11-4-86
Vol. 51 No. 213
Pages 39993-40120

federal register

Tuesday
November 4, 1986

Briefings on How To Use the Federal Register—
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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.

WASHINGTON, DC

WHEN: November 18 at 9:30 a.m.

WHERE: National Archives Theater, 8th and Pennsylvania Avenue NW., Washington, DC

RESERVATIONS: Laurice Clark, 202-523-3419.

NEW YORK, NY.

WHEN: December 5 at 10:00 a.m., Room 305A, 26 Federal Plaza, New York, NY

RESERVATIONS: Arlene Shapiro or Stephen Colon, New York Federal Information Center, 212-264-4810.

PITTSBURGH, PA.

WHEN: December 8 at 1:30 p.m.,

WHERE: Room 2212, William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA

RESERVATIONS: Kenneth Jones or Lydia Shaw
Pittsburgh: 412-644-3456
Philadelphia: 215-597-1707, 1709

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[Order No. 1156-86]

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Executive Office for Immigration Review, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the fee schedule of the Immigration and Naturalization Service and the Executive Office for Immigration Review. These changes are necessary to place the financial burden of providing special services and benefits, which do not accrue to the public at large, on the recipients. Charges have been adjusted to more nearly reflect the current cost of providing the benefits and services, taking into account public policy and other pertinent facts.

EFFECTIVE DATE: December 4, 1986.

FOR FURTHER INFORMATION CONTACT:
For General Information:
Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3291
Gerald S. Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 5203 Leesburg Pike, Falls Church, VA 22041, Telephone: (703) 756-6470
For Specific Information: Charles S. Thomason, Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536, Telephone (202) 633-4705

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service (INS) and Executive Office for Immigration Review (EOIR) published a proposed rule on January 22, 1986, at 51 FR 2895, to amend the schedule of fees charged by the INS and EOIR for processing and adjudication of applications, petitions, motions, and requests submitted by the public. Comments were received from individuals and organizations, including professional and service associations, universities, attorneys, non-profit organizations, field directors, and members of the general public. All 16 comments received on or before March 24, 1986, were fully considered before preparing this final rule. The following summary addresses the substantive comments.

The INS and the EOIR believe it is clear that 31 U.S.C. 9701 and OMB Circular A-25 require Federal agencies to establish a fee system in which a benefit or service provided to or for any person be self-sustaining to the fullest extent. We believe arguments to the contrary are wholly without merit. Fees are neither intended to replace nor to be influenced by the budgetary process and related considerations, but instead, to be governed by the total cost to the agency to provide the service. A policy of setting fees on any basis other than cost would violate this principle. The INS and the EOIR have therefore attempted as fairly and accurately as possible to ascertain the cost of providing each specific benefit or service and to set the pertinent fee accordingly.

The fee structure provides for only six basic fee amounts, while at the same time adheres to the cost principle. Several commenters were concerned about the effects of fee increases on certain segments of the student population. However, in view of the substantial financial commitment that is necessary to seek an education in the United States, it is not likely to influence educational decisions.

Upon consideration of comments that the suspension of deportation applications are burdensome to families applying in the same proceeding, it was decided in the final rule to allow for one fee cover two or more aliens in the same proceeding. Since the regulations already provide for the waiver of a fee when it is shown that the recipient is unable to pay, the new fee schedule does not prohibit applications or requests on the basis of the inability to pay as some of the commenters suggested. Furthermore, several fees for administrative appeal processes and for filing naturalization petitions are at less than full cost recovery recognizing long-standing public policy and the interest served by these processes. Accordingly, the following fee changes are adopted as proposed, with one modification. Upon consideration of the comments, it was decided that suspension of deportation applications (I-256A) could be burdensome to families applying in the same proceeding; therefore the final rule allows for one fee to cover two or more aliens in the same proceeding.

1. Decrease the fee from $50 to $35 for filing Form I-140, petition to classify preference status of an alien on basis of profession or occupation under section 204(a) of the Act.

2. Increase the fee from $70 to $125 for filing Form I-246, application for stay of deportation under Part 243 of this Chapter.

3. Increase the fee from $75 to $100 for filing Form I-256A, application for suspension of deportation under section 244 of the Act. (A single fee of $100 will be charged whenever suspension of deportation applications are filed by two or more aliens in the same proceeding.)

4. Increase the fee from $50 to $110 for filing Form I-290A, appeal from any decision under the immigration laws in any type of proceedings (except a bond decision) over which the Board of Immigration Appeals has appellate jurisdiction in accordance with § 3.1(b) of this chapter. (Only one fee of $110 will be charged whenever an appeal is filed by or on behalf of two or more aliens and the aliens are covered by one decision).

5. Increase the fee from $50 to $110 for filing motion to reopen or reconsider any decision under the immigration laws (except on applications filed by exchange visitors on Form IAP-66, Cuban refugees on Form I-485A filed under the Act of November 2, 1966, or A-1, A-2 or G-4 nonimmigrations on Form I-566 for which no fee is chargeable). When the motion to reopen or reconsider is made concurrently with an application under the immigration laws, the application will be considered an integral part of the motion and only the fee for filing the motion or the fee for

filing the application, whichever is greater, is payable. (Only one fee of $110 will be charged whenever a motion is filed by or on behalf of two or more aliens and the aliens are covered by one decision).

6. Remove the $50 fee for filing request for temporary withholding of deportation under section 243(h) of the Act.

The above listed fee changes numbered 3, 4 and 5 (insofar as they relate to motions to reopen or reconsider any proceedings or decision of an immigration judge or the Board of Immigration Appeals) were provided by EOIR.

In addition, this rule includes minor technical changes to update the existing fee schedule by removing Form N–400, as no filing fee is required, and listing a $35.00 fee for filing Form N–604.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule does not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Archives and records, Authority delegation, Fees, Forms.

Accordingly, the following amendments to Chapter I of Title 8 of the Code of Federal Regulations are adopted:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for Part 103 of Title 8 is revised to read as follows:

Authority: Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103; 31 U.S.C. 9701; OMB Cicrular A–25.

§ 103.7 [Amended]

2. In § 103.7, paragraph (b)(1) is amended as follows:

1. Decrease the fee for Form I–140 from "$50.00" to $35.00".

2. Increase the fee for Form I–246 from "$70.00" to $125.00".

3. Increase the fee for Form I–256A from "$75.00" to "$100.00" and add the following sentence: "(A single fee of $100.00 will be charged whenever suspension of deportation applications are filed by two or more aliens in the same proceeding.)"

4. Increase the fee for Form I–290A from "$50.00" to "$110.00" in both places where it appears.

5. Increase the fee for filing a Motion from "$50.00" to "$110.00" in both place where it appears.

6. Remove "Request. For filing application for temporary withholding of deportation under section 243(h) of the Act—$50.00."

7. Remove "Form N–400. For filing application for certificate of citizenship on Form N–400 by a parent, and the issuance thereof, under section 341 of the Act—$35.00."

8. Add Form N–604 in numerical sequence to read: "Form N–604. For filing application for a certificate of citizenship (made on Form N–400) under section 341 of the Act—$35.00."

Dated: October 23, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86–24878 Filed 11–3–86; 8:45 am]

BILLING CODE 4410–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Reg. Y; Docket No. R–0511]

Bank Holding Companies and Change in Bank Control; Expanded List of Permissible Nonbanking Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation Y implementing the Bank Holding Company Act to include on the list of nonbanking activities generally permissible for bank holding companies the following activities: Personal property appraisals, commodity trading and futures commission merchant advice, consumer financial counseling, tax preparation and planning, check guaranty services, operating a collection agency, and operating a credit bureau. Certain of these activities have been previously approved by the Board by order.

EFFECTIVE DATE: December 15, 1986.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Deputy General Counsel (202/452–3430), Sara A. Kelsey, Senior Attorney (202/452–3236), or Kay E. Bondehagen, Senior Attorney (202/452–2067), Legal Division; Don E. Kline, Associate Director (202/452–3421), or Sidney M. Sussan, Assistant Director (202/452–2638), Division of Banking Supervision and Regulation; or Earnestine Hill or Dorothea Thompson, Telecommunication Device for the Deaf (202/452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Bank Holding Company Act

The Bank Holding Company Act of 1956, as amended ("BHC Act"), generally prohibits a bank holding company from engaging in nonbanking activities or acquiring voting securities of a company engaged in nonbanking activities. Section 4(c)(8) of the BHC Act provides an exception to this prohibition in the case of activities that the Board determines, after notice and opportunity for hearing, to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." (12 U.S.C. 1843(c)(8)). The Board is authorized to make this closely-related determination by order in an individual case or by regulation.

The Board has included in its Regulation Y a list of nonbanking activities that the Board has determined by regulation to be generally permissible for bank holding companies under section 4(c)(8) of the BHC Act. [12 CFR 225.25). Applications by bank holding companies to engage in activities included on the list of permissible nonbanking activities under Regulation Y generally are handled by the Reserve Banks under expedited processing procedures pursuant to delegated authority.

Proposed Nonbanking Activities.

On March 2, 1984, the Board proposed for public comment new nonbanking activities to be included on the Regulation Y list of activities that are generally permissible for bank holding companies under section 4(c)(8) of the BHC Act. The list included personal property appraisal, commodity trading and futures commission merchant advisory services, consumer financial counseling, tax preparation and planning, check guaranty services, collection agency and credit bureau activities, and armored car services. These activities were suggested by commenters in connection with the Board's revision of Regulation Y in 1984.

Public Comments

Approximately 212 comments were received on the proposal. Favorable comments were submitted by banks, bank holding companies, their trade associates, and the Department of Justice. The Federal Reserve Banks generally commented in support of the activities, subject to conditions to alleviate potential adverse effects. Businesses and professionals engaged in the proposed activities generally opposed allowing bank holding companies to engage in the activities.

Closely Related to Banking

Before the Board may authorize bank holding companies to engage in a nonbanking activity, the Board must find that the activity is closely related to banking. In *National Courier Association* v. *Board of Governors*, 516 F.2d 1229 (D.C. Cir. 1975), the court established guidelines for determining whether a particular activity is closely related to banking or managing or controlling banks. Under these guidelines, an activity may be found to be closely related to banking if it is demonstrated that:

(1) Banks generally in fact provide the proposed service;

(2) Banks generally provide services that are operationally or functionally so similar to the proposed service as to equip them particularly well to provide the proposed service; or

(3) Banks provide services that are so integrally related to the proposed service as to require their provision in a specialized form.

It is sufficient if the activity satisfies any one of these three criteria. (*ADAPSO* v. *Board of Governors*, 745 F.2d 677, 686 (D.C. Cir. 1984); *National Courier*, 516 F.2d at 1237–38.)

The courts have made it clear, however, that the Act grants the Board discretion to consider any criteria which provide a reasonable basis for a finding that a particular nonbanking activity has a close relationship to banking. *Securities Industry Ass'n.* v. *Board of Governors*, 468 U.S. 207, 210 n.5 (1984). The Board has stated that it will consider "any . . . factor that an applicant may advance to demonstrate a reasonable or close connection or relationship of the activity to banking." 49 FR 806 (1984). In considering whether a proposed activity is permissible for bank holding companies, the Board must adhere to the fundamental purpose of the BHC Act that banking be separated from commerce. S. Rep. No. 1084, 91st Sess. 2 (1970).

The Board has determined that all of the proposed activities, with the exception of armored car services, are closely related to banking under the *National Courier* guidelines, because banks engage in the activities or activities that are operationally or functionally similar. The Board has previously determined by order that certain of the activities are closely related to banking and has authorized those activities on a case-by-case basis (*i.e.*, consumer financial counseling, tax preparation, FCM advisory services, and check guaranty services). The Board is not making a finding that armored car services are closely related to banking for the reasons indicated in the discussion of armored car services below.

Proper Incident to Banking

In addition to finding that an activity is closely related to banking or managing or controlling banks, the Board must find that the activity is a proper incident thereto. In making this determination, section 4(c)(8) requires the Board to consider whether the activity will result in public benefits, 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 interest, or unsound banking practices.

This determination usually is made on a case-by-case basis in connection with individual applications to engage in a particular activity. However, the Board may determine not to add an activity to the list of permissible activities in Regulation Y on the basis that the activity generally would result in adverse effects that are not outweighed by public benefits. In addition, the Board may include in its regulations various conditions or limitations on which the Board may rely to alleviate possible adverse effects of particular activities.

With respect to public benefits, each of the activities being added to the list would provide greater convenience to customers and, if commenced *de novo*, increase competition. In order to minimize potential adverse effects with respect to certain of the activities, the Board is imposing certain conditions that have been previously imposed by order or that were suggested by the comments. Subject to these conditions, the Board has determined as a general matter that the public benefits of the activities outweigh possible adverse effects.

Specific Activities

Personal Property Appraisal. Personal property appraisal involves estimating or determining the value of property other than real property. In the broadest sense, the activity requires expertise regarding all types of personal and business property, including intangible property, such as corporate securities.

The Board has previously authorized by regulation real estate appraisal activities. (12 CFR 225.25(b)(13)). In addition, the Board has determined by order that the appraisal of certain types of personal property, both tangible and intangible, is closely related to banking. (*Security Pacific Corporation/Duff & Phelps, Inc.*, 71 Federal Reserve Bulletin 118 (1985)). In allowing bank holding companies to engage in the activity of providing valuations of companies, the Board noted that the commercial lending and trust departments of banks commonly make valuations of a broad range of tangible and intangible property, including the securities of closely held companies. Although the Board did not specify the exact types of personal property appraisal it determined were closely related to banking in the context of valuation services, providing valuations of companies necessarily involves the appraisal of various types of intangible personal property, such as securities of closely held corporations, as well as any tangible personal property that a company might possess.

In addition, a substantial number of the public commenters stated that banks currently engage in the appraisal of personal property through their trust departments. Several commenters stated that trust departments value private business interests for their own trust accounts and other types of personal property in a customer's estate for probate and tax purposes. In addition, many commenters noted that banks engage in property appraisal activities in connection with secured lending activities and routinely appraise property which they take as collateral on loans, including perishable commodities, durable goods, computer software, crops, livestock, machinery, and equipment.

Banks also engage in appraisal activities in connection with their leasing, activities. With regard to leasing, banks determine the residual value of leased property, such as vehicles and equipment, in order to establish the terms of a lease. Some money-center banks have appraised aircraft and locomotives, in connection with their leasing or lending transactions. Finally, banks may become involved in personal property appraising when they appraise real property, since certain types of real property, such as factories or apartment buildings, contain fixtures or other personal property that must be evaluated to determine that the value of the real property.

On the basis of the foregoing, the Board finds that personal property appraisal is closely related to banking under the *National Courier* tests. The Board's determination is without limitation as to types of personal property to be appraised. Although banks may not be involved currently in appraising every type of personal property in connection with their banking functions, it is evident that they do engage in appraisals of a variety of

both tangible and intangible property on a routine basis. In addition, as one of the commenters pointed out, there are general unifying principles and concepts that are basic to all branches of the appraisal profession. Hence, the skills that banks currently possess that enable them to evaluate one type of personal property are likely to be transferable to other types of personal property.

The comments indicate that personal property appraisal services are likely to result in public benefits in the form of increased competition in the appraisal industry due to the increased number of competitors and enhanced convenience to customers who would have the opportunity to obtain more financial services at a single location. Approval of personal property appraisal as a permissible activity would appear to involve few adverse effects. The commenters did not indicate any significant adverse effects arising from this activity.

Accordingly, the Board has determined to add this activity to the list of permissible nonbanking activities in Regulation Y without conditions.

Commodity Trading and Future Commission Merchant Advice. The Board proposed to add to the list of permissible activities furnishing investment advice, including counsel, publications, written analysis and reports, relating to the purchase and sale of those futures contracts and options on futures contracts that bank holding company FCM subsidiaries are permitted to execute and clear under § 225.25(b)(18) of Regulation Y. Such advice could be provided by a bank holding company either through a futures commission merchant ("FCM") subsidiary or as a commodity trading advisor ("CTA"). FCMs and CTAs are subject to registration with and regulation by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act, as amended. (7 U.S.C. 1 *et seq.*)

The commenters generally favored adding this activity to the list of permissible activities in Regulation Y.

The Board has previously determined that futures and options advice by FCMs is closely related to banking and has approved this activity by order. (*E.g., Bankers Trust New York Corporation,* 71 Federal Reserve Bulletin 111 (1985); *J.P. Morgan & Co. Incorporated,* 70 Federal Reserve Bulletin 780 (1984); *Manufacturers Hanover Corporation,* 70 Federal Reserve Bulletin 369 (1984)). The proposed CTA activity is identical to FCM advice and may be provided by a bank holding company that does not act as an FCM (*i.e.,* execute or clear orders for futures and options for customers). A reasonable basis thus exists that acting as a CTA is closely related to banking under the *National Courier* guidelines.

The comments indicate that the addition of futures and options advisory services to the list of permissible activities is likely to result in public benefits in the form of increased competition through *de novo* entry into the market place and would provide an additional service to customers. Some commenters noted possible adverse effects, such as tying and conflicts of interest when the advisor is also a principal or dealer in the underlying financial physicals. The risk of liability for negligent advice also was noted.

The Board considers that the anti-tying provisions of the BHC Act substantially address any problems in connection with the possiblity of tying of services. In order to further minimize possible conflicts and risk, however, the Board is imposing additional conditions similar to those previously imposed by order that prohibit the advisor from dealing and limit advice to financially sophisticated customers on futures and options on futures previously approved for FCM subsidiaries.

Accordingly, the Board has determined that FCM and CTA advice is a permissible activity subject to the following conditions:

(1) The FCM or CTA limits its investment advice to those futures and options on futures that bank holding companies may execute and clear for customers through their FCM subsidiaries under § 225.25(b)(18) of Regulation Y (*i.e.,* futures contracts and options on futures contracts traded on major commodity exchanges for bullion, foreign exchange, government securities, and money market instruments that a bank may buy or sell in the cash market for its own account);

(2) Customers are limited to financial institutions and other financially sophisticated customers that have significant dealings or holdings in the underlying commodities, securities, or instruments; and

(3) The FCM or CTA may not trade for its own account except for the purpose of hedging a cash position in the related government security, bullion, foreign currency, or money market instrument.

The Board specifically requested comment on whether advice should be limited to the financial commodities for which the Board has authorized FCM execution and clearance activities. Several commenters favored expanding the activity to include advice on futures and options for nonfinancial commodities, such as agricultural commodities. However, other commenters indicated that the field of banking organizations with sufficient expertise to offer advice on these instruments is narrow, and the overwhelming majority of the commenters did not request expansion of the types of instruments at this time.

Accordingly, the Board is maintaining the limitation on the scope of advice in the Board's previous decisions approving the activity by order. This decision does not preclude a bank holding company from filing an individual application for expanded advisory authority under section 4(c)(8) of the BHC Act.

Consumer Financial Counseling. Consumer financial counseling involves providing counseling, educational courses, and instructional materials to individuals on consumer-oriented financial management matters, including debt consolidation, mortgage applications, bankruptcy, budget management, real estate tax shelters, tax planning, retirement and estate planning, insurance and general investment management. This activity does not include the sale of specific products or investments. The commenters overwhelmingly supported the addition of this activity to the Regulation Y list.

