and (2) of this section, the rails must be misaligned with respect to each other by at least 10 degrees vertically, i.e. out of parallel and one rail rolled 10 degrees, to account for floor warpage.

(d) The following performance measures must not be exceeded during the dynamic tests conducted in accordance with paragraph (b) of this section.

(1) Where upper torso straps are used for crewmembers, loads in individual straps must not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap loads must not exceed 2,000 pounds.

(2) The maximum compressive load measured between the pelvis and the lumbar column of the anthropomorphic test dummy must not exceed 1,500 pounds.

(3) The occupant's upper torso restraint straps must remain on the occupant's shoulder during the impact.

(4) The lap safety belt must remain on the occupant's pelvis during the impact.

(5) Each occupant must be protected from serious head injury under the conditions prescribed in paragraph (b) of this section. Where head contact with seats or other structure can occur, protection must be provided so that the head impact does not exceed a Head Injury Criterion (HIC) of 1000. The level of HIC is defined by the equation:

$$HIC = \left\{ (t_2 - t_1) \left[\frac{1}{(t_2 - t_1)} \int_{t_1}^{t_2} a(t)\,dt \right]^{2.5} \right\}_{max}$$

Where: t_1 is the initial integration time,
t_2 is the final integration, and
$a(t)$ is the total acceleration vs. time curve for the head strike.

(6) Where leg injuries may result from contact with seats or other structure, protection must be provided to prevent loads from exceeding 2,250 pounds in each femur.

(7) The attachment between the seat and the airplane's structure must remain intact, although the structure may have yielded.

(8) Seats and their supporting structure must not yield under the tests specified in paragraphs (b)(1) and (2) of this section to the extent they would impede rapid evacuation of the airplane occupants.

4. By amending § 25.785 by adding a new paragraph (l) to read as follows:

§ 25.785 Seats, berths, safety belts, and harnesses.

* * * * *

(l) Occupant protection provisions required by this section are defined in § 25.562.

Issued in Seattle, Washington, on July 10, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-16066 Filed 7-16-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Analytic Methods in Impact Dynamics

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular (AC), and request for comments.

SUMMARY: The FAA has prepared a proposed Advisory Circular (AC) on analytic methods in impact dynamics and invites public comments on the draft AC. The proposed AC discusses certain nonlinear structural dynamic computer programs that determine structure, seat, and occupant response to an impact condition. All the computer programs require a user developed mathematical model of airplane structure. The proposed AC covers a general description of selected computer programs, analytical modeling problems, computer program validation, and the use of the computer programs in impact analysis.

DATE: Comments must identify file number 21–YY (AVN–110) and comments must be received on or before January 14, 1987.

ADDRESSES: Send all comments on the proposed Advisory Circular to: Technical Analysis Branch, AWS–120, Aircraft Engineering Division, Office of Airworthiness, File No. 21–YY (AVN–110), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591;

Or deliver comments to: Room 335D, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Arthur J. Hayes, Technical Analysis Branch, AWS–120, telephone (202) 426–8374. Comments received on the draft Advisory Circular may be examined before and after the closing date for comments in Room 335D, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

Comments Invited

Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify File No. 21–YY (AVN–110) and comments should be submitted to the address specified above. All comments received on or before the closing date specified above for comments will be considered by the Director of Airworthiness before issuing the final AC.

How To Obtain Copies

A copy of the proposed AC may be obtained by contacting the person under **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, DC, on July 7, 1986.

William J. Sullivan,

Acting Director of Airworthiness.

[FR Doc. 86–16067 Filed 7–16–86; 8:45 am]

BILLING CODE 4910–13–M

Proposed Advisory Circular; Dynamic Evaluation of Transport Airplane Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed Advisory Circular 25.562–1 and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which describes the FAA's crashworthiness program for transport airplanes and which provides information and guidance for showing compliance with the standards applicable to dynamic testing of airplane seats.

DATE: Comments must be received on or before January 14, 1987.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention Transport Standards Staff, ANM–110, FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Siegrist, Transport Standards Staff, at the above address, telephone (206) 431–2126.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named aboved under **"FOR FURTHER INFORMATION CONTACT."** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify AC 25.562–1 and submit comments in duplicate to the address specified above.

All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Discussion

By separate notice (Notice No. 86–11; Docket No. 25040), the FAA invited public comments concerning proposed new standards for the passenger and crew seats of transport category airplanes. The proposed standards would require dynamic testing of the seats for strength, deformation, and protection of occupants from impact injury. Test conditions representing two airplane crash scenarios are defined. This proposed AC would provide guidance concerning acceptable means of complying with these proposed standards, including procedures for measuring loads and impact energy with an anthropomorphic test dummy. Issuance of this AC is, of course, contingent on final adoption of the proposed standards.

Issued in Seattle, Washington, on July 9, 1986.

Darrell M. Pederson,

Acting Manager, Aircraft Certification Division.

[FR Doc. 86–16068 Filed 7–16–86; 8:45 am]

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