The Board has previously determined that the provision of consumer financial counseling services is closely related to banking and has approved this activity by order. (*Citicorp/Citicorp Person-to-Person Financial Centers,* 65 Federal Reserve Bulletin 265 (1979); *Maryland National Corporation,* 71 Federal Reserve Bulletin 253 (1985); *United City Corporation,* 71 Federal Reserve Bulletin 662 (1985)).

The public comments indicated that the addition of this activity to the list would result in public benefits in the form of enhanced customer convenience, increased availability of financial information and counseling, and increased competition to the extent bank holding companies engage in the activity *de novo.*

Some commenters expressed concern that the activity could result in unfair competition, conflicts of interest, and other adverse effects. For example, a potential conflict was perceived between a bank's traditional role as a source of objective financial advice and the bank's interest in promoting a particular product, especially if the bank holding company provides discount brokerage services in addition to consumer financial counseling. Another conflict was noted in the provision of debt consolidation or bankruptcy counseling to clients who are in default on loan payments to an affiliate. Some commenters stated that such counseling could also give rise to legal liability for the unauthorized practice of law, depending on the content of the advice

and State law, and that there would be a general risk of liability for negligent advice. The possibility of unauthorized disclosure of confidential information concerning customers was also noted.

To address these concerns, the Board has determined that conditions, similar to those previously established by the Board in orders approving consumer financial counseling activities, are necessary to guard against the potential conflicts associated with this activity. (See *Citicorp, supra,* 65 Federal Reserve Bulletin at 267). Accordingly, the Board is establishing the following conditions on consumer financial counseling services in Regulation Y:

(1) Educational materials and presentations used by the counselor may not promote specific products and services;

(2) The counselor shall advise each customer that the customer is not required to purchase any services from affiliates; and

(3) The counselor shall not obtain or disclose confidential information concerning its customers without the customer's written consent or pursuant to legal process.

The first of these conditions provides that the consumer financial counselor's educational materials and presentations may not promote specific products and services. The purpose of the consumer financial counseling authorization is to allow bank holding companies to provide consumers with basic consumer financial education and advice concerning the development of a general financial plan to meet the consumer's needs and objectives. The condition is intended to promote this purpose by ensuring the objectivity of educational materials and activities and preventing them from being used to promote specific products and services, such as those that may be offered by an affiliate. For example, in *Citicorp* the Board noted that the consumer financial counseling materials proposed in that case were objective and did not promote Citicorp financial services. This condition incorporates the distinction between promotional and educational activities required in the *Citicorp* case. In addition, Citicorp undertook to specifically advise each customer that the customer is not required to purchase any services from Citicorp affiliates, the second condition that the Board has incorporated into this regulation.

The third condition is also based on the Board's order in *Citicorp* and prohibits the counselor from obtaining or disclosing confidential information concerning its customers without the customer's written consent. The prohibition against unauthorized disclosure of confidential customer information does not, however, bar disclosure that is legally required, for example, by statute or under a court order.

With respect to possible unfair competition, the Board relies on the anti-typing provisions of the BHC Act (12 U.S.C. 1971 and 1972(1)) to substantially address the commenters' concerns. With respect to possible liability risk, the Board notes that insurance may be available in many cases to reduce any losses and cautions applicants to confine their activities to applicable state law limitations.

In addition, the Board has determined that a bank holding company may offer this activity through a subsidiary that also engages in securities brokerage only if the brokerage activity is provided by completely different personnel and in separate offices or in separate and distinctly marked areas of the facility through which counseling services are offered. The Board imposed similar restrictions in approving by order an application by a bank holding company to provide consumer financial counseling and securities brokerage services in the same subsidiary. *United City Corporation,* 71 Federal Reserve Bulletin 662 (1985).

The Board has also determined that consumer financial counseling does not include the provision of portfolio investment advice or portfolio management. These activities are already permissible under provisions of Regulation Y authorizing trust activities (12 CFR 225.25(b)(3)) and investment advice (12 CFR 225.25(b)(4)(iii)) subject to a fiduciary standard. The Board believes that these activities should not be authorized in other than a fiduciary context because of potential conflicts of interest that could arise between the provision of disinterested investment advice and the incentives to promote specific products sold by the bank holding company or its affiliates.

Tax Planning and Preparation. Tax planning involves providing advice and strategies designed to minimize tax liabilities and includes, for individuals, analysis of the tax implications of retirement plans, estate planning and family trusts and, for corporations, includes analysis of the tax implications of mergers and acquisitions, portfolio mix, specific investments, previous tax payments and year-end tax planning. Tax preparation involves the preparation of tax forms and advice concerning liability based on records and receipts supplied by the client. The overwhelming majority of the commenters favored adding tax planning and preparation services to the list of permissible activities.

The Board has previously determined that tax preparation services for individuals is closely related to banking and has approved this activity by order. (*Bancorp Hawaii, Inc.,* 71 Federal Reserve Bulletin 168 (1985)). Since tax preparation services for corporations are functionally or operationally similar to the tax preparation services that banks already provide to individuals as well as to their affiliates and other financial institutions, the Board has determined that corporate tax preparation services are closely related to banking.

The Board also has determined that tax planning is closely related to banking because banks provide this service through their trust and financial counseling departments. In addition, banks perform tax analyses of business transactions they finance, provide tax planning services to financial institutions, and provide tax planning services to corporations in connection with merger and acquisition and similar advisory services, and through their leasing subsidiaries.

The Board specifically requested the commenters to address whether tax planning for corporations should be considered management consulting. The Board has determined that general management consulting is not an activity that is closely related to banking. The Board has defined management consulting to include a broad range of counseling on matters relating to the substantive operation of a trade or business, often on a continuing basis. (See 12 CFR 225.25(b)(4) n.2; *First Commerce Corporation,* 58 Federal Reserve Bulletin 674 (1972)).

The Board has concluded that tax planning is a specialized form of financial advice, akin to the provision of financial feasibility studies on specific projects, which the Board has previously approved (*Security Pacific Corporation/ Duff & Phelps, Inc.,* 71 Federal Reserve Bulletin 118 (1985)), and does not involve the degree of influence over substantive operations necessary to be deemed management consulting.

Several commenters recommended that the Board expand the final rule to include services to noncorporate businesses, such as partnerships and sole proprietorships, and tax exempt nonprofit organizations. Although not specifically proposed, services to these customers represent a logical extension of the proposed activity involving the same skills and expertise necessary to perform such services for corporations and individuals. In view of this similarity, the Board believes that its initial proposal is sufficiently broad to encompass tax services to noncorporate businesses and nonprofit organizations.

The comments indicated that tax planning and preparation services are likely to result in public benefits in the form of enhanced convenience to customers, who would have a single source for many types of financial services. In addition, to the extent that bank holding companies enter this activity on a *de novo* basis, competition would be increased.

Some commenters noted potential adverse effects similar to those in consumer financial counseling, such as conflicts of interest if tax planner or preparer used materials that promoted other specific products or services, the misuse of confidential information concerning customers, or tying. Some commenters raised the possibility that tax planning services could give rise to legal liability for negligent advice or for the unauthorized practice of law.

The Board has determined that the activity should be added to the list of permissible activities subject to the following conditions to guard against potential conflicts and misuse of confidential information:

(1) The materials used by the tax planner or preparer do not promote other specific products and services; and

(2) The tax planner or preparer shall not obtain or disclose confidential information concerning its customers without the customer's written consent or pursuant to legal process.

With respect to tying, existing provisions of the BHC Act are specifically directed at preventing this type of abuse. Liability risk may be reduced by insurance and conforming activities to applicable legal and fiduciary limitations.

With respect to the unauthorized practice of law, the Board notes that the activity must be conducted in strict accordance with applicable local law, and that the activity would therefore be prohibited in those jurisdictions that specify the activity as the practice of law.

Check Guaranty Services. The proposed activity of check guaranty services would permit bank holding companies to authorize the acceptance by subscribing merchants of certain personal checks tendered by the merchant's customers in exchange for goods and services and to purchase validly authorized checks from merchants in the event the checks are subsequently dishonored.

The Board has previously determined that check guaranty services are closely related to banking and has approved applications by bank holding companies on a case-by-case basis to engage in this activity. (*Barnett Banks of Florida*, 65 Federal Reserve Bulletin 263 (1979); *Citicorp*, 67 Federal Reserve Bulletin 740 (1981)).

The comments indicate that the provision of check guaranty services by bank holding companies can reasonably be expected to provide public benefits in the form of increased competition through *de novo* entry into the market place. In addition, check guaranty services would increase customer convenience by facilitating the use of checks by consumers for the purchase of retail goods and services while providing merchants with a means to decrease bad check losses.

The commenters did not indicate that any significant adverse effects would result from this activity. In approving check guaranty services by order, however, the Board noted the potential for unfair competition or conflicts of interest with respect to the authorization of checks not drawn on affiliated banks. To minimize this possibility, the Board relied on a commitment that the applicant would not discriminate against checks drawn on unaffiliated banks. (*Citicorp, supra*). The Board believes it is appropriate to maintain that condition in authorizing check guaranty services under Regulation Y.

In proposing this activity, the Board asked whether conditions should be imposed to limit the liability of a bank holding company on the purchase of dishonored checks. The commenters on this issue answered in the negative. A number of commenters noted that banks impose various policies and procedures to limit liability through the terms of the agreement with the merchant subscribing to the service, and some limit liability to the amount of the purchased check. The Board believes that such procedures are sufficient to limit liability arising from this action.

Operating a Collection Agency or a Credit Bureau. A collection agency seeks to collect payment on the overdue bills of debtors, charging the party submitting the claim a flat dollar amount or a specified percentage commission contingent on the amount collected. A credit bureau gathers, stores, and disseminates factual information relating to the identity and paying habits of consumers. Credit bureaus then provide this information for a fee to credit grantors such as retailers, banks and finance companies to enable these institutions to arrive at prudent credit granting decisions.

The commenters noted that banks function as collection agencies, since they are presently engaged in debt collection activities for loans they originate and service. A number of commenters reported that some banks maintain professional staffs to conduct such collection activities. Other commenters pointed out that banks historically have operated collection agencies in order to collect on overdue credit card accounts. Accordingly, there is a reasonable basis for concluding that operating a collection agency is closely related to banking under the *National Courier* guidelines.

With regard to the credit bureau activity, the comments indicated that banks provide services that are operationally or functionally similar. Numerous commenters noted that banks maintain credit files and analyze credit information as part of their consumer lending function. Therefore, banks already possess a particular expertise with regard to credit reporting, and a reasonable basis exists to conclude that this activity is closely related to banking under *National Courier*.

The comments indicate that the operation of collection agencies and credit bureaus by bank holding companies can reasonably be expected to produce benefits to the public by increasing competition through *de novo* entry into the marketplace for these services. A number of commenters noted that the national credit bureau market is dominated by a small number of firms and that *de novo* entry by bank holding companies in this area would increase competition. In addition, the convenience of business customers would be enhanced because they would be able to obtain an increased number of financial services at a single source.

With respect to possible adverse effects from operating a collection agency, several commenters expressed concern over the potential for unfair competition or tying if business customers of an affiliated bank were required to use the collection services. Other commenters noted possible conflicts of interest arising if a bank allowed its affiliated collection agency to prematurely garnish a customer's bank account or to give a preference to an affiliated creditor in cases where multiple creditors are trying to collect from the same debtor.

Although the anti-tying provisions address potential tie-in arrangements, the Board has determined that conditions are warranted to minimize potential unfair competition or conflicts of interest. Accordingly, the Board is establishing the following conditions on operating a collection agency:

(1) The collection agency shall not obtain the names of customers of competing collection agencies from an affiliated depository institution that maintains trust accounts for those agencies; and

(2) The collection agency shall not provide preferential treatment to an affiliate or a customer of such affiliate seeking collection of an outstanding debt.

With respect to possible adverse effects from operating a credit bureau, representatives of the credit bureau industry expressed concern regarding potential conflicts of interest and unfair competition resulting from a bank holding company performing credit bureau activities. For example, under the Fair Credit Reporting Act, a credit bureau is required to investigate the accuracy of any item of information disputed by a consumer. (15 U.S.C. 1681(i)). Industry representatives claimed that a bank holding company credit bureau may not conduct an impartial investigation if the disputed information originates with an affiliate. In addition, they claimed that holding company entry into the industry would not result in increased competition through *de novo* entry, but rather would result in the absorption of existing firms by bank holding companies.

The Board considered similar arguments when it denied a bank holding company's proposal to engage in providing credit ratings for large businesses, many of which were credit customers of its subsidiary bank. (*Security Pacific Corporation/Duff & Phelps, Inc.*, 71 Federal Reserve Bulletin 118 (1985)). The present proposal, however, would allow bank holding companies to engage only in consumer credit reporting activities, rather than credit reporting activities concerning large commercial institutions. Consumer related activities would be subject to the public disclosure and other requirements of the Fair Credit Reporting Act. In addition, in order to address the possible conflict of interest of favoring an affiliate, the Board is imposing the condition that a credit bureau shall not provide preferential treatment to a customer of an affiliated financial institution.

Although the national credit reporting industry consists of only five firms, bank holding company entry into this market need not have an anticompetitive effect if entry is on a *de novo* basis. Accordingly, the Board would carefully consider an application to acquire one of the five dominant firms under the standards in the BHC Act, including whether it would result in unfair competition, undue concentration of resources, conflicts of interest, or other adverse effects.

Accordingly, the Board has determined to add operation of a credit bureau to Regulation Y subject to the above noted conditions.

Armored Car Services. The Board proposed to amend Regulation Y to authorize bank holding companies to provide fully insured transportation of cash, securities, and valuables (primarily between commercial customers and financial institutions) and such ancillary services as coin wrapping, change delivery, mail delivery, payroll check cashing, servicing of ATMs and leasing safes to commercial customers.

This activity was the most controversial of the activities proposed, and generated the most negative comment. The Board received numerous comments against adding this activity to the list, primarily from armored car operators, their trade associations, and insurers of armored car operators.

The opponents maintained that the activity is not closely related to banking but rather is essentially a transportation activity requiring no banking expertise. The opponents noted several possible adverse effects, including tying, conflicts of interest, liability risk for losses of valuables, or the use of armored car services to facilitate illegal branch banking. A large number of these commenters also maintained that approval would lead to unfair competition, possibly disrupting the existing level of service.

The Board initially proposed adding this activity to the list in 1971. In view of the adverse comments received from the industry at that time and the lack of strong interest on the part of bank holding companies, the Board did not issue a final rule, finding the evidence in support of the activity to be insufficient. However, the Board stated it would consider individual applications for this activity. To date the Board has received no bank holding company applications for armored car services.

The Board received many comments from bank holding companies expressing generalized support for the addition of armored car services to the Regulation Y list along with the other proposed new activities. Only a few of the commenters commented specifically on this activity, however, or indicated a desire to engage in the activity in the near future.

In view of the issue raised by the comments on this activity and the minimal interest by bank holding companies, the Board has decided not to add the activity to the Regulation Y list at this time. This decision will not preclude Board consideration of individual applications to engage in the activity under section 4(c)(8) of the Act, however.

Accordingly, the Board will continue its present policy of deferring action to add armored car services to Regulation Y pending receipt of an application for the activity. The Board expresses no opinion as to whether the activity would meet the *National Courier* test and would be a proper incident to banking.

Regulatory Flexibility Analysis—Paperwork Reduction Act

The Board has certified that adoption of this amended regulation dealing with permissible activities for bank holding companies is not expected to have a significant economic impact on small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). The Board is required by section 4(c)(8) of the BHC Act, 12 U.S.C. 1843(c)(8), to determine whether nonbanking activities are closely related to banking and thus are permissible for bank holding companies. The Board is clarifying the scope of activities it considers to be closely related to banking and permissible for bank holding companies, with Board approval. The amended regulation does not impose different or more burdensome requirements than the prior regulation for applications to the Board to engage in such activities. By clarifying the scope of permissible activities, the amended regulation will permit certain additional applications to qualify for more expeditious processing in the regional Federal Reserve Banks under authority delegated by the Board. 12 CFR 225.23.

The amended regulation imposes no additional information collection requirements and imposes no substantial change in the requirements for applications to engage in nonbanking activities.

List of Subjects in 12 CFR Part 225

Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements.

PART 225—[AMENDED]

For the reasons set out in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)), the Board is amending 12 CFR Part 225 as follows:

1. The authority citation for Part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1843(c)(8), 1844(b), 3106, 3108, 3907 and 3909.

2. Section 225.25(b) is amended by revising paragraph (13) and adding new paragraphs (19), (20), (21), (22), (23), and (24) to read as follows:

§ 225.25 List of permissible nonbanking activities.

* * * * *

(b) * * *

(13) *Real estate and personal property appraising.* Performing appraisals of real estate and tangible and intangible personal property, including securities.

* * * * *

(19) *Investment advice on financial futures and options on futures.* Providing investment advice, including counsel, publications, written analyses and reports, as a futures commission merchant ("FCM") authorized pursuant to paragraph (b)(18) of this section or as a commodity trading advisor ("CTA") registered with the Commodity Futures Trading Commission, with respect to the purchase and sale of futures contracts and options on futures contracts for the commodities and instruments referred to in paragraph (b)(18) of this section, provided that the FCM or CTA:

(i) Does not trade for its own account except for the purpose of hedging a cash position in the related government security, bullion, foreign currency, or money market instrument; and

(ii) Limits its advice to financial institutions and other financially sophisticated customers that have significant dealings or holdings in the underlying commodities, securities, or instruments.

(20) *Consumer financial counseling.* Providing advice, educational courses, and instructional materials to consumers on individual financial management matters, including debt consolidation, applying for a mortgage, bankruptcy, budget management, tax planning, retirement and estate planning, insurance and general investment management, provided:

(i) Educational materials and presentations used by the counselor may not promote specific products and services;

(ii) The counselor advises each customer that the customer is not required to purchase any services from affiliates; and

(iii) The counselor does not obtain or disclose confidential information concerning its customers without the customer's written consent or pursuant to legal process.

This paragraph does not authorize the provision of advice on specific products or investments or the provision of portfolio investment advice or portfolio management, which are authorized under paragraph (b)(3) and (4)(iii) of this section subject to certain fiduciary standards. If consumer financial counseling is offered by a company that also offers securities brokerage services pursuant to paragraph (b)(15) of this section, the brokerage and counseling services must be provided by different personnel and in separate offices or in separate and distinctly marked areas.

(21) *Tax planning and preparation.* Providing individuals, businesses, and nonprofit organizations tax planning and tax preparation services, including advice and strategies to minimize tax liabilities, and the preparation of tax forms, provided:

(i) The materials used by the tax planner or preparer do not promote other specific products and services; and

(ii) The tax planner or preparer does not obtain or disclose confidential information concerning its customers without the customer's written consent or pursuant to legal process.

(22) *Check guaranty services.* Authorizing a subscribing merchant to accept personal checks tendered by the merchant's customers in payment for goods and services and purchasing from the merchant validly authorized checks that are subsequently dishonored, provided that the check guarantor does not discriminate against checks drawn on unaffiliated banks.

(23) *Operating collection agency.* Collecting overdue accounts receivable, either retail or commercial, provided the collection agency:

(i) Does not obtain the names of customers of competing collection agencies from an affiliated depository institution that maintains trust accounts for those agencies; and

(ii) Does not provide preferential treatment to an affiliate or a customer of such affiliate seeking collection of an outstanding debt.

(24) *Operating credit bureau.* Maintaining files on the past credit history of consumers and providing that information to a credit grantor who is considering a borrower's application for credit, provided that the credit bureau does not provide preferential treatment to a customer of an affiliated financial institution.

By order of the Board of Governors of the Federal Reserve System, October 30, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-24930 Filed 11-3-86; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

[Rev. 6; Amdt. 31]

Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Final rule with request for comments.

SUMMARY: This final rule makes technical changes in the regulations governing the cost of money that Small Business Investment Companies may charge. The rule substitutes the term "Debenture Rate" for the term "FFB Rate" in the definitional section of the regulations and in the substantive regulation, thus tying the maximum permissible cost of money that a Small Business Investment Company may charge the small concerns it finances to the rate established on Small Business Investment Company debentures in sales to the public from time to time.

DATES: Effective November 4, 1986. Comments by January 5, 1987.

ADDRESS: Written comments may be sent to: Robert G. Lineberry, Deputy Associate Administrator for Investment, U.S. Small Business Administration, 1441 L Street, NW., 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John L. Werner, Director, Office of Investment, U.S. Small Business Administration, 1441 L St., NW., Room 810, Washington, DC 20416 (202) 653-6584.

SUPPLEMENTARY INFORMATION: These changes implement section 18004 of Pub. L. 99-272, 100 Stat. 82, 364 (April 7, 1986) which adds a new section 320 to the Small Business Investment Act removing, as of October 1, 1986, the authority of the Federal Financing Bank to purchase debentures issued by Small Business Investment Companies and guaranteed by the Small Business Administration (SBA). Section 18005 of the same Pubic Law authorizes SBA to establish a mechanism by which certificates of interest backed by trusts or pools of guaranteed debentures may be sold to the public and requires SBA to take certain actions regarding the registration and conduct of such sales. The latter statutory directive was implemented by regulations published, and effective, June 12, 1986. 51 FR 21484. Since the debentures of Small Business Investment Companies will no longer be sold to the Federal Financing Bank, it is necessary to amend the present Cost of Money regulation, which refers to the interest rate charged by the Federal Financing Bank. Accordingly, references to the "FFB rate" now appearing in the regulations governing Small Business Investment Companies (13 CFR Part 107) will be replaced by references to the rate of interest on debentures which are pooled and which pool certificates are sold to the public with SBA's guarantee. The underlying principle of the regulations—that the Cost of Money to a small concern should bear a relationship to the current cost of ten-year money to Licensees—remains unchanged.

Executive Order 12291, Regulatory Flexibility and Paperwork Management

For the purposes of compliance with E.O. 12291 of February 17, 1981, SBA hereby certifies that this regulation does not constitute a major rule for purposes of Executive Order 12291. The annual effect of this rule on the economy will be less than $100 million. This rule will not result in a major increase in costs or price to consumers, individual industries, Federal, State, and local government agencies or geographic regions, or significant adverse effects on foreign or domestic competition, employment, investment, productivity or innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses to compete in domestic or export markets.

For the purposes of compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities. Under present regulations, user fees paid by a Small Business Investment Company are not to be considered in determining the FFB rate, with respect to which the Cost of Money ceiling is fixed, and this exclusion will not be affected. Guaranty fees, if any, paid by a Small Business Investment Company will also be excluded from computation of the Debenture rate, with respect to which the Cost of Money ceiling will henceforth be fixed. Also, this change in the regulation will not result, in and of itself, in a change in the rate of interest that small business will pay to an SBIC or have a financial impact upon a given SBIC.

SBA certifies that there is good cause to find that the solicitation of public comment prior to the effective date of the rule is impracticable under the circumstances. 5 U.S.C. 553(b)(B). The rule is made necessary by the statutory termination as of October 1, 1986 of the Federal Financing Bank's authority to purchase debentures issued by Small Business Investment Companies. Nevertheless, comments are invited and will be considered for possible revision of this regulation.

There is no alternative to this regulation that would have less economic impact or be less costly to small business. This regulation does not duplicate, overlap, or conflict with any existing Federal Rules.

This regulation contains no reporting requirements that are subject to approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Ch. 35).

List of Subjects in 13 CFR Part 107

Small business investment companies, Regulations, Definitions, Operational requirements, License, Borrowing of licensee, Financing of small concerns, General provisions, Equity capital, Guarantees and commitments, Management service, Control of licensee, Lawful operations, Restricted activities, Prohibitions, Examinations, Accounts, Records of reports, Compliance, Exemptions.

PART 107—[AMENDED]

Accordingly, 13 CFR Part 107 is amended as follows:

1. The authority citation for Part 107 continues to read as follows:

Authority: Sec. 308(c), 72 Stat. 694, as amended (15 U.S.C. 687(c)); sec. 312, 78 Stat. 147 (15 U.S.C. 687d); sec. 315, 80 Stat. 1364 (15 U.S.C. 687g).

§ 107.3 [Amended]

2. By inserting after the definition of "Corporate Licensee" in § 107.3 the following definition:

* * * * *

Debenture Rate. "Debenture rate" means the interest rate, as published from time to time in the **Federal Register** by SBa, for ten year debentures issued by Licensees and funded through public sales of certificates bearing SBA's guarantee. User or guarantee fees, if any, paid by a Licensee are not considered in determining the Debenture rate.

* * * * *

3. By removing the definition of FFB Rate in § 107.3.

§ 107.302 [Amended]

4. By revising paragraphs (a) through (c) and republishing the introductory text of the section in § 107.302 to read as follows:

§ 107.302 Cost of Money; Loans and Debt Securities.

Subject to lower ceilings prescribed by local law, Cost of Money on Loans and Debt Securities shall not exceed the following:

(a) *Loans.* (1) If the current Debenture Rate is 8 percent per annum or lower, Cost of Money shall not exceed 15 percent.

(2) If the current Debenture Rate is in excess of 8 percent per annum, Cost of Money shall not exceed the sum of the current Debenture Rate plus 7 percentage points, but rounded off to the next lowest eighth of one percent.

(b) *Debt securities.* (1) If the current Debenture Rate is 8 percent per annum or lower, Cost of Money shall not exceed 14 percent.

(2) If the current Debenture Rate is in excess of 8 percent per annum, Cost of Money shall not exceed the sum of the current Debenture Rate plus 6 percentage points, but rounded off to the next lowest eighth of one percent.

(c) *Ceiling on specific financing.* The maximum Cost of Money on any specific Financing shall be determined with reference to the Debenture Rate in effect at the time of first disbursement, or when a legally binding written commitment was issued ("current Debenture Rate"), whichever shall first occur. A fluctuating interest rate is nevertheless subject to the maximum Cost of Money limitation in effect at the time or commitment, or of first disbursement if no legally binding written commitment was issued.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 16, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-24858 Filed 11-3-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 76-GL-22; Amendment 39-5454]

Airworthiness Directives; Bellanca Aircraft, Models 17-30, 17-30A, 17-31, and 17-31A, Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 76-23-03, Amendment 39-2772, applicable to certain Bellanca Models 17-30, 17-30A, 17-31, and 17-31A airplanes by changing the inspection intervals for the affected airplanes to intervals not to exceed 100 hours time-in-service or the next annual inspection, whichever occurs first. Additionally, this amendment adds a specific reference to inspect the tailpipe support. Reports have been received of engine power loss and of a subsequent accident due to exhaust system failure in which AD 76-23-03 was complied with within the last 50 hours but over three years calendar time had elapsed. Also, the NTSB has recommended inspection of the tailpipe support because its failure can contribute to exhaust system problems. This action is

necessary to detect failures of exhaust system components on the affected airplanes.

DATES: *Effective Date:* November 7, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESS: A copy of the background information relating to this action is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ty Krolicki, FAA, Chicago Aircraft Certification Office, ACE-140C, 2300 East Devon Avenue, Des Plaines, Illinois 60018; Telephone (312) 694-7032.

SUPPLEMENTARY INFORMATION: Airworthiness Directive 76-23-03 Amendment 39-2772, applicable to certain Bellanca Models 17-30, 17-30A, 17-31, and 17-31A airplanes requires inspection and replacement as necessary of the exhaust systems. A recent accident has highlighted the fact that, because some of these airplanes are flown infrequently, the time interval between 100 hour time in service inspections may span several years. In September 1985, the left exhaust muffler of a Bellanca Model 17-30A airplane failed at the outlet, permitting the exhaust gases to burn the magneto wiring resulting in power loss and a subsequent accident. AD 76-23-03 had been complied with in August 1982; however, no subsequent comparable inspections of the exhaust system had been accomplished because the airplane had only accumulated 50 flight hours since the previous inspection Additional reports document similar problems with the exhaust systems of these models of Bellanca airplanes. Long periods of nonuse may allow corrosion to develop causing the ball joint between the tailpipe and muffler to seize, resulting in undue stress on the exhaust system.

The FAA is revising AD 76-23-03 by changing the frequency of the required inspection from "intervals not to exceed 100 hours time-in-service" to "intervals not to exceed 100 hours time-in-service or the next annual inspection, whichever occurs first." In addition, the AD is being revised to add a specific reference to the tailpipe support because failure of this component may have been a causal factor in some of the exhaust system failures. If the tailpipe assemblies are not free to move at the ball joints, the bending stress created by the tailpipe and resonator can break the welded muffler outlet.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, the AD revision is being issued. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

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 FAR 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 revising AD 76-23-03, Amendment 39-2772, as follows: Revise the compliance paragraphs to read:

For airplanes with 200 or more hours time in service on the effective date of this AD, compliance is required within the next 10 hours time in service and thereafter at intervals not to exceed 100 hours time in service or the next annual inspection, whichever occurs first.

For airplanes with less than 200 hours time in service on the effective date of this AD compliance is required before the accumulation of 210 hours time in service and thereafter at intervals not to exceed 100 hours time in service or the next annual inspection, whichever occurs first.

Revise the first sentence of paragraph (A) to read as follows:

Visually inspect the muffler and tailpipe assemblies for cracks paying particular attention to the ball joint welds, the outlets of the muffler and resonator, and the support for the tailpipe assembly.

This amendment becomes effective November 7, 1986.

This amendment revises AD 76-23-03, Amendment 39-2772.

Issued in Kansas City, Missouri, on October 23, 1986.

T.R. Beckloff, Jr.,

Acting Director, Central Region.

[FR Doc. 86-24836 Filed 11-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-50-AD; Adt. 39-5453]

Airworthiness Directives; Cessna Models 208 and 208A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 86-09-08 applicable to all Cessna Model 208 and 208A airplanes. AD 86-09-08 requires the installation of warning placards and temporary revision of the emergency procedures in the Pilot's Operating Handbook and Airplane Flight Manual (POH/AFM). This superseding action requires the installation of a fuel selector valve position warning system and modification of the low fuel level transmitter retention nuts. Reports have been received of forced landings which are attributed to fuel starvation due to attempting takeoff with both wing fuel tank selectors in the "off" position. This action will preclude fuel starvation caused by the fuel selector valves remaining in the "off" position.

DATES: *Effective date:* November 7, 1986.

Compliance: Required by December 31, 1986, unless already accomplished.

ADDRESSES: Cessna Caravan Service Bulletin Number CAB 86-8 dated October 10, 1986, applicable to this AD may be obtained from Cessna Aircraft Company, Customer Services, Post Office Box 1521, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, FAA, Aircraft Certification Office, ACE-140W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION: AD 86-09-08, Amendment 39-5308, applicable to Cessna Models 208 and 208A airplanes was published in the **Federal Register** on May 12, 1986 (51 FR 17322). This AD was prompted by reports of engine power loss from fuel starvation with subsequent forced landings due to both fuel selector valves remaining in the "off" position during operation. AD 86-09-08 requires installation of warning placards and revision to the Pilot's Operating Handbook and Airplane Flight Manual fuel system emergency procedures. This was interim action until a permanent design could be developed. Subsequently, FAA published NPRM Docket No. 86-CE-13-AD on June 5, 1986, in the **Federal Register** (51 FR 20495) which proposed a modification of the Cessna Models 208 and 208A airplanes fuel system by adding frangible safety wire to secure the wing fuel tanks selector valves in the "on" position. In addition, the proposal would have required instructional placards and revision to the Pilot's Operating Handbook and Airplane Flight Manual on these model aircraft. Subsequent to the issuance of this NPRM the FAA received comments suggesting an alternate solution would be more appropriate. Based on these comments the manufacturer developed a fuel selector warning system modification as described in Cessna Bulletin CAB 86-8 dated October 10, 1986, which will preclude mismanagement of the fuel system.

This modification provides "FUEL SELECT OFF" annunciator light and warning horn designed to alert the pilot or crew if both fuel tank selector valves are off before engine start, if either fuel tank selector valve is off during engine start, or if one fuel tank selector valve is off in flight and the fuel level in the tank being used drops below 25 gallons.

In addition, the manufacturer developed a modification to assure adequate security of the low fuel level transmitters as described in Cessna Bulletin CAB 86-26, dated September 5, 1986. This change will improve the reliability of the fuel selector warning system by securing the low fuel transmitter retention by adding a lock washer to the transmitter in the fuel reservoir and applying sealer on the transmitter nut in each wing tank.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, the FAA is issuing an AD applicable to Cessna Model 208 and 208A airplanes which will require the fuel selector warning system modification as described in Cessna Bulletin CAB 86-8 dated October 10, 1986, and the low fuel transmitters nut retention modification as described in Cessna Bulletin CAB 86-26, dated September 5, 1985. As part of this rulemaking AD 86-09-08 will be superseded. In addition, this action withdraws NPRM Docket No. 86-CE-13-AD since the actions proposed therein are no longer valid.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"ADDRESSES"** at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

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 FAR 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 AD.

Cessna: Applies to Models 208 and 208A (Serial Numbers 20800001 thru 20800105) airplanes certificated in any category.

Compliance: Required by December 31, 1986, unless already accomplished.

To prevent fuel starvation during takeoff due to improper positioning of the wing fuel tank selectors, accomplish the following:

(a) For Models 208 and 208A (Serial Numbers 20800001 through 20800105) airplanes, install the Cessna fuel selector warning system, revise the POH/AFM, and perform all required system checks, as described in Cessna Bulletin CAB 86-8 dated October 10, 1986.

(b) For Models 208 and 208A (Serial Numbers-20800001 through 20800083) airplanes, modify the low fuel level transmitter supports as described in Cessna Bulletin CAB 86-26, dated September 5, 1986.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent method of compliance with this AD may be approved by the Manager, Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this AD may obtain copies of the documents referred to herein upon request to Cessna Aircraft Company, Customer Services, Post Office Box 1521, Wichita, Kansas 67201; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This action supersedes AD 86-09-08, Amendment 39-5308, published May 12, 1986 (51 FR 17322) and withdraws NPRM Docket Number 86-CE-13-AD published June 5, 1986 (51 FR 20495).

This amendment becomes effective on November 7, 1986.

Issued in Kansas City, Missouri on October 23, 1986.

T.R. Beckloff,

Acting Director, Central Region.

[FR Doc. 86-24829 Filed 11-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-22-AD; Amendment 39-5452]

Airworthiness Directives; Pilatus Britten-Norman Limited, Models BN-2 and BN-2A Islander Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Pilatus Britten-Norman Limited (PBN), Models BN-2 and BN-2A Islander Series airplanes which requires rectifying defects found in the elevator mass balance for aircraft in service, and elevator spares. Instances have been

reported of the internal lead balance weights becoming loose and even detaching from its bond to the steel mounting case in the nose of the elevator horn. This shift in the elevator balance may induce high amplitude vibrations, excessive control system wear, loss of control and possible catastrophic flutter. This AD will detect the loose balance weights and restore the correct elevator balance before any of the undesired oscillations, flutter or control system wear occurs.

DATES: *Effective date:* December 8, 1986.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD.

ADDRESSES: Pilatus Britten-Norman Limited, Mandatory Service Bulletin (MSB) No. BN–2/SB.113, Issue 2 dated April 14, 1986, and recommended Service Bulletin (S/B) BN–2/SB.113, Issue 1 dated February 1, 1978, applicable to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium; Telephone 513.38.30; or Mr. Harvey A. Chimerine, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring an inspection of the elevator horn balance weight, for cracks, looseness, corrosion and repair by incorporating Modification NB/M/990 on certain Pilatus Britten-Norman BN–2 airplanes was published in the **Federal Register** on August 7, 1986, 51 FR 28386. The proposal resulted from reports on Pilatus Britten-Norman Limited Models BN–2 and BN–2A Islander Airplanes, of elevator vibration, caused by the internal lead balance weight becoming detached from its bond to the steel mounting case forming the outer skin of the balance in the nose of the elevator horn. The initial construction of this assembly involves casting the lead directly into the steel case, resulting in a close fit and adhesion of the lead to the steel. In some cases, due to cooling and contraction of the two dissimilar metals, the lead became free from its steel holder, vibrated and deformed allowing ingress of moisture to cause corrosion of the steel case and has caused excessive vibrations of the elevator. As a result the manufacturer recommended the incorporation of Modification NB/M/990, as specified in Issue 1 of S/B.113 dated February 1, 1978. Recent service difficulty reports indicate that the problem still persists on aircraft that did not incorporate Modification NB/M/990. Consequently Pilatus Britten-Norman has re-issued S/B BN–2/SB.113 as Mandatory S/B BN–2/SB.113, Issue 2 dated April 14, 1986, which will detect the loose balance weights and restore the correct elevator balance before any undesired failures or vibrations occur, on both installed and spare elevators.

The United Kingdom Civil Aviation Authority (CAA–UK), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom, classified this BN–2/SB.113, Issue 2 dated April 14, 1986, in addition to S/B BN–2/SB.113, Issue 1 dated February 1, 1978, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under the United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA–UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of BN–2/SB.113, Issue 2 dated April 14, 1986, in addition to S/B BN–2/SB.113, Issue 1 dated February 1, 1978, and the mandatory classification of this Service Bulletin by the CAA–UK and concluded that the condition addressed by BN–2/SB.113, Issue 2 dated April 14, 1986, in addition to S/B BN–2/SB.113, Issue 1 dated February 1, 1978, was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States. Accordingly, the FAA proposed an amendment to Part 39 of the FAR to include an AD on this subject.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change.

The FAA has determined that this regulation involves 100 airplanes at an approximate one-time cost of $70 for each airplane. The total cost is estimated to be $7,000 to the private sector.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 2, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

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 FAR 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 AD:

Pilatus Britten-Norman Limited: Applies to Pilatus Britten-Norman Limited (PBN) Models BN–2 and BN–2A Islander airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished by incorporation of Modification NB/M/990 as noted in Britten-Norman Service Bulletin (S/B) No. BN.2/SB.113, Issue 2, dated April 14, 1986.

To prevent undesirable oscillations, flutter or control system wear, accomplish the following:

(a) Shake the elevator and aurally (by ear) determine if the mass balance weight is loose. Examine for any sign of movement, i.e., rust marks or grey lead deposits. In cases of uncertainty drill a small hole (5/32 in. dia) in the lower case and insert a probe to feel for lead movement. Alternatively dismantle the trimming weight assembly by removal of the blind riveted end covers and by removing the balance discs (note position and sequence for re-assembly).

(1) If a loose balance weight is found prior to further flight, accomplish the following:

(i) Remove the elevator;

(ii) Drill out rivets, remove the trim weight assembly and detach the complete case from the tip rib.

(iii) Lift out the profiled lead block.

(iv) Clean the case internally to remove any corrosion by the use of emery cloth. Keep clean; do not wipe with oily or greasy rag or bond of adhesive will be impared.

(v) Clean the lead block to obtain a corrosion free face to the steel case and permit free fit into the case with an approximate 0.020 in. to 0.030 in. clearance.

(vi) Prepare and apply a quantity of 3M's EC2216 epoxy adhesive to the case and press in the weight to obtain a layer of adhesive all around to fill the gap between the case and lead. Allow to cure approximately 12 hours at 60° to 65 °F and re-assemble to the elevator structure.

(vii) Re-assemble trim weights and check elevator balance, adjust trim weights if necessary to restore CAA–UK approved manufacturer's correct balance.

Note.—EC2216 may be substituted by similar "low flow" epoxy adhesive provided that the gap can be adequately sealed.

(2) If no defect is found, reassemble and return the airplane to service.

(b) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, ACE–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents, referred to herein upon request to Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, England; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on December 8, 1986.

Issued in Kansas City, Missouri, on October 23, 1986.

T.R. Beckloff,

Acting Director, Central Region.

[FR Doc. 86–24833 Filed 11–3–86; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 307

Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986

AGENCY: Federal Trade Commission.

ACTION: Notice of final rulemaking.

SUMMARY: On February 27, 1986, the President signed into law the Comprehensive Smokeless Tobacco Health Education Act of 1986 (Smokeless Tobacco Act). The Smokeless Tobacco Act requires, among other things, that manufacturers, packagers, and importers of smokeless tobacco display health warnings on their packaging and in most of their advertising and submit plans to the Commission specifying the method used to rotate, display, and distribute the required health warnings. On July 3, 1986, the Commission published a notice of rulemaking (51 FR 24375 (1986)) that proposed regulations to implement these aspects of the Smokeless Tobacco Act. Written comments were invited until August 4, 1986. However, on July 28, 1986, the Commission extended the deadline for comments until August 18, 1986 (51 FR 26903 (1986)). Approximately 110 comments were received and placed on the public record. In addition, the Commission received three sets of physical exhibits consisting of mockups of advertisements with warnings in a variety of sizes and formats that were also placed on the rulemaking record. This notice contains the statement of basis and purpose for the regulations implementing the Smokeless Tobacco Act and the text of the final regulations.

EFFECTIVE DATES. These regulations (with the exception of §§ 307.4(c), 307.10, and 307.11, which involve the submission of plans) are effective February 27, 1987. Sections 307.4(c), 307.10, and 307.11 are effective December 19, 1986.

ADDRESS: Requests for copies of the regulations and the statement of basis and purpose should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Nancy S. Warder, (202) 376–8648 or Donald G. D'Amato, (202) 376–8617, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580.

List of Subjects in 16 CFR Part 307

Health warnings, Smokeless tobacco, Trade practices.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

STATEMENT OF BASIS AND PURPOSE

I. Introduction

The Smokeless Tobacco Act was enacted by Congress for the express purpose of providing for public education concerning the health consequences of using smokeless tobacco products.[1] Among other things, the Smokeless Tobacco Act requires that 1 year after the date of enactment manufacturers, packagers, and importers of smokeless tobacco products include health warnings on their packages and advertising (with the exception of outdoor billboards). The Smokeless Tobacco Act also directs the Commission to issue regulations that implement the requirements for the display of health warnings in the labeling and advertising of smokeless tobacco products and the submission of plans specifying the method used to rotate, display, and distribute the required health warnings.

On July 3, 1986, the Commission published a notice announcing proposed regulations issued by the Commission pursuant to the Smokeless Tobacco Act.[2] The Commission invited comments on all aspects of the proposed regulations, and in addition solicited comments on a number of specific issues related to the proposed regulations. When the proposed regulations were originally published for comment, the notice required comments to be submitted on or before August 4, 1986. In response to requests for a 30-day extension by the Massachusetts Department of Public Health and the Coalition on Smoking OR Health,[3] the Commission, however, extended the deadline for comments until August 18, 1986. The Commission received 110 comments in response to the invitation to comment, which were placed on the public record.[4] The Commission also

[1] Pub. L. No. 99–252, 100 Stat. 30 (1986) *to be codified at* 15 U.S.C. 4401 *et seq.*

[2] 51 FR 24375 (1986).

[3] 51 FR 26903 (1986).

[4] Comm'n Pub. Docket No. 209–52.

received three sets of physical exhibits consisting of mockups of advertisements in a variety of sizes and formats that were placed on the rulemaking record. In addition, acetates prepared by staff consisting of thirteen circles and arrows in different sizes were placed on the public record in October.

II. The Regulations

The regulations proposed by the Commission were written, for the most part, as creating safe harbors rather than imposing mandatory, inflexible requirements for compliance with the Smokeless Tobacco Act. For example, rather than requiring the warning to appear on the side of snuff cans, the proposed regulations provided that the side of the can would be deemed to be a prominent place for display of the warnings. The final regulations also adopt the same flexible approach. The Commission believes that these safe harbors are conspicuous on the basis of the record before it. If, however, there is a pattern of abuse or confusion suggesting that the safe harbors are not conspicuous, the Commission will consider whether it is necessary to require greater specificity or more stringent standards.

This section discusses separately six aspects of the regulations: The terms defined (§ 307.3), the acts prohibited by the regulations (§ 307.4), the label disclosures (§ 307.6), the print advertising disclosures (§ 307.7), the audiovisual and audio advertising disclosures (§ 307.8), and cooperative advertising (§ 307.9). In each case, the discussion begins with a brief description of the pertinent section of the regulations as originally proposed and the issues, if any, raised by the Commission in connection with the section. Next, the major relevant comments on the section are discussed. The discussion concludes with an explanation of the section adopted by the Commission in the final regulations.

A. Terms Defined (§ 307.3)

As originally proposed, § 307.3 of the regulations defined the following terms: Act, Commission, regulation(s), commerce, United States, smokeless tobacco product, brand, package, label, billboard, manufacturer, packager, and importer. Section 307.3 as proposed did not contain a definition of the term "advertisement."

In the invitation to comment that accompanied the proposed regulations in the **Federal Register**, the Commission specifically sought comments on the problems that the absence of a definition of the term "advertisement" might create for implementing the regulations and achieving the purposes of the Smokeless Tobacco Act.[5] The Commission received a number of comments addressing this issue.

Some of the comments received urge the Commission to include a broad definition of the term "advertisement" in the final regulations. These comments take the position that a broad definition is needed to achieve what they view as the Smokeless Tobacco Act's intended purpose of requiring the display of health warnings on all types of advertising and promotional materials.[6] The American Association of Advertising Agencies,[7] however, notes that any definition of the term "advertisement" would be so broad that it would be meaningless as a guide to conduct. The Coalition on Smoking OR Health [8] notes that the Commission has not previously adopted an all-encompassing definition of advertising, and the Public Citizen Health Research Group [9] takes the position that the precedent setting implications of defining advertising in the context of these regulations would require full public comment on that issue alone.

The Commission believes that a broad definition of the term "advertisement" would not serve as a useful guide to conduct for those affected by the regulations and thinks that those instances where the applicability of the regulations to certain material is open to question are best resolved on a case by case basis. Accordingly, § 307.3 of the final regulations does not define the term "advertisement."

The invitation to comment that accompanied the proposed regulations also asked specifically whether § 307.3 as proposed should be revised so as to define additional terms other than the word "advertisement."[10] Few comments were received in response to this question, and only one comment [11] suggests defining any additional terms. Accordingly, § 307.3 of the final regulations does not define any terms other than the thirteen words defined in the section as originally proposed.

B. Prohibited Acts (§ 307.4)

As proposed § 307.4 contained five operative subsections. Paragraph (a) prohibited the distribution of smokeless tobacco packages without the required warning unless the product had been exempted. Paragraph (b) prohibited the dissemination of smokeless tobacco advertising without the required warnings and also stated that this prohibition did not apply to (among other things) point-of-sale promotional materials with a display area of 36 square inches or less or to utilitarian objects for personal use such as clothing, sporting goods, spittoons, towels, blankets, and furniture. Paragraph (b) was silent with respect to promotional banners displayed at sponsored events. Paragraph (c) prohibited failure to submit a plan to the Commission specifying the method used to rotate, display, and distribute the required warnings. Paragraph (d) provided a procedure for obtaining exemptions from the requirements of the regulations by rulemaking. Finally, paragraph (e) contained a provision that exonerated any manfacturer, packager, or importer of smokeless tobacco products that had taken certain reasonable steps to comply with the regulations.

As proposed § 307.4 raised four discrete issues: The appropriateness of the exemptions for point-of-sale promotional materials with a display area of 36 inches or less and utilitarian objects in paragraph (b); the appropriateness of the same subsection's silence with respect to promotional banners; the propriety of the exemption procedure set forth in paragraph (d); and the need for miscellaneous changes in § 307.4. Each of these issues is discussed separately below.

1. Point-of-Sale Materials and Utilitarian Objects

In the invitation to comment that accompanied the proposed regulations, the Commission, noting that paragraph (b) of § 307.4 had adopted a number of preexisting exemptions applicable to cigarette advertising, pointed out that paragraph (b) did not apply either to point-of-sale promotional materials with display areas of 36 square inches or less or to utilitarian objects intended for personal use. The Commission then specifically asked whether the exemption for both types of materials should be limited to items that do not carry a separate selling message.[12]

Although the Commission did not specifically solicit comments on the relationship of the Smokeless Tobacco Act to the requirements for the display

[5] 51 FR 24375 at 24378 Question 1 (1986).

[6] Comm'n Pub. Docket No. 209-52 at 88-90, 99-100, 130-33, 143-62, 172-75, 234-41, 250-51, 254-56.

[7] *Id.* at 183-93.

[8] *Id.* at 205-26.

[9] *Id.* at 276-83.

[10] 51 FR 24375 at 24378 Question 2 (1986).

[11] That one comment recommends defining "marketed" as meaning "offered for sale." Comm'n Pub. Docket No. 209-52 at 137. The term marketed, however, was used in the proposed regulations as meaning advertised as well as offered for sale.

[12] 51 FR. 24375 at 24379 Question 7 (1986).

of health warnings in cigarette advertising, a number of comments directly address this issue. In a joint comment, Senators Hatch, Lugar, and Kennedy,[13] who were the principal sponsors of the Smokeless Tobacco Act in the Senate, emphasize that the possibility of incorporating the history of the previous cigarette warning legislation by reference into the history of the Smokeless Tobacco Act was discussed, but rejected. Also in a joint comment, Representatives Waxman and Synar,[14] who were the primary authors of the Smokeless Tobacco Act, agree that the idea of incorporating cigarettes by reference was rejected and that the Smokeless Tobacco Act draws careful distinctions between how cigarettes and smokeless tobacco products are to be treated. The Smokeless Tobacco Council,[15] the trade association that represents the major smokeless tobacco manufacturers, also takes the position that neither the language of the Smokeless Tobacco Act nor its legislative history supports the proposition that Congress intended to treat smokeless tobacco products the same as cigarettes. In contrast, a few comments emphasize that fairness requires that smokeless tobacco products be treated no worse than cigarettes.[16] The weight of the comments, however, is to the effect that Congress did not intend to incorporate the regulatory history of cigarettes.

Moreover, the legislative history of the Smokeless Tobacco Act supports the position that Congress intended to treat smokeless tobacco products differently than cigarettes. In the Senate debates on the bill that was amended to become the Smokeless Tobacco Act, the chairman of the committee that reported out the bill expressly explained that, although many of the concerns and information that are applicable to the Comprehensive Smoking Education Act also apply to the smokeless tobacco legislation, the Smokeless Tobacco Act did not amend the Comprehensive Smoking Education Act or adopt its legislative history.[17]

Most of the comments that respond directly to the question concerning the appropriateness of requiring both point-of-sale promotional materials [18] and utilitarian objects [19] to display health warnings take the position that they should, regardless of whether they carry a separate selling message. In contrast, the comments that favor an exemption for these items refer to similar exemptions that are applicable to cigarette advertising as the basis for their position.[20]

Based on the comments received and further review of the legislative history of the Smokeless Tobacco Act, the Commission does not believe that the existence of an exemption for cigarettes in and of itself offers a legal basis for exempting classes of materials from the Smokeless Tobacco Act, although the cigarette exemptions do offer practical guidance as to what types of materials should be covered. The Commission is aware that some point-of-sale materials like shelf-talkers and similar product locators are almost always displayed in close proximity to products that will carry the required warnings. Shelf-talkers and similar product locators are often relatively small, with display areas of 12 square inches or less, and unobtrusive. A warning on these small items would produce virtually no benefits, especially since the type size of the warnings on these items would be smaller than the label warnings on the products. Accordingly, paragraph (b) of § 307.4 of the final regulations provides that shelf-talkers and similar product locators with a display area of 12 square inches or less are not required to display the required warnings. All other point-of-sale materials, regardless of size, are required to display the warnings.

Similarly, although the Commission understands that certain types of promotional activities, like the distribution of utilitarian objects, are intended to increase brand awareness, advertising and other promotional expenditures are commonly distinguished.[21] Moreover, there are practical problems in putting health warnings on many of the utilitarian objects distributed by the smokeless tobacco industry, such as golf balls and cuspidors. In addition, the Commission is sensitive to the need to avoid diminishing the seriousness of the required warnings by mandating their display in absurd situations. Since requiring the display of warnings on utilitarian items may be counterproductive to the Smokeless Tobacco Act's goal of providing meaningful information concerning the health risks associated with smokeless tobacco use, the benefits of requiring the display of warnings on these items is at best *de minimis*. Accordingly, paragraph (b) of § 307.4 of the final regulations exempts utilitarian objects for personal use. The Commission considered limiting the exemption for utilitarian objects to items that only carry a brand name, logo, or other product identifier. However, the distinction would not avoid the enormous practical problem of specifying a warning scheme for these objects or avoid the possible trivialization of the warnings. Accordingly, the Commission decided not to limit the exemption for utilitarian objects.

2. Banners

The invitation to comment also noted that paragraph (b) of § 307.4 was silent with respect to promotional banners used at sponsored events, such as fishing tournaments and automobile races and asked whether the regulations should be modified to address banners explicitly.[22] There are a number of responsive comments, most of which[23] take the position that banners are advertising in that they are displayed at sponsored event so that the public can see them and be persuaded to use smokeless tobacco products. The Smokeless Tobacco Council[24] takes a contrary position, pointing out that whether an object constitutes advertising depends on its use, rather than its characterization, and stating that banners used to denominate events, designate pit stop locations for race cars, and the like are not advertising.

The Commission believes that the question of whether banners constitute advertising should be addressed on a case by case basis. In addressing the question of whether various banners are advertising for purposes of the Smokeless Tobacco Act, the Commission will consider whether they are displayed, for example, to denominate an event, designate a pit stop, or for advertising purposes.

3. Exemption Procedure

The invitation to comment did not specifically solicit comments on the propriety of the procedure for obtaining exemptions from the requirements of the

[13] Comm'n Pub. Docket No. 209-52 at 320-21.

[14] *Id.* at 322-25.

[15] *Id.* at 284-307.

[16] *Id.* at 310-15, 330-31.

[17] Cong. Rec. S17682 (daily ed. Dec. 16, 1985) (statement of Sen. Hatch).

[18] Comm'n Pub. Docket No. 209-5 at 88-90, 196-98, 205-26, 234-41, 246-47, 276-83, 320-21, 322-25, 361-83.

[19] *Id.* at 97, 99-100, 135, 143-62, 196-98, 205-26, 234-41, 254-56, 276-83, 361-83.

[20] *See e.g.*, 194-95, 284-307, 310-15, 318-19.

[21] The provision of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1337(b)(1982), requires the Commission to submit annual reports to Congress on, among other things, methods of cigarette advertising and promotion. Thus Congress itself is aware of this distinction.

[22] 51 FR 24375 at 24379 Question 8 (1986).

[23] Comm'n Pub. Docket No. 209-52 at 67, 99-100, 104-105, 107-08, 120-21, 122-23, 143-62, 172-75, 196-98, 205-26, 227-33, 234-41, 242-45, 276-83, 335, 361-83.

[24] *Id.* at 284-307.

regulations, which was set forth in paragraph (d) of § 307.4 of the proposed regulations. However, the Coalition on Smoking OR Health[25] notes in its comments that the Smokeless Tobacco Act does not contain a provision that permits the creation of exemptions when compliance is "impractical, unreasonable, or unnecessary for the adequate protection of consumers." The Commission's rules of practice already provide a mechanism by which persons can seek exemptions from its rules. The Commission, therefore, has deleted proposed paragraph (d) from the final regulations. The Commission will determine what substantive standard, if any, constitutes an adequate basis for an exemption from the regulations in connection with any petitions for exemptions that may be filed.

4. Miscellaneous Changes

There are a number of additional comments on other aspects of § 307.4 as well as one technical change in the section that the Commission is making on its own initiative. Although not all of the comments discussed in this section expressly refer to § 307.4 of the proposed regulations, they all would require changes in § 307.4 to make clear that the section's prohibitions do not apply to the activity or material that is the subject of the comment.

First, four comments recommend [26] that the Commission add a provision to the regulations exempting public issues messages and other non-selling communications by smokeless tobacco companies from the requirements of the regulations. Both the Smokeless Tobacco Act and the proposed regulations, of course, apply only to commercial speech as that term has been defined in Supreme Court cases. Although the Commission agrees that fully protected speech is not required to carry health warnings, the Commission believes that distinctions of this sort are best made on a case by case basis. Thus to change is made in the regulations.

In addition, four comments [27] urge the Commission to add a provision to the proposed regulations that would provide for the disposition of finished goods inventories that are on hand on the effective date and advertising that is in place as of the effective date. More specifically, the Smokeless Tobacco Council suggests [28] that paragraphs (a) and (b) of § 307.4 be modified to provide that the regulations do not apply to smokeless tobacco products manufactured before February 27, 1987, and to make clear that recalling existing advertising is not necessary to comply with the regulations. The Commission recognizes the need for an orderly transitional period, but believes that these procedures can be worked out best with each smokeless tobacco company on an individual basis as part of its compliance plan. The Commission followed the same procedure in implementing the 1984 Comprehensive Smoking Education Act in that each company set out a proposal for the transitional period in its compliance plan. For example, the plans approved provided that the new warnings would appear only on the labels of products packaged after the effective date. Accordingly, no change is made in the proposed regulations in response to this recommendation.

In addition, the Smokeless Tobacco Council points out that paragraph (b) of § 307.4 identifies a number of activities to which the regulations do not apply, including publications that are not circulated to consumers and promotional materials that are not publicly displayed, but are distributed to smokeless tobacco dealers or merchants. The Smokeless Tobacco Council suggests that the word "intended" be inserted so that the original purpose of the activity is determinative of the applicability of this provision, rather than subsequent fate of the material. The Commission agrees that an enforcement action against a company because its trade materials accidentally became available to a number of consumers would be unwarranted, but also believes that inserting the word "intended" in the regulations would unnecessarily complicate enforcement and is, accordingly, inappropriate. No change, therefore, is made in the proposed regulations in response to this recommendation.

As proposed paragraph (e) of § 307.4, which created a safe harbor for smokeless tobacco companies that have taken reasonable steps to comply, provided that blurring or illegibility of the warnings that occurs for reasons that are beyond the control of a smokeless tobacco company would not be considered to be a violation of the regulations. Although the Commission would not institute an enforcement action based on blurring or illegibility of this sort, this explanatory language has been removed from the text of the regulations as unnecessary.

The Smokeless Tobacco Council suggests that paragraph (e) of § 307.4 be broadened to provide expressly that a smokeless tobacco company is not responsible for the failure to comply of a person that is not under the company's immediate control. Control is a broad concept and, for some purposes, even a company's advertising agency can be described as not being under its immediate control. Accordingly, no change is made in the proposed regulations in response to this comment and proposed paragraph (e) of § 307.4 is redesignated as paragraph (d) without any change other than the technical modification described in the preceding paragraph.

C. Label Disclosures (§ 307.6)

As proposed paragraph (a) of § 307.6 required the label warning statements to appear in a prominent place, which is described as being a part of the label that is likely to be seen. Proposed paragraph (a) then gave examples of the surfaces of a number of types of smokeless tobacco packages that would be deemed to be prominent for purposes of displaying the warning and stated that, absent special circumstances, the required warning would not be deemed to be prominent if it appeared on the bottom of a package. Paragraph (b) as proposed required the label statement to appear in a conspicuous format, in conspicuous and legible type in contrast with all other printed material on the package. Under paragraph (b) also provided that label statements separated from other material on the label and printed in two to four lines parallel to the base of the package would be deemed to be in a conspicuous format. Under paragraph (b) as proposed a warning printed in Univers 47 would be deemed to be conspicuous and legible. Proposed paragraph (b) also listed the type sizes that would be deemed to be conspicuous and legible for four examples of smokeless tobacco packages that were described in terms of contents (that is snuff or chewing tobacco) and in some cases in terms of capacity of the container as well. In addition, proposed paragraph (b) provided that a label warning printed in the color used anywhere on the package that is most visible against the background where the warning appears would be deemed to be sufficiently contrasting.

As proposed § 307.6 raised four issues: The prominence of the surfaces designated for display of the warning; the conspicuousness of the format; the legibility of the type; and the sufficiency of the color contrast. Each of these

[25] *Id.* at 205–26.
[26] *Id.* at 259–62A, 284–307, 310–15, 318–19.
[27] *Id.* at 284–307, 308–09, 310–15, 330–31.
[28] *Id.* at 284–307.

issues is discussed in a separate section below.

1. Prominence of Designated Surfaces

In the invitation to comment that accompanied the proposed regulations, the Commission specifically sought comments on the issue of the appropriateness of the surfaces designated for display of the warnings in the proposed regulations.[29] Most of the responsive comments,[30] including a letter from the sponsors of the Smokeless Tobacco Act in the House,[31] favor requiring the warning on snuff cans to be printed on the top as opposed to the side. The Smokeless Tobacco Council,[32] however, points out that requiring a warning on the top of the snuff can would impose a substantial hardship on the manufacturers that emboss the top of the snuff can rather than use it as a label. A snuff can has only two surfaces that are used to display label information, the top and the side. Designating the side for display of the warning, rather than the top, avoids working a substantial hardship on those snuff manufacturers that emboss the top and yet satisfies the statutory standard that requires the warning to be displayed in a conspicuous and prominent place. Accordingly, no change is made in the proposed regulations.

However, a number of the comments [33] suggest that the side of the can would be an acceptable alternative to the top for display of the required warnings provided that, among other things, the warning were not printed on the tear line. This suggestion is reasonable and, accordingly, paragraph (a) is modified to provide that the required warning will not be deemed to be in a conspicuous and prominent place if it is printed on the tear line or any other surface where it will be obliterated when the package is opened.

Two comments also take issue with the proposed regulations' requirements for placement of the warnings on rectangular packages.[34] As previously indicated, paragraph (a) as proposed contained a list of examples of the surfaces that would be deemed to be prominent for display of the required warning. The third example was applicable to rectangular boxes of snuff, plugs of chewing tobacco, or cartons used to dispense individual cans of snuff or pouches or plugs of chewing tobacco and provided that either side of the package would be deemed to be conspicuous and prominent so long as the panel used was cleared of other written or graphic matter. The two comments object to the requirement that the side panel be cleared to be deemed prominent. Requiring the side panel to be cleared of everything other than reasonable extensions of materials from adjacent panels, such as plain bands of color and the like, prevents the side from becoming cluttered with busy printed material that contains any distracting designs or other detail. Accordingly, the Commission continues to believe that clearing the side is important to ensure the prominence of the warning. The requirement with respect to clearing the side panel, therefore, is not modified in response to these comments. However, one of the comments argues that the requirement is unfair because as a practical matter it only applies to cartons used to dispense chewing and plug tobacco, but not dispensers of snuff. The language of the example is modified so that it applies to all dispensers of smokeless tobacco, rather than merely to cartons. In addition, the example is further modified, since it is no longer limited to cartons, to specify that it only applies to dispensers that are available for sale as a unit.

The invitation to comment also specifically sought comments on the appropriateness of designating the front of chewing tobacco pouches as a prominent place for display of the warning.[35] Very few comments are directly responsive to this question, and the more detailed responsive comments [36] take the position that the requirement is unfair in that it singles out looseleaf chewing tobacco as the only smokeless tobacco product that is required to carry a warning on its principal display panel. These comments take the position that the regulations should be modified to designate the bottom of the pouch as a prominent place. Although the Commission appreciates the special problems designating the front of the pouch as being prominent creates for the makers of looseleaf chewing tobacco, the only surface that can most reasonably be deemed to be prominent in the case of a package with only three surfaces, a front, back, and bottom, is the front. As an alternative to designating the front as a prominent place, the Smokeless Tobacco Council suggests either face panel, taking the position that pouches do not have a front or a back, but rather have two nearly identical face panels. Accordingly, when the two face panels are in fact identical, for purposes of the regulations the front of the pouch will be deemed to be the panel on which the warning appears.

2. Conspicuousness of the Format

As previously indicated, paragraph (b) of § 307.6 as proposed provided that the required warning would be deemed to be conspicuous if it was separated from other material on the package and printed in two to four parallel lines. In addition, under proposed paragraph (b), with the exception of cans with a diameter of 1 and ¾ inches or less, the lines must also be printed parallel to the base of the package. The invitation to comment did not call for comments on the appropriateness of the format for the package warnings specifically, but rather merely asked whether the label statements would be sufficiently noticeable to satisfy the statutory standard that the warnings be displayed conspicuously.[37]

Most of the comments that address the requirements for the package warnings under the proposed regulations in global terms express concern over the adequacy of the disclosures.[38] Many of the comments also offer specific suggestions on how the conspicuousness of the label format could be enhanced. A few of the comments suggest that the Commission require a circle and arrow format,[39] at least for the warnings on some types of packages, whereas a number of comments urge the Commission to specify that the package warnings be printed in black on a white background.[40] Many comments recommend that the Commission at least require the package warnings to be surrounded by a border.[41]

The Smokeless Tobacco Council [42] comment states that other changes are

[29] 51 FR 24375 at 24378 Question 3A (1986).

[30] Comm'n Pub. Docket No. 209-52 at 65-66, 70-71, 88-90, 98, 99-100, 104-05, 116-17, 120-21, 122-23, 127, 128, 169-70, 176, 196-98, 205-26, 227-33, 234-41, 246-47, 250-51, 253, 257-58, 276-83, 328-29, 335, 336, 361-83.

[31] *Id.* at 322-25.

[32] *Id.* at 284-307.

[33] *Id.* at 65-66, 70-71, 99-100, 116-17, 254-56.

[34] *Id.* at 263-75, 284-307.

[35] 51 FR 24375 at 24378 Question 3B (1986).

[36] Comm'n Pub. Docket No. 209-52 at 263-75, 284-307, 308-09.

[37] 51 FR 24375 at 24378 Question 4A (1986).

[38] Comm'n Pub. Docket No. 209-52 at 61, 72, 76, 78, 81, 82, 83-87, 106, 112, 115, 116-17, 118, 120-21, 124, 126, 129, 134, 178, 181, 196-98, 199, 234-41, 320-21, 335, 361-83.

[39] *Id.* at 88-90, 205-26, 250-51, 253, 361-83.

[40] *Id.* at 96, 176, 196-98, 205-26, 234-41, 254-56, 276-83.

[41] *Id.* at 65-66, 67, 70-71, 98, 99-100, 102, 104-05, 107-08, 116-17, 120-21, 122-23, 127, 178, 196-98, 227-33, 246-47, 254-56, 276-83, 328-29, 335, 361-83.

[42] *Id.* at 284-307.

needed in the requirements for the format for the label. Specifically, the Smokeless Tobacco Council suggests that the warnings should be required to be separated from other printed matter on the label by only once the point size of the type in which the warning is printed, rather than twice the point size as was required by the proposed regulations. The Smokeless Tobacco Council also believes that the requirement that the warning be printed in two to four lines as opposed to just one line is unnecessary. Finally, the Smokeless Tobacco Council suggests that the exception from the parallelism requirement be broadened to include all rectangular packages, rather than be limited to cans with diameters of 1 and ¾ inches or less.

The Commission is not persuaded that any overall changes in the label format are required. Although many comments favor altering the format to make it more conspicuous, the format originally proposed appears to be sufficiently conspicuous to meet the statutory standard of "a conspicuous format." On the other hand, the Commission believes that the modifications suggested by the Smokeless Tobacco Council may detract from the conspicuousness of the label warnings. Accordingly, no change is made in the proposed regulations in response to any of these comments.

With respect to the format for the warnings on chewing tobacco pouches, the invitation to comment also asked whether a two line as opposed to a one line format would be sufficiently conspicuous, given that the warnings appear on the front of the package and also requested information about the relative cost of requiring the warning to be printed in two lines on pouches rather than one.[43] Although no comments were received on the relative costs, a few comments are directly responsive to the question about the appropriateness of a two line versus a one line warning on pouches.

The Smokeless Tobacco Council,[44] as well as four members of Congress,[45] take the position that the warning on pouches should be permitted to appear in one line. According to the Smokeless Tobacco Council, not only would a one line warning be sufficiently conspicuous, but a two line warning would distort the label and single out looseleaf chewing tobacco, the only smokeless tobacco product sold in a pouch, for unduly harsh treatment. According to The Pinkerton Tobacco Company,[46] a company that sells mostly looseleaf tobacco, the distortion of the label is particularly pronounced in the case of pouches with borders around the face panel. Attached to the comments of The Pinkerton Tobacco Company and the Smokeless Tobacco Council are copies of mockups of pouches with one and two line warnings. In contrast, other comments flatly take the position that a one line warning on a pouch would not be sufficiently conspicuous.[47]

The Commission realizes that the question on the merits of whether the warning on pouches should be permitted to appear in one as opposed to at least two lines is a subjective one, especially given the lack of both information on the relative costs as well as empirical data on the conspicuousness of the one line as opposed to the two line warnings on pouches. The Commission has decided that one line warnings on the face of pouches will be deemed to be conspicuous but, to ensure that the one line warnings are sufficiently prominent, the regulations are modified to provide that a one line warning printed on the front of a pouch in eleven point type (rather than eight point) will be deemed to be conspicuous. The Commission emphasizes that, as is the case with many other provisions of the regulations, this change takes the approach of creating a safe harbor rather than establishing an inflexible rule for compliance.

3. Legibility of the Type

As previously described, proposed paragraph (b) of § 307.6 provided that warnings printed in Univers 47 normal or an equivalent type would be deemed to be legible and contained a list of the type sizes that would be deemed to be conspicuous and legible for four examples of smokeless tobacco packages. The invitation to comment asked whether the label statements would be sufficiently noticeable to satisfy the statutory standard that the warnings be conspicuous.[48]

Few comments focus specifically on the appropriateness of the typeface or the type size for the label warnings. Although many comments question the adequacy of the label warnings generally[49] and five specifically take the position that the type sizes are too small,[50] the Commission believes that the sizes in the proposed regulations satisfy the statutory standard that the warnings be conspicuous and legible. Therefore, no change is made in the type sizes designated in the regulations. However, one comment, in connection with the adequacy of the advertising warnings, points out that there are a number of typefaces that are more readable than Univers 47 that occupy about the same amount of space.[51] The Commission agrees that Univers 57 (one of the type sizes this comment recommends) is considerably easier to read and takes up only slightly more space than Univers 47.[52] Accordingly, the regulations are modified to provide that a label warning printed in Univers 57 will be deemed to be conspicuous and legible.

In addition, a few comments[53] object to the way that the proposed regulations described the smokeless tobacco packages for purposes of specifying a type size. The proposed regulations described examples of smokeless tobacco packages both in terms of their configuration, that is can or pouch (for example), the contents, that is snuff or chewing tobacco (for example), and their capacity, that is the number of ounces contained. The objections go to the identification of the packages in terms of the nature of their contents and take the position that a better, more universal definition would merely refer to the configuration of the package and its capacity. The packages described in the proposed regulations are geared to the packaging most widely used for the best-selling smokeless tobacco products now on the market. The packages described in the regulations are intended to serve as examples so that the size of the type on less widely used or future types of packaging can be appropriately adjusted. Accordingly, no change is made in the regulations in response to these comments.

4. Sufficiency of the Color Contrast

As previously described, under subsection (b) as proposed a warning label printed in the color used anywhere on the package that was most visible against the background on which the warning appeared would be deemed to be sufficiently contrasting. Proposed paragraph (b) also provided that more

[43] 51 FR 24375 at 24378 Questions 3 C and D (1986).

[44] Comm'n Pub. Docket No. 209–52 at 284–307.

[45] *Id.* at 308–09, 310–15, 316–17, 326–27.

[46] *Id.* at 263–75.

[47] *Id.* at 98, 234–41, 205–26, 254–56.

[48] 51 FR 24375 at 24378 Question 4A (1986).

[49] *See* note 38 and accompanying text *supra*.

[50] Comm'n Pub. Docket No. 209–52 at 88–90, 137, 253, 276–83, 361–83.

[51] *Id.* at 205–26.

[52] Specifically, in seven point type Univers 47 allows 6.16 characters per pica, while Univers 57 allows 5.22, and in twelve point type Univers 47 allows 3.60 characters per pica, while Univers 57 allows 3.05. Since a pica is equal to ⅙ of one inch, these differences are quite small.

[53] Comm'n Pub. Docket No. 209–52. at 263–75, 284–307, 326–27.

than one color could be equally visible. In the invitation to comment the Commission specifically asked whether the regulations should adopt clearly visible as the standard for the color contrast for label warnings rather than most visible, as well as asked whether the most visible standard would pose an undue burden in the case of a product with a logo that incorporated a small amount of a sharply contrasting color.[54]

There are a number of responsive comments that are divided between those that contend that the most visible standard is excessive and confusing [55] and those that argue that the standard is too weak in that it would permit the use of an existing color on the package even if no color on the package sharply contrasts to the background on which the warning is printed.[56] After reviewing the comments, the Commission has decided to modify the regulations so that paragraph (b) provides that the statement is deemed to be in contrast if it is printed in a color (including black and white) that is clearly visible against the background on which the warning appears. However, the color is no longer limited to existing colors on the package.

D. Print Advertising Disclosures (§ 307.7)

As proposed paragraph (a) of § 307.7 stated that the required warning in print advertising must be placed in a conspicuous and prominent location in an ad in a circle and arrow format and provided that a conspicuous place in the ad was not in the margin, or next to other written matter or circular designs, or on a picture of the package. Proposed paragraph (b) described the proportions of the circle and arrow in terms of fractions of the diameter of the circle to ensure that all the advertising warnings would be displayed in the same configuration. As originally proposed paragraph (b) provided that a circle and arrow and warning statement printed in a clearly visible color against a solid background would be deemed to be in contrast with all other printed material in the ad. Proposed paragraph (b) also contained a list that provided the size of the circle and arrow as well as the point size of the type of the warning that would be deemed to be conspicuous in advertisements with a range of twelve different areas.

As proposed § 307.7 raised three severable issues: the conspicuousness of the warnings; the appropriateness of the description of the circle and arrow; and the need for miscellaneous changes in § 307.7. Each of these issues is discussed separately below.

1. Conspicuousness of the Warnings

The proposed regulations contained size specifications of the warnings in advertisements in twelve area ranges. The sizes were specified both in terms of the number of points for the type and the dimensions of the circle and arrow. In the invitation to comment the Commission sought comment on the issue of whether the sizes specified were sufficiently noticeable to satisfy the requirement that the warnings be conspicuous.[57] Under the proposed regulations the warnings were required to be in a clearly visible color against a solid background. The invitation to comment also specifically asked whether the smokeless tobacco advertising warnings, like the cigarette advertising warnings, should be required to appear in black on white.[58]

The proposed sizes and color contrast for the print advertising warnings generated more comments than any other aspect of the regulations. Although one comment does not object to the sizes proposed for the advertising warnings [59] and a few comments suggest that the proposed regulations' requirements for color contrast are too stringent,[60] the majority of the comments complain that the proposed sizes are much smaller than the current cigarette warnings [61] and take issue with the proposed regulations' failure to require that the advertising warnings be printed in black against a white background.[62]

Only two timely comments from members of Congress, however, address directly the question of whether black on white should be required. One Representative[63] who describes himself as having been closely involved in the negotiations that led to the passage of the Smokeless Tobacco Act states that requiring a black on white warning is inconsistent with the legislation. A comment from the House sponsors of the legislation, in contrast, merely states that they would have no objection if the Commission were to adopt a black on white color requirement.[64] This is consistent with the legislative history of the Smokeless Tobacco Act. More specifically, during the House debates that preceded passage of the Smokeless Tobacco Act, one of the law's principal sponsors noted that "[w]ith regard to advertisements, the FTC will promulgate regulations that prescribe . . . color of the warning statement and the background on which they appear." [65]

It is clear Congress intended the Commission's primary concern in developing implementing regulations to be the effectiveness of the warnings.[66] In addition to comments questioning the size and conspicuousness of the proposed warnings, the Commission received and placed on the public record four sets of mockups of warnings of various sizes, three from the outside and one from staff. After review of the comments and these mockups, the Commission has decided to modify the proposed warnings in a number of ways to ensure their conspicuousness. First, the Commission notes that the discrepancy in the size of the proposed smokeless warnings and the cigarette warnings is particularly great in the case of larger advertisements. Accordingly, the sizes originally specified for the two

[54] 51 FR 24375 at 24378 Question 4B (1986).

[55] Comm'n Pub. Docket No. 209-52 at 179-80, 194-95, 284-307, 308-09, 310-15, 316-17, 318-19, 330-31.

[56] *Id.* at 94, 116-17, 119, 196-98, 246-47, 254-56, 328-29. Only two comments express a preference for most visible over clearly visible as the standard for color contrast. *Id.* at 98, 205-26.

[57] 51 FR 24375 at 24329 Question 6B (1986).

[58] *Id.* Question 6A.

[59] Comm'n Pub. Docket No. 209-52 at 284-307.

[60] *Id.* at 183-93, 174-95, 310-15, 316-17.

[61] Specifically, a number of comments express concern that the proposed advertising warnings for smokeless tobacco products are half the size of the cigarette warnings. *Id.* at 62, 64, 83-87, 88-90, 94, 104-05, 116-17, 122-23, 138, 166, 168, 248-49, 252, 328-29. Many other comments take the position that the warnings in smokeless tobacco advertising should be the same size as the cigarette warnings. *Id.* at 57-60, 64, 67, 70-71, 73, 77, 82, 88-90, 95, 96, 98, 103, 107-08, 114, 127, 128, 135, 136, 138, 139, 167, 169-70, 182, 196-98, 227-33, 246-47, 250-51, 254-56, 257-58, 361-83.

[62] *Id.* at 57-60, 65-66, 67, 70-71, 73, 77, 79, 82, 83-87, 94, 95, 96, 97, 98, 99-100, 101, 103, 104-05, 113, 114, 120-21, 128, 138, 139, 142, 169-70, 182, 196-98, 205-26, 227-33, 234-41, 246-47, 252, 257-58, 328-29, 361-83.

[63] *Id.* at 310-15.

[64] *Id.* at 322-25. In a subsequent letter to the Chairman dated September 12, 1986, the House and Senate sponsors of the Smokeless Tobacco Act clarify their comments by setting that it was their intention as drafters of the legislation that the advertising warnings appear in black against a solid white background. *Id.* at 407-08. Because this letter was from the members of Congress who were intimately involved in drafting the legislation, the Commission has given the letter careful consideration but, in light of the silence of the statute and its legislative history, does not believe that the Smokeless Tobacco Act necessarily requires a black on white warning. Similarly, the Commission also considered a September 24, 1986, letter to Chairman Oliver from Senator Broyhill and Representatives Bliley and Rose—three Congressmen who have had a continuing interest in the legislation. This letter reaffirmed the prior statements that each of these individuals had submitted during the comment period.

[65] Cong. Rec. H249 (daily ed. Feb. 1986) (statement of Rep. Waxman).

[66] *Id.*

smallest ranges of advertisements remain the same as proposed. The size for the third area range, 65 to 180 square inches, is modified by splitting the range into two, 65 to 110 square inches and 110 to 180 square inches. The size specified for the lower range remains the same, but the size for the higher range is increased to the size that was proposed for the fourth range. The sizes specified for the remaining larger ranges are increased so that they have the same proportional relationship to the sizes of the cigarette warnings as the smaller ranges. While the resulting warnings occupy two-thirds of the area of the current cigarette warnings, the Commission believes they are equally conspicuous because of the circle and arrow format. However, the Commission will deem warnings of these sizes to be conspicuous only if they meet the following requirements: (1) The background field inside the circle and arrow is a color that would be clearly visible against the background of the ad upon which the circle and arrow appears; and (2) the color in which the rule and statement are printed is clearly visible against the background field within the circle and arrow as well as the background of the ad upon which they appear. These new requirements are set forth in paragraph (c) of § 307.7 of the final regulations. The regulations also specify that a warning consisting of a black rule and statement on a uniform white background will be deemed clearly visible. However, the regulations should be construed as permitting, but not requiring, warnings in black on white.

The final regulations also specify that smokeless tobacco companies place a warning against a uniform background, even if it is the same as the surrounding background in the ad, provided that the warning is in a clearly visible color. In this case, however, the sizes of the circle and arrow are increased by thirty percent and the type style and point sizes of the type are increased so that the warning remains proportional to the larger size of the circle and arrow. Specifications for these new requirements, which result in warnings with areas that are only slightly smaller than those of the current cigarette warnings, are set forth in paragraph (d) of § 307.7 of the final regulations. Paragraph (c) of the final regulations also provides that if a circle and arrow with a white background is displayed on a solid white background of an ad, the larger sizes specified in paragraph (d), rather than those specified in paragraph (c), will be deemed to be conspicuous.

By creating safe harbors for both warnings with clearly visible backgrounds and larger warnings with uniform backgrounds of any color the Commission intends to adopt requirements that ensure the effectiveness of the warnings while at the same time also preserve a reasonable amount of flexibility for the industry on how it conforms its advertising to the final regulations.

2. Description of the Circle and Arrow

As previously indicated, proposed paragraph (b) of § 307.7 described the proportions of the circle and arrow in terms of fractions of the diameter to ensure that all the advertising warnings would be displayed in the same configuration. In addition, as proposed paragraph (b) contained a list that provided the size of the circle and arrow as well as the point size for the type of the warnings in advertisements with areas in twelve different ranges. In the invitation to comment the Commission specifically asked whether the description of the proportions of the circle and arrow would create any problems, as well as asked whether the list of sizes should be deleted from the regulations and the smokeless tobacco companies be permitted or required to comply by conforming the advertising warnings to acetates submitted to the Commission.[67] Very few comments respond to these questions.[68]

The Smokeless Tobacco Council[69] takes the position that companies should be permitted, but not required, to comply by conforming the warnings to acetates submitted to the Commission. Other comments[70] take the position that the companies should not be permitted to comply by submitting acetates and that the regulations should contain a list of sizes to make it possible for the private sector to monitor compliance. The regulations as proposed permitted (but did not require) the companies to comply by submitting acetates pursuant to proposed § 307.10 as well as contained a list of sizes for the warnings in advertisements with different areas. Accordingly, no change is made in these aspects of the regulations, since as proposed they satisfied the industry's need for a convenient method of complying without compromising the public's interest in a mechanism for monitoring compliance.

3. Miscellaneous Changes

There are a number of other comments that focus on other discrete aspects of § 307.7. These comments are discussed in this section.

First, there are two comments that focus on the typeface specified for the advertising warnings in the proposed regulations. The Smokeless Tobacco Council[71] notes that Univers 47 by definition dictates the size of the character width and leading. The Coalition on Smoking OR Health points out that there are a number of typefaces that are more readable than Univers 47 without occupying any more space. The Commission agrees with the Smokeless Tobacco Council that designating a typeface by name and number also mandates character width and leading. The Commission also believes that requiring Univers 57 rather than Univers 47 will make the warnings more conspicuous and legible type without increasing the size of the warnings. Accordingly, the final regulations specify Univers 57 rather than Univers 47 for the advertising warnings with clearly visible backgrounds described in subsection (c) of § 307.7 of the final regulations. For the alternative larger warnings with solid backgrounds of any color that are described in paragraph (d), the final regulations specify a heavier typeface, Univers 67, that along with the increased point size of the type, will ensure the conspicuousness of the warnings.

In addition, the mockups submitted by the Coalition on Smoking OR Health show advertising warnings as they would have appeared under the proposed regulations as well as warnings that were modified in a variety of ways, including by increasing the width of the rule, to enhance their conspicuousness. The Commission agrees that increasing the width of the rule will help ensure conspicuousness of the warnings and notes that the size of the warning is not any larger as a result of the increase. Accordingly, the regulations are modified to increase the width of the rule for the warnings with clearly visible backgrounds approximately in proportion to the increase in the character width resulting from specifying Univers 57 rather than Univers 47. Similarly, the width of the rule for the warnings with solid

[67] 51 FR 24375 at 24379 Questions 5 and 9 (1986).

[68] Although no comment raised any problems with the proportions described in the proposed regulations, it has come to the Commission's attention that the proposed regulations failed to specify the height of the arrow, that is the distance between the tip of the arrow and its base. Accordingly, the final regulations provide that the height of the arrow is to be ⅜ of the diameter of the circle.

[69] Comm'n Pub. Docket No. 209-52 at 284-307.

[70] *Id.* at 205-26, 234-41, 276-83.

[71] *Id.* at 284-307.

backgrounds of any color reflect the proportionate increase in the size of those warnings over the warnings with clearly visible backgrounds.

There are two comments that object to the proposed regulations' requirements with respect to the placement of the required warnings in advertisements. As proposed paragraph (a) of § 307.7 provided that a conspicuous and prominent location for the circle and arrow in an advertisement was not next to other written matter or circular designs, or on a picture of the package. The Group Against Smoking Pollution of Massachusetts [72] objects that the regulations allow the warnings to be placed at the opposite end of the advertisement from eye-catching action. No change is made in response to this comment because identifying the focal point of an advertisement by regulation creates practical problems and is unnecessary to an effective display of the required warnings. The Smokeless Tobacco Council takes issue with the requirement that the warning not be displayed next to other written material or on the package. The Commission does not believe that the circle and arrow will necessarily overpower other written material, but agrees that, in the case of an advertisement consisting primarily of a picture of the package, the circle and arrow should be allowed to appear on the package. Accordingly, the regulations are modified to permit display of the circle and arrow on the package in an advertisement where 80 percent of the area is taken up by a picture of the package.

In addition, a number of comments raise the issue of the appropriate format for the warnings on packages that are distributed as free samples. Several of these comments [73] take the position that free samples are advertisements and as such should be required to display the warning statements in a circle and arrow format. The Commission believes that requiring companies to prepare special labels for free samples is unduly burdensome, especially for the smaller companies, and unnecessary for the effective display of the warnings. Accordingly, no change in the regulations is made in response to these comments and free samples are required to display the label disclosures required by § 307.6.

Similarly, a number of comments also concern the placement and format of the warnings on free sample coupons. Several of these comments [74] urge the Commission to require the simultaneous display of all three of the required warnings on free sample coupons. There is no statutory basis, however, for requiring simultaneous display of the warnings on coupons. Since the proposed regulations provided that coupons were to be treated as print advertisements, no change in the regulations is made in response to these comments.

E. Audiovisual and Audio Advertising Disclosures (§ 307.8)

As originally proposed § 307.8 of the regulations provided that the required warnings would be deemed to be conspicuous in videotapes, films, filmstrips, or other advertisements with similar visual components if they were superimposed on the screen at the end of the ad for a length of time and in graphics so that they would be easily legible by the typical viewer. Under proposed § 307.8 the required warnings would be deemed to be conspicous in cassettes, discs, or other advertisements with audio components if they were announced at the end of the advertisement in a manner that would be clearly audible and understandable to the typical listener. In addition, as proposed § 307.8 provided that the warnings in ads with both an audio and a visual component would be deemed to be conspicuous if they were superimposed on the screen at the end of the ad in a circle and arrow format and announced simultaneously in a manner that would be easily legible and clearly audible and understandable to the typical viewer. Although the invitation to comment did not raise any issues in connection with § 307.8, a few comments address the appropriateness of the section's requirements.

The American Association of Advertising Agencies [75] contends that requiring simultaneous audio and visual warnings mandates two warnings in a single advertisement as a practical matter, which upsets the balance between the valid sales message and the warning. During the debates that preceded passage of the Smokeless Tobacco Act in the House, however, one of the legislation's sponsors suggested that in the case of an ad with both a visual and an audio component the Commission "would be expected to issue regulations requiring that the advertisement bear the circle/arrow format during the pendency of the ad and that the warning be read by the principal narrator in the ad." [76] Accordingly, no change is made in the regulations in response to this aspect of the American Association of Advertising Agencies' comment.

In addition, the American Association of Advertising Agencies thinks that the requirement that the warnings be clearly audible and understandable to the typical listener is unnecessary and unfair. The Commission agrees that the references to the typical viewer and listener make the standard too subjective. Accordingly, the regulations are modified so that these references are deleted.

In addition, a few comments on the appropriatenesss of the requirements for audiovisual advertisements raise concerns about the continued viability of certain in-store announcements for which smokeless tobacco companies provide incentives.[77] The Commission agrees with these comments that requiring disclosures in audio announcements in retail stores is indeed onerous to the industry as well as imposes a significant enforcement burden on the Commission given both the apparent lack of prevalence of this type of advertising and the difficulty of establishing whether a short announcement in fact contained the required warning. If these announcements are limited to a brief statement of the brand name of the product and other product identifier, such as the flavor and cut of the tobacco, its price and location in the store, requiring health warnings in them would provide only *de minimis* benefits. Accordingly, § 307.8 has been modified to provide that no warning is required in the case of an audio advertisement in a retail store, even if a smokeless tobacco company pays an incentive for the ad, so long as the announcement is limited to the brand name of the product and other product identifier, that is, information about the flavor or cut of the tobacco, its price, and its location in the store.

F. Cooperative Advertising (§ 307.9)

As originally proposed the regulations did not contain any provision with respect to cooperative advertisements. The notice that accompanied the proposed regulations, however, explained that all advertisements for smokeless tobacco products (including cooperative advertisements) paid for, directly or indirectly, in whole or in part,

[72] *Id.* at 109–11.

[73] *Id.* at 65–66, 70–71, 99–100, 104–105, 120–21, 122–23, 227–33, 234–41, 242–45, 253, 276–82, 335.

[74] *Id.* at 65–66, 70–71, 99–100, 104–05, 122–23, 227–33.

[75] *Id.* at 183–93.

[76] Cong. Rec. H248 (daily ed. Feb. 3, 1986) (statement of Rep. Waxman).

[77] Comm'n Pub. Docket No. 209–52 at 284–307, 310–15, 333–34.

by a smokeless tobacco company must bear the warnings required by the Smokeless Tobacco Act.[78] The notice also stated that any advertisement paid for entirely by a retailer or any person other than a manufacturer, packager, or importer of smokeless tobacco products need not carry a warning statement. Although the invitation to comment did not raise the issue of whether and to what extent the regulations should apply to cooperative advertisements, several comments address these issues.

A number of comments, including letters from two members of Congress [79] and comments by the Smokeless Tobacco Council, [80] the Retail Tobacco Dealers of America, Inc., [81] and the American Advertising Federation [82] contend that the Smokeless Tobacco Act does not cover retailers and there is no basis for extending the regulations to include a manufacturer that contributes to part of the cost of a retailer's advertisement. This argument, however, fails to address the language of the Smokeless Tobacco Act, which makes it unlawful for a manufacturer, packager, or importer of smokeless tobacco "to advertise or cause to be advertised" any smokeless tobacco product without the required warning. The Commission believes that a person who pays in whole or in part for an advertisement for a product has caused the product to be advertised. In addition, a wholesale exemption for cooperative advertising would create a loophole with the potential for negating the requirement that the advertising for smokeless tobacco products carry health warnings. Accordingly, the Commission declines to modify the regulations to exclude cooperative advertisements.

Nevertheless, there are a few comments on the appropriateness of the requirements for the display of the required warnings in small advertisements (that is, advertisements with a display area of 15 square inches or less) that raise serious concerns with respect to the impact of the regulations on cooperative advertising. Specifically, the Smokeless Tobacco Council points out that requiring the display of a ½ inch circle and arrow will effectively lead to the elimination of certain tombstone advertisements. According to the Smokeless Tobacco Council these ads usually have an area of 4 square inches or less and are typically part of larger advertisements placed by grocery or drug stores to highlight sale items. The American Advertising Federation and the Retail Tobacco Dealers of America, Inc., similarly note in their comments that the regulations will lead to the end of tombstone ads of the type that small retailers place in local print media in connection with a cooperative advertising program. The Commission believes that tombstone ads of 4 square inches or less merely provide users of smokeless tobacco with information about the price and availability of smokeless tobacco products. More importantly, the visibility of a small warning in a tiny ad appearing in the midst of a number of other tiny ads is so low that the Commission believes that requiring warnings in tombstone ads with areas of 4 square inches or less would provide at best *de minimis* benefits.

Accordingly, a new § 307.9 is added to the regulations to meet these concerns. The new section provides in part that any advertisement placed by a retailer or any person other than a smokeless tobacco company with an area of 4 square inches or less need not carry a warning, even if it is partially paid for by a smokeless tobacco company, so long as it only contains the brand name and other product identifier and the price.[83]

III. Regulatory Flexibility Act

In publishing the proposed regulations, the Commission determined that the provisions of the Regulatory Flexibility Act [84] requiring an initial regulatory analysis were not applicable to the regulations because they did not appear to have a significant economic impact on a substantial number of small entities.[85] The Commission noted that the economic costs are primarily statutorily imposed and the Commission's regulations impose few, if any, independent additional costs. In light of the above, it was certified under the provisions of section 3 of the Regulatory Flexibility Act [86] that the proposed regulations would not have a significant economic impact on a substantial number of small entities.

The Commission requested comments on the effects of these regulations and asked for numerical estimates if the regulations were believed to affect costs, profitability, competitiveness, or employment in small entities. The comments, however, appear to address the compliance obligations that have been statutorily, rather than administratively, imposed. On the basis of all the information before it, the Commission has determined the final regulations will not have a significant economic impact on a substantial number of small entities. Consequently, the Commission concludes that a final regulatory flexibility analysis is not required and has filed a certificate with the Small Business Administration to that effect.

IV. Paperwork Reduction Act

In publishing the proposed regulations, the Commission noted that they contain provisions that constitute information collection requirements under the Paperwork Reduction Act.[87] Consequently, a request for clearance was submitted to the Office of Management and Budget. The request was approved on July 12, 1986,[88] and control number 3084–0082 was assigned to the information collection requirements. This approval will expire on July 31, 1989, unless it has been extended before that date.

V. Effective Dates

The provisions of the Smokeless Tobacco Act that pertain to the display of warnings in the labeling and advertising of smokeless tobacco products become effective on February 27, 1987. These regulations (with the exception of § 307.4(c), 307.10 and 307.11, which involve the submission of plans) also become effective on that date. However, the Smokeless Tobacco Act also specified that the Commission was to have issued these regulations 6 months before the effective date of the display requirements. Accordingly, during the period following the effective date and the date 6 months after the promulgation of these regulations, the Commission in making enforcement decisions will take into account, as appropriate, practical constraints on the industry in meeting the display requirements.

The provisions of the Smokeless Tobacco Act that pertain to the submission of plans to the Commission became effective on the date of enactment, February 27, 1986. Accordingly, the portions of the regulations that concern the submission of plans (§§ 307.4(c), 307.10, and 307.11) will become effective on December 19, 1986.

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[78] 51 FR 24375 at 24376 (1986).

[79] Comm'n Pub. Docket No. 209–52 at 310–15, 318–19.

[80] *Id.* at 284–307.

[81] *Id.* at 163–64.

[82] *Id.* at 259–62A.

[83] New § 307.9 also contains a cross-reference to the provisions of § 307.8 with respect to in-store audio announcements.

[84] 5 U.S.C. 603, 604 (1982).

[85] 51 FR 34375 at 34378 section E (1986).

[86] 5 U.S.C. 605(b) (1982).

[87] 51 FR 34375 at 34378 section D (1986).

[88] Notice of Office of Management and Budget Action to Carl Hevener, Federal Trade Commission, dated July 12, 1986.

Accordingly, it is proposed that Chapter I of 16 CFR be amended by adding Part 307 to read as follows:

PART 307—REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986

Scope

Sec.

Authority: 15 U.S.C. 4401 *et seq.*

Scope

§ 307.1 Scope of regulations in this part.

These regulations implement the Comprehensive Smokeless Tobacco Health Education Act of 1986 *to be codified at* 15 U.S.C. 4401.

§ 307.2 Required warnings.

The Comprehensive Smokeless Tobacco Health Education Act of 1986 is the law that requires the enactment of these regulations. Section 7 of this law provides that no statement, other than the three warning statements required by the Act, shall be required by any Federal, State, or local statute or regulation to be included on the package or in the advertisement (unless the advertisement is an outdoor billboard) of a smokeless tobacco product. The warning statements required by the Act are as follows:

WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER
WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS
WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES

Definitions

§ 307.3 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) "Act" means the Comprehensive Smokeless Tobacco Health Education Act of 1986 (Pub. L. 99–252) and any amendments thereto.

(b) "Commission" means the Federal Trade Commission.

(c) "Regulation(s)" means regulations promulgated by the Commission pursuant to sections 3 and 5 of the Act.

(d) "Commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (2) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (3) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(e) "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and installations of the Armed Forces.

(f) "Smokeless tobacco product" means any finely cut, ground, powered, or leaf tobacco that is intended to be placed in the oral cavity, including snuff, chewing tobacco, and plug tobacco.

(g) "Brand' means smokeless tobacco products that bear a common identifying name or mark, regardless of whether the products are differentiated by type of product, size, shape, packaging, or other characteristic, and, in the case of generic or private label smokeless tobacco products, means all products produced by a single manufacturer or its affiliates or imported by a single importer or its affiliates.

(h) "Package" means any pack, can, box, jar, carton, pouch, container, or wrapping in which any smokeless tobacco product is offered for sale, sold, or otherwise distributed to consumers, but for purposes of these regulations "package" does not include (1) any shipping container or wrapping used solely for transporting smokeless tobacco products in bulk or quantity to manufacturers, packagers, processors, wholesalers, or retailers unless the container or wrapping is intended for use as a retail display or (2) any wrapping or container that bears no written, printed, or graphic matter.

(i) "Label" means any written, printed, or graphic matter affixed to or appearing on any smokeless tabacco product or any package containing a smokeless tobacco product with the exception of any revenue stamp affixed to a smokeless tobacco product.

(j) "Billboard" means any outdoor sign with an area of more than 150 square feet.

(k) "Manufacturer" means any person who manufacturers, produces, or processes any smokeless tobacco product.

(l) "Packager" means any person who puts any smokeless tobacco product into packages to be offered for sale, sold, or distributed to consumers.

(m) "Importer" means any person who puts any smokeless tobacco product that was not manufactured inside the United States into commerce to be offered for sale, sold, or distributed to consumers.

General Requirements

§ 307.4 Prohibited acts.

(a) No manufacturer, packager, or importer of any smokeless tobacco product shall distribute, or cause to be distributed, in commerce any smokeless tobacco product in a package that, in accordance with the labeling requirements of the Act and these regulations, does not bear one of the following warning statements.

WARNING: THIS PRODUCT MAY CAUSE MOUTH CANCER
WARNING: THIS PRODUCT MAY CAUSE GUM DISEASE AND TOOTH LOSS
WARNING: THIS PRODUCT IS NOT A SAFE ALTERNATIVE TO CIGARETTES

Each smokeless tobacco product shall upon being prepared for distribution in commerce for retail sale, but before it is distributed to be offered for retail sale, be labeled in accordance with the Act and regulations in this part. In the case of an importer, the label statements may be affixed in the country of origin or after importation into the United States, but shall be affixed before the smokeless tobacco product is removed from bond for sale or distribution. This section does not apply to any smokeless tobacco product that is manufactured, packaged, or imported in the United States for export from the United States, if the product is not in fact distributed in commerce for use in the United States.

(b) No manufacturer, packager, or importer of any smokeless tobacco product shall advertise or cause to be advertised (other than through the use of

billboard advertising) within the United States any smokeless tobacco product unless the advertising bears one of the warning statements as required by the Act and the regulations and set forth in § 307.4(a). This requirement is not applicable to company and divisional names, when used as such, to signs on factories, plants, warehouses, and other facilities related to the manufacturer or factory storage of smokeless tobacco, to corporate or financial reports, to communications to security holders and others who customarily receive copies of these communications, to employment advertising, to advertising in tobacco trade publications, or to promotional materials that are distributed to smokeless tobacco wholesalers, dealers, or merchants, but not to consumers. This requirement does not apply to utilitarian objects for personal use, such as pens, pencils, clothing, or sporting goods. In addition, this requirement does not apply to shelf-talkers and similar product locators with a display area of 12 square inches or less.

(c) No manufacturer, packager, or importer shall fail to submit a plan to the Commission which specifies the method that will be used to rotate, display, and distribute the statements required by the Act and regulations in this part. The Commission shall approve a plan if the plan provides for the rotation, display, and distribution of the statements in a manner that complies with the Act and these regulations. Authority to approve plans submitted by smokeless tobacco manufacturers, packagers, and importers has been delegated by the Commission to the Associate Director for Advertising Practices. Where significant issues not previously considered by the Commission are present, however, those plans will be referred by the Associate Director for Advertising Practices to the Commission in the first instance. This delegation is authorized by section 1(a) of the Reorganization Plan No. 4 of 1961 in order to enhance the efficiency and result in expedited treatment of these plans. Pursuant to section 1(b) of the Reorganization Plan, the Commission will retain the discretionary right to review the actions of the delegate. Any smokeless tobacco manufacturer, packager, or importer may within 30 days of the delegate's action file with the Secretary of the Commission a request for full Commission review of the action. If no review is sought by petition of the submitter of a plan or any intervenor or upon the Commission's own initiative within 30 days of the action, or if a review is sought and denied in this 30 day period, the delegate's action shall be deemed to be the action of the Commission.

(d) A manufacturer, packager, or importer of smokeless tobacco products shall be deemed to be in compliance with the Act and these regulations if it has taken reasonable steps to (1) provide, by written contract or other clear instructions, for the rotation of the label statements required by the Act; (2) give clear instructions and, if possible, furnish materials (such as film negatives, acetates, or other facsimiles) for the production of smokeless tobacco packages and advertising that contain the required warning statements; and (3) prevent and correct mistakes, errors, or omissions that have come to its attention. In the event of the distribution of labels or the publication of advertisements that do not conform with the Act and these regulations, the burden of establishing that reasonable steps have been taken (including fulfilling the conditions described in (1) through (3) of this paragraph) to comply shall rest with the manufacturer, packager, or importer of smokeless tobacco.

§ 307.5 Language requirements.

The warning statement on the label of a smokeless tobacco product required by the Act and these regulations shall be set out in the English language. If the label of a smokeless tobacco product contains a required warning in a language other than English, the required warning must also appear in English. In the case of an advertisement for a smokeless tobacco product in a newspaper, magazine, periodical, or other publication that is not in English, the warning statement shall appear in the predominant language of the publication in which the advertisement appears. In the case of any other advertisement, the warning statement shall appear in the same language as that principally used in the advertisement.

Label Disclosures

§ 307.6 Requirements for disclosure on the label.

(a) In the case of the label of a smokeless tobacco package, the warning statement required by the Act and these regulations must be in a conspicuous and prominent place on the package. A conspicuous and prominent place is a part of a label that is likely to be displayed, presented, shown, or examined. For example, in the case of the following types of packages, the following places shall be deemed to be conspicuous and prominent.

Cylindrical can—Side of the package

Pouch—Front of the package, provided that, in the case of a pouch with two identical face panels, the front of the pouch is the face panel upon which the warning is printed

Rectangular box of snuff, plug of chewing tobacco, or dispenser of individual packages of smokeless tobacco that may be purchased in its entirety—Any side of the package, provided that the side panel used does not bear any written or graphic matter other than the background color of the side panel and reasonable extensions of graphic matter from other panels

However, in the case of any package of smokeless tobacco, absent special circumstances, the required warning statement shall not be deemed to be in a conspicuous and prominent place if it appears on the bottom (that is, the underside) of the package or is printed on the tear line or on any other surface where it will be obliterated when the package is opened. However, in the case of a rectangular package that is wrapped in a continuous sheet of foil or plastic with randomly appearing label information, the required warning shall be deemed to be in a conspicuous and prominent place if it appears at least once in its entirety on any part of the package that is not crimped or seamed.

(b) The label statement required by the Act and these regulations must also be in a conspicuous format and in a conspicuous and legible type in contrast with all other printed material on the package. The required warning statement shall be deemed to be in a conspicuous format if it appears in two to four lines that are parallel to each other as well as to the base of the package. However, in the case of a cylindrical package with a diameter of 1 and ¾ inches or less the required warning statement need not be parallel with the base of the package to be deemed to be in a conspicuous format. In the case of all packages the required warning statement shall be deemed to be in a conspicuous format if it is separated in every direction from other written or graphic matter on the label by the equivalent of at least twice the point size of the type in which the warning is printed or if it is the only written matter on the surface of the package. The required warning statement shall be deemed to be in a conspicuous and legible type if it appears in all capitals in Univers 57 normal or an equivalent type style. For example, in the case of the following types of packages with the specified capacity, the following type

sizes shall be deemed to be conspicuous and legible.

1 and ½ ounce snuff can—Seven point type
2 to 4 ounce pouch or plug of chewing tobacco—Eight point type, provided that if the warning statement is printed in one line, it will be deemed to be conspicuous and legible in eleven point type
Can roll consisting of cans wrapped for sale as a single unit—Twelve point type, provided that, if the warning statements on the individual cans are completely visible no warning statement is required on the outer wrapping
Dispenser of individual packages of smokeless tobacco that may be purchased in its entirety—Twelve point type

The required warning statement shall be deemed to be in contrast with all other printed material on the package if it is printed in a color (including black and white) that is clearly visible against the background on which the warning appears.

Advertising Disclosures

§ 307.7 Requirements for disclosure in print advertising.

(a) In the case of print advertisements for smokeless tobacco, including but not limited to, advertisements in newspapers, magazines, or other periodicals; point-of-sale promotional materials; non-point of sale promotional materials such as leaflets, pamphlets, coupons, direct mail circulars, or paperback book inserts; and posters and placards (other than outdoor billboard advertising), the warning statement required by the Act and these regulations must be in a conspicuous and prominent location, in conspicuous and legible type in contrast with all other printed material in the advertisement and must appear in capital letters in a circle and arrow format. A conspicuous and prominent location is anywhere within the trim area other than the margin in the case of an advertisement in a newspaper, magazine, or other periodical, and in all cases is not immediately next to other written matter or to any circular designs, elements, or similar geometric forms (other than a picture of a smokeless tobacco package such as a cylindrical snuff can). A circle and arrow will not be deemed to be conspicuous and prominent if it is included as an integral part of a specific design or illustration, such as a picture of the package, in the advertisement, unless at least 80 percent of the area of the advertisement is taken up by a picture of the package.

(b) The advertising warning statements required by the Act and these regulations must be in conspicuous and legible type in contrast with all other printed material in the advertisement and must appear in all capital letters in a circle and arrow format. The proportions of the circle and arrow shall be deemed to be conspicuous if they are such that the base of the arrow is equal to ¾ of the diameter of the circle; the neck of the arrow is equal to ⅛ of the diameter of the circle; the widest part of the head of the arrow is equal to the diameter of the circle; the tip of the arrow is centered at a point equal to ¾ of the diameter from the lowest point of the circle; and the distance between the tip of the arrow and the base of the arrow is equal to ⅜ of the diameter of the circle. The statements shall be deemed to be conspicous if they are parallel to the foot of the advertisement and centered in the circle, and the word "WARNING" followed by a colon appears in the neck of the arrow.

(c) The required warning statement shall be deemed to be conspicuous if it is printed in all capitals in Univers 57 normal or an equivalent type style and (1) the rule and the statement are printed in a color (including black and white) that is clearly visible against the background upon which they appear; and (2) the background field within the circle and arrow is clearly visible against the background of the advertisement; and (3) the warning has the following minimum outside dimensions in relation to the size of the advertisement.

BILLING CODE 6750-01-M

1
Display Area: **Up to 15 square inches**
Circle Diameter: **1/2"**
Rule Width: **1 point**
Type Size: **4 1/2 point, set solid**
Type Style: **Univers 57**

2
Display Area: **15 to 65 square inches**
Circle Diameter: **1"**
Rule Width: **1 1/2 point**
Type Size: **8 point, set solid**
Type Style: **Univers 57**

3
Display Area: **65 to 110 square inches**
Circle Diameter: **1 1/4"**
Rule Width: **2 point**
Type Size: **10 point, set solid**
Type Style: **Univers 57**

4
Display Area: **110 to 180 square inches**
Circle Diameter: **1 1/2"**
Rule Width: **2 1/2 point**
Type Size: **12 point, set solid**
Type Style: **Univers 57**

5
Display Area: **180 to 360 square inches**
Circle Diameter: **1 3/4"**
Rule Width: **2 1/2 point**
Type Size: **14 point, set solid**
Type Style: **Univers 57**

6
Display Area: **360 to 470 square inches**
Circle Diameter: **2"**
Rule Width: **2 1/2 point**
Type Size: **16 point, set solid**
Type Style: **Univers 57**

7
Display Area: **470 to 720 square inches**
Circle Diameter: **3 1/4"**
Rule Width: **3 1/2 point**
Type Size: **27 point, set solid**
Type Style: **Univers 57**

BILLING CODE 6750-01-C

8
Display Area: **5 to 10 square feet**
Circle Diameter: **3 3/4"**
Rule Width: **3 1/2 point**
Type Size: **30 point, set solid**
Type Style: **Univers 57**

9
Display Area: **10 to 20 square feet**
Circle Diameter: **6"**
Rule Width: **3 1/2 point**
Type Size: **48 point, set solid**
Type Style **Univers 57**

10
Display Area: **20 to 30 square feet**
Circle Diameter: **7"**
Rule Width: **7 point**
Type Size: **58 point, set solid**
Type Style: **Univers 57**

11
Display Area. **30 to 40 square feet**
Circle Diameter: **8 3/4"**
Rule Width: **9 point**
Type Size **72 point, set solid**
Type Style. **Univers 57**

12
Display Area: **40 to 80 square feet**
Circle Diameter: **11 3/4"**
Rule Width: **12 point**
Type Size: **96 point, set solid**
Type Style: **Univers 57**

13
Display Area: **Over 80 square feet**
Circle Diameter: **1'4 3/4"**
Rule Width: **14 point**
Type Size: **1 7/16" cap height, set solid**
Type Style: **Univers 57**

A warning printed in black in a circle with a black rule and a white interior background shall be deemed a clearly visible color against a clearly visible background, except that any such black on white warning that appears against a uniform white background in an advertisement shall be deemed to be conspicuous only if it meets the size requirements of § 307.7(d) of this section.

(d) As an alternative to the format specified in § 307.7(c), the required warning statement shall be deemed to be conspicuous if it is printed in all capitals in Univers 67 normal or an equivalent type style and (1) the rule that forms the circle and arrow and the required statement are printed in a color (including black and white) that is clearly visible against the background upon which they appear, (2) the background of the circle and arrow is a uniform color, and (3) the warning has the following minimum outside dimensions in relation to the size of the advertisement.

BILLING CODE 6750-01-M

1
Display Area: **Up to 15 square inches**
Circle Diameter: **5/8"**
Rule Width: **1 point**
Type Size: **5 point, set solid**
Type Style: **Univers 67**

2
Display Area: **15 to 65 square inches**
Circle Diameter: **1 1/4"**
Rule Width: **2 point**
Type Size: **10 point, set solid**
Type Style: **Univers 67**

3
Display Area: **65 to 110 square inches**
Circle Diameter: **1 5/8"**
Rule Width: **2 1/2 point**
Type Size: **12 point, set solid**
Type Style: **Univers 67**

4
Display Area: **110 to 180 square inches**
Circle Diameter: **2"**
Rule Width: **3 point**
Type Size: **15 point, set solid**
Type Style: **Univers 67**

5
Display Area: **180 to 360 square inches**
Circle Diameter: **2 1/4"**
Rule Width: **3 point**
Type Size: **17 point, set solid**
Type Style: **Univers 67**

6
Display Area: **360 to 470 square inches**
Circle Diameter: **2 5/8"**
Rule Width: **3 point**
Type Size: **20 point, set solid**
Type Style: **Univers 67**

7
Display Area: **470 to 720 square inches**
Circle Diameter: **4 1/4"**
Rule Width: **4 point**
Type Size: **34 point, set solid**
Type Style: **Univers 67**

8
Display Area: **5 to 10 square feet**
Circle Diameter: **4 7/8"**
Rule Width: **4 point**
Type Size: **36 point, set solid**
Type Style: **Univers 67**

9
Display Area: **10 to 20 square feet**
Circle Diameter: **7 3/4"**
Rule Width: **6 point**
Type Size: **57 point, set solid**
Type Style: **Univers 67**

10
Display Area: **20 to 30 square feet**
Circle diameter: **9 1/8"**
Rule Width: **9 point**
Type Size: **76 point, set solid**
Type Style: **Univers 67**

11
Display Area: **30 to 40 square feet**
Circle Diameter: **11 3/8"**
Rule Width: **11 point**
Type Size **94 point, set solid**
Type Style **Univers 67**

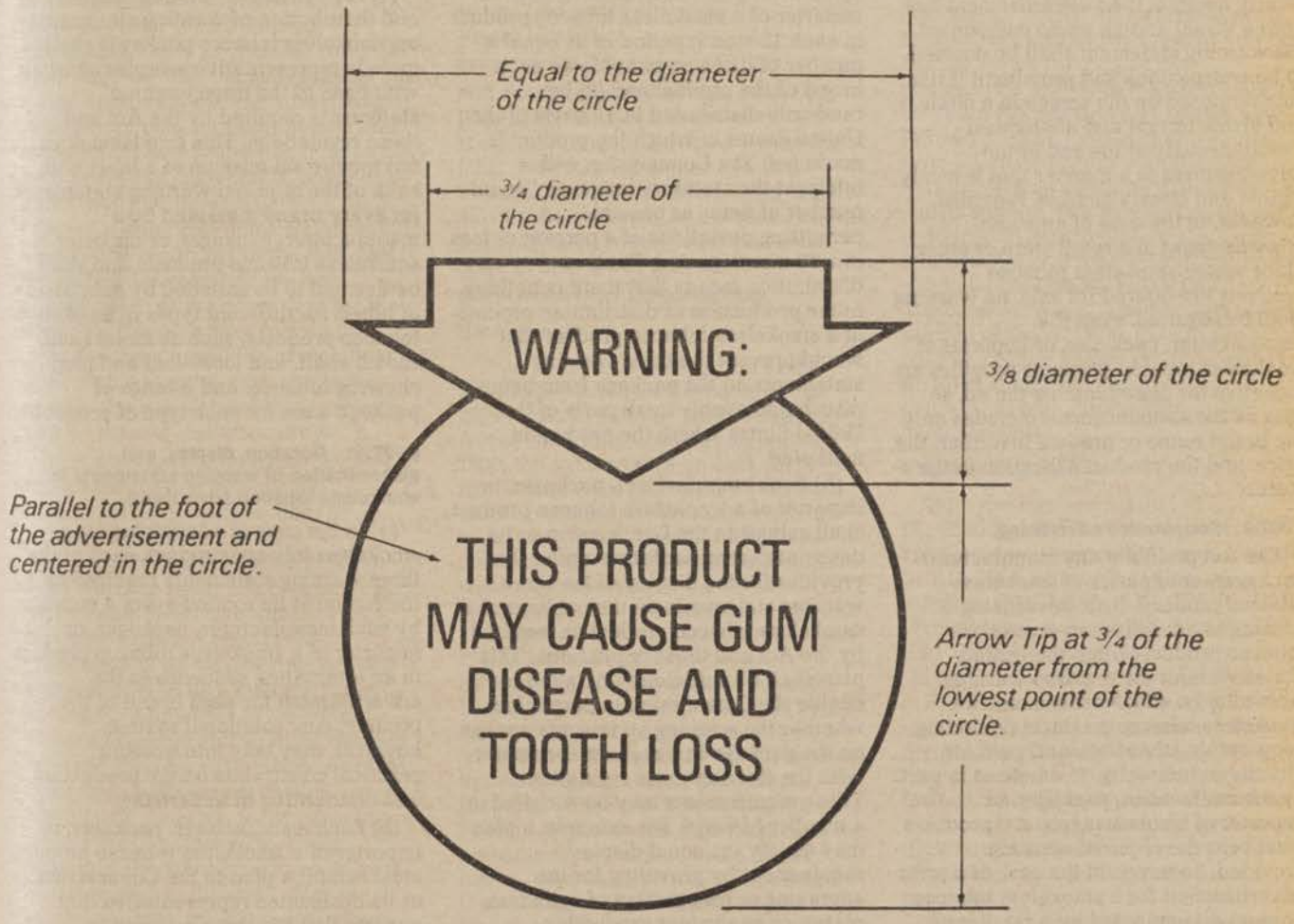
12
Display Area: **40 to 80 square feet**
Circle Diameter: **15 1/4"**
Rule Width: **15 point**
Type Size: **1 5/16" cap height, set solid**
Type Style: **Univers 67**

13
Display Area: **Over 80 square feet**
Circle Diameter: **1'9 3/4"**
Rule Width: **17 point**
Type Size: **1 13/16" cap height, set solid**
Type Style: **Univers 67**

BILLING CODE 6750-01-C

(e) An advertisement in a newspaper, magazine, or other periodical that occupies more than one page shall not be required to have more than one warning statement, but the dimensions of the circle and arrow shall be determined by the aggregate area of the entire advertisement, and the warning statement shall appear on the page that contains most of the advertisement. Point-of-sale and non-point of sale promotional materials of more than one page in length shall not be required to have more than one warning statement, and the dimensions of the circle and arrow shall be determined by the size of the advertisement on the page on which most of the advertisement appears. Warning statements in circles and arrows that meet the specifications of this section and conform to the following diagram shall be deemed to be in a conspicuous format.

How to Conform to the Rule



§ 307.8 Requirements for disclosure in audiovisual and audio advertising.

In the case of advertisements for smokeless tobacco on videotapes, casettes, or discs; promotional films or filmstrips; and promotional audiotapes or other types of sound recordings, the warning statement required by the Act and these regulations must be conspicuous and prominent. If the advertisement has a visual component, the warning statement shall be deemed to be conspicuous and prominent if it is superimposed on the screen in a circle and arrow format at the end of the advertisement for a length of time and in graphics so that it is easily legible. If the advertisement has an audio component, the warning statement shall be deemed to be conspicuous and prominent if it is announced at the end of the advertisement in a manner that is clearly audible. If an advertisement has both a visual and an audio component, the warning statement shall be deemed to be conspicuous and prominent if it is superimposed on the screen in a circle and arrow format and announced simultaneously at the end of the advertisement in a manner that is easily legible and clearly audible. Provided, however, in the case of an audio advertisement in a retail store or other place where smokeless tobacco products are offered for sale, no warning shall be required, even if a manufacturer, packager, or importer of smokeless tobacco products provides an incentive for disseminating the ad, so long as the announcement includes only the brand name or product identifier, the price, and the product's location in the store.

§ 307.9 Cooperative advertising.

The Act prohibits any manufacturer, packager, or importer of smokeless tobacco products from advertising or causing to advertise any smokeless tobacco product within the United States without the required warning. Accordingly, all advertisements for smokeless tobacco products (including cooperative advertisement) paid for, directly or indirectly, in whole or in part, by a manufacturer, packager, or importer of smokeless tobacco products must bear the required warning. Provided, however, in the case of a print advertisement for a smokeless tobacco product disseminated by a retailer of smokeless tobacco products, other than a manufacturer, packager, or importer of smokeless tobacco products, with a display area of 4 square inches or less, no warning is required so long as the advertisement contains only the brand name or other product identifier and a price. In addition, no warning is required in the case of certain in-store audio announcements as described in § 307.8. Any advertisement of a smokeless tobacco product paid for entirely by a retailer or any person other than a manufacturer, packager, or importer of smokeless tobacco products need not carry a warning statement.

Plans

§ 307.10 Rotation, display, and distribution of warning statements on smokeless tobacco packages.

(a) In the case of the package of a smokeless tobacco product, each of the three warning statements required by the Act must (1) be displayed randomly by each manufacturer, packager, or importer of a smokeless tobacco product in each 12-month period in as equal a number of times as possible on each brand of the product and (2) be randomly distributed in all parts of the United States in which the product is marketed. The Commission will interpret the statutory language "equal number of times as possible" as permitting deviations of 4 percent or less in a 12-month period. Random distribution means that there is nothing in the production or distribution process of a smokeless tobacco product that would prevent the three warning statements on the package from being distributed evenly in all parts of the United States where the product is marketed.

(b) Each manufacturer, packager, or importer of a smokeless tobacco product shall submit to the Commission or its designated representative a plan that provides for the display of the three warning statements on the package of a smokeless tobacco product as required by the Act and these regulations. This plan shall be sufficiently detailed to enable the Commission to determine whether the warning statements appear on the package in a manner consistent with the Act and these regulations. These requirements may be satisfied in a number of ways. For example, a plan may satisfy the equal display requirement by providing for the engraving or preparation of cylinders, plates, or equivalent production materials in a manner that results in the simultaneous printing of the three required warnings in as near an equal number of times as possible under the circumstances. Alternatively, a plan may satisfy the equal display requirement by providing that stickers bearing the three required warnings be printed in equal numbers and affixed randomly to packages of the product. Alternatively, a plan may satisfy the equal display requirement by providing for the preparation of separate cylinders, plates, and equivalent production materials and requiring that they be changed at fixed intervals in a manner that results in the display of the three required warnings in as near an equal number of times as possible under the circumstances during a 1-year period. In any event, nothing in these regulations requires the use of more than one warning statement on the label of any brand during a given 4-month period.

(c) A plan for the rotation, display, and distribution of warning statements on smokeless tobacco packages shall include representative samples of labels with each of the three warning statements required by the Act and these regulations. This provision does not require submission of a label with each of the required warning statements for every brand marketed by a manufacturer, packager, or importer of smokeless tobacco products and shall be deemed to be satisfied by submission of labels for different types of smokeless tobacco products, such as moist snuff, scotch snuff, and loose-leaf and plug chewing tobacco, and a range of package sizes for each type of product.

§ 307.11 Rotation, display, and dissemination of warning statements in smokeless tobacco advertising.

(a) In the case of advertising for a smokeless tobacco product, each of the three warning statements required by the Act must be rotated every 4 months by each manufacturer, packager, or importer of a smokeless tobacco product in an alternating sequence in the advertisement for each brand of the product. Any rotational system, however, may take into account practical constraints on the production and distribution of advertising.

(b) Each manufacturer, packager, or importer of a smokeless tobacco product must submit a plan to the Commission or its designated representative that ensures that the three warning statements are rotated every 4 months in alternating sequence. There may be more than one system, however, that complies with the Act and these

regulations. For example, a plan may require all brands to display the same warning during each 4-month period or require each brand to display a different warning during a given 4-month period. A plan shall describe the method of rotation and shall include a list of the designated warnings for each 4-month period during the first year for each brand. A plan shall describe the method that will be used to ensure the proper rotation in different advertising media in sufficient detail to ensure compliance with the Act and these regulations, although a number of different methods may satisfy these requirements. For example, a satisfactory plan for advertising in newspapers, magazines, or other periodicals could provide for rotation according to either the cover or closing date of the publication. A satisfactory plan for posters and placards, other than billboard advertising, could provide for rotation according to either the scheduled or the actual appearance of the advertising. A satisfactory plan for point-of-sale and non-point of sale promotional materials such as leaflets, pamphlets, coupons, direct mail circulars, paperback book inserts, or non-print items could provide for rotation according to the time that the material is scheduled to be disseminated or the order date for the material. The plan may specify that items having a useful life of significantly more than 4 months, such as clocks, electric signs, and durable dispensers may be rotated less frequently.

(c) A plan for the rotation, display, and dissemination of warning statements in smokeless tobacco advertising shall include a representative sample of each of the three warning statements required by the Act and these regulations. This provision does not require the submission of all advertising for each brand marketed by a manufacturer, packager, or importer of smokeless tobacco products and shall be deemed to be satisfied by submission of actual examples of different types of advertising materials for various brands, prototypes of actual advertising materials, the warning statement as it would appear in different sizes of advertisements, or acetates or other facsimiles for the warning statement as it would appear in different sizes of advertisements.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-24846 Filed 11-3-86; 8:45 am]

BILLING CODE 6750-1-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 19

[T.D. ATF-239; Re: Notices Nos. 370 and 557]

Reporting Taxes Due to the Governments of Puerto Rico and the Virgin Islands on Bulk Distilled Spirits

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule revises the reporting requirements for bulk Puerto Rican and Virgin Islands spirits, and rum imported from all other areas bottled by domestic distilled spirits plants. The reporting procedure forms the basis for the transfer of excise taxes to the Treasuries of Puerto Rico and the Virgin Islands.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: James Stephens or Robert White, Distilled Spirits and Tobacco Branch, (202) 566-7531; Bureau of Alcohol, Tobacco and Firearms, Distilled Spirits and Tobacco Branch, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

SUPPLEMENTARY INFORMATION:

Background

Prior to the implementation of the Distilled Spirits Tax Revision Act of 1979 (Title VIII of the Trade Agreements Act of 1979, Pub. L. 96-39) on January 1, 1980, the excise taxes on bulk distilled spirits that were produced by distilled spirits plant permittees, imported, or brought into the United States were determined at the time the bulk spirits were withdrawn from the bonded storage area of a distilled spirits plant. The spirits were reported on ATF Form 179, Withdrawal of Spirits Tax Determined, prior to processing and bottling operations. For bulk rum and spirits brought into the United States from Puerto Rico and the Virgin Islands, the ATF regional office personnel prepared summary reports based on the Forms 179, and made adjustments to the amounts reported (i.e., operational losses, destruction, etc.), to determine the amount of taxes that would be transferred from the United States to the Treasuries of Puerto Rico and the Virgin Islands.

Impact of Public Law 98-67, Title II

Prior to the passage of the Caribbean Basin Economic Recovery Act (Pub. L. 98-67, Title II) on August 5, 1983, the reporting procedures required by 27 CFR 19.778 only affected Puerto Rican rum, other Puerto Rican spirits, and Virgin Islands spirits. Effective July 1, 1983, this Act mandated that the excise taxes collected on all rum imported into the United States are to be paid over to the Treasuries of Puerto Rico and the Virgin Islands by means of a formula prescribed by regulation. The purpose of this portion of the Act was to ensure that the economies of Puerto Rico and the Virgin Islands are not adversely affected by the elimination of duties on selected goods imported into the United States from certain countries in the Caribbean basin area.

Impact of Public Law 98-369, Title VI

Prior to passage of the Deficit Reduction Act of 1984 (Pub. L. 98-369, Title VI) on July 18, 1984, the reporting procedures required by 27 CFR 19.778 affected all Puerto Rican and Virgin Islands rum and spirits brought into the United States from these two possessions. Effective March 1, 1984, as to Virgin Islands rum and spirits, and January 1, 1985, as to rum and spirits from Puerto Rico, this Act mandated that any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum. The purpose of this portion of the Act was to limit the cover over of Federal excise tax revenues to distilled spirits having an economic connection with Puerto Rico or the Virgin Islands.

Existing Regulations

With the implementation of the Distilled Spirits Tax Revision Act of 1979 and temporary regulations issued in T.D. ATF-62 (44 FR 71613), the previous regulations in 27 CFR Part 201 were revised and recodified as 27 CFR Part 19. The final regulations were issued in T.D. ATF-198 (50 FR 8456).

The present law and regulations extended the bonded premises of a distilled spirits plant to include all operations from original production through bottling operations. Therefore, the excise. taxes on distilled spirits are determined at the time the spirits are physically removed from the plant premises.

The point of tax determination for Puerto Rican and Virgin Islands rum and spirits, and rum imported from all other areas under the previous law and regulations occurred when the bulk spirits were removed from bonded storage prior to processing (including bottling) operations. Under the present law and regulations the reporting point

for these spirits was also made prior to processing and bottling. This provided a smooth transition from the previous system to the present regulations.

Currently, proprietors of distilled spirits plants are required under 27 CFR 19.778 to maintain a separate accounting in proof gallons of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas, that are received into the processing account for nonindustrial use.

Each month proprietors determine the percentage of overall gains or losses for all nonindustrial spirits received in their processing account. The proof gallons of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas received in processing each month are adjusted by that percentage. Proprietors file monthly reports on ATF Form 5110.28, Monthly Report of Processing Operations, showing separately the adjusted proof gallons of Puerto Rican spirits, Virgin Islands spirits, and rum imported from all other areas received in processing. ATF regional office personnel compile these reports, together with ATF Forms 5110.11, Monthly Report of Storage Operations reflecting bulk Puerto Rican spirits, Virgin Islands spirits, and rum imported from all other areas removed tax determined from the storage account, and prepare a summary report that forms the basis for the remittance of excise taxes from the United States to the Treasuries of Puerto Rico and the Virgin Islands.

The new regulations require proprietors of distilled spirits plants to report the quantities of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas when such spirits are actually removed from the processing account taxpaid or tax determined. Since the system currently used only approximates tax determinations by making adjustments for processing losses computed on the basis of all products in processing, it is potentially imprecise in accounting for actual quantities of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas removed taxpaid or tax determined. This fact substantiates the need for the changes required by this Treasury Decision.

Presently, adjustments must be made to the excise tax remittances to Puerto Rico and the Virgin Islands for voluntary destructions, export transactions, accidental losses, and claims for drawback filed by manufacturers of nonbeverage products. The new system eliminates adjustments for any occurrences involving Puerto Rican and Virgin Islands spirits, and rum imported from all other areas prior to tax determination, such as voluntary destructions, accidental losses prior to tax determination, and removals without payment of tax for exportation. Adjustments to the remittances will still be required for claims that are filed for: accidental losses of spirits in these categories that have been tax determined but not removed from bonded premises; drawback of the excise taxes for spirits exported after tax determination; drawback of the excise taxes paid on spirits used in the manufacture of nonbeverage products; and claims for the excise taxes paid on spirits returned to bond.

Although proprietors will be required to adjust their recordkeeping procedures to account for quantities of these spirits contained in products removed from their processing accounts taxpaid or tax determined on ATF F 5110.28, their total recordkeeping burden will not be substantially increased. Regulations in Part 19 currently require that spirits removed from bonded premises be recorded by kind and quantity in the daily records; therefore, any additional records and recordkeeping required by this final rule should be available to distilled spirits plant proprietors in their daily records.

Discussion of Comments

ATF published a notice of proposed rulemaking in the **Federal Register** on April 13, 1981 (46 FR 21624), requesting comments to a proposed system of reporting Puerto Rican and Virgin Islands spirits for excise tax remittance purposes by accounting for them in two distinct categories. The first category would contain spirits mixed in processing with other alcoholic ingredients, and the second category would account for spirits not mixed in processing with any other alcoholic ingredient. Spirits in the first category would be reported upon completion of bottling or packaging, whereas spirits in the second category would be reported when removed from bond on tax payment or tax determination.

The consensus of the comments received subsequent to Notice No. 370 favored a new system of reporting taxes due to Puerto Rico and the Virgin Islands. Proprietors of the distilled spirits plants that responded to the notice suggested that instead of requiring a dual system of accounting for the spirits from Puerto Rico and the Virgin Islands, all quantities of these spirits contained in final products should be reported at actual tax determination on removal from the bonded premises. One proprietor stated that using this system would actually save the company 3 to 4 clerical hours per month at each plant, compared to the current system.

Suggestions were received from proprietors of distilled spirits plants to simplify or alter the reporting procedure for these spirits. Taking all of these recommendations into consideration, ATF issued an amended notice of proposed rulemaking incorporating the changes suggested in comments received to Notice No. 370.

ATF published the amended notice of proposed rulemaking in the **Federal Register** on February 14, 1985 (50 FR 6200), requesting comments on reporting all Puerto Rican and Virgin Islands spirits, and rum imported from all other areas at the time of tax determination on a revised ATF Form 5110.28, Monthly Report of Processing Operations.

We received two comments from distilled spirits plant proprietors to Notice No. 557. One proprietor stated that the revised procedure would not present any hardship. Another proprietor opposed the proposed procedure on the grounds that it would require the maintenance of additional records where spirits of different kinds are mixed in processing. They also felt that the one-time physical inventory required at the time of change in procedure would be time consuming.

Overall, comments to both notices were favorable and proprietors felt that the present system of reporting should be revised. Experience has shown that the present system is imprecise and should be revised. ATF feels that the system of reporting proposed in Notice No. 557 will ensure the accurate reporting of Federal excise taxes to be transferred to the Treasuries of Puerto Rico and the Virgin Islands. Accordingly, the regulations are revised as proposed in Notice No. 557.

Transition Plan

At the time of conversion to the new tax reporting system, distilled spirits plants will be in possession of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas on which the taxes have already been credited to the insular treasuries. These spirits which have already been reported when they were transferred to a processing account, will be reported again at the actual time of tax determination. Therefore, proprietors are required to take one-time inventories of spirits in these categories that are in the processing account, including bottled and packaged goods in the finished products account, on the date of conversion to the new system. These inventories will be reported in a letter to the regional director (compliance), and

will be used by ATF to offset the double reporting of taxes to be credited to the insular treasuries.

Payments to the Virgin Islands Treasury for products manufactured in that possession are made in advance and adjusted at the end of each fiscal year; consequently, the conversion inventory amounts will be taken as decreasing adjustments at the end of the fiscal year. Payments to the Puerto Rican Treasury for products manufactured in that possession, and payments to both of these treasuries for rum imported from all other areas, are made monthly; therefore, the inventory amounts will be amortized to reduce the economic effect of the conversion. The amortization plan is discussed in the next section of the preamble.

In order to ensure a smooth transition to this new system, to impose a minimal burden on domestic bottlers, and to ease the impact of the conversion on these treasuries, the following transition plan and new reporting procedures shall be used.

During the last month under the old system proprietors shall continue to report these spirits transferred into the processing account, adjusted by the net processing loss or gain, as previously reported on ATF F 5110.28, Monthly Report of Processing Operations.

On the first day of the new system, proprietors shall begin reporting tax determinations of these spirits, including quantities of these spirits contained as ingredients of other distilled spirits products tax determined. The revised regulations allow for standard reporting, averaging, or any approved alternative for reporting mixed products.

The standard reporting method of determining the amount of these spirits contained as ingredients of other products shall be computed by using the minimum quantity of these spirits as shown in the approved formula for each product removed tax determined. The averaging method allows distilled spirits plant proprietors to use the average quantity of these spirits contained in batches of each type (formulation) of mixed products that were produced and bottled during the preceding six-month period. This average shall be adjusted each month to include only the immediately preceding six-month period.

Beginning with the first month of the new system, proprietors shall report total monthly tax determinations of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas, on ATF F 5110.28, which reflects revised captions in Part III.

Amortization Plan

Each processor shall take complete physical inventories of all Puerto Rican spirits, Virgin Islands spirits, and rum imported from all other areas in the processing account as of close of business the last day under the old system. The inventories may be taken within a period of a few days before or after this date if such period does not include more than one complete weekend and necessary adjustments are made to reflect pertinent transactions so that the recorded inventories will agree with the actual quantities of such spirits on hand in processing as of this date. The results of these inventories shall be reported in a letter to the regional director (compliance).

The conversion inventories will be used as decreasing adjustments to monthly taxable removal payments of these spirits that will be due to Puerto Rico and the Virgin Islands; therefore, this plan will amortize the decreasing adjustments over a period of twelve months.

To illustrate this amortization plan, the following example is given. The closing inventory of Puerto Rican spirits contained in the processing account is 500,000 pg $\times$ \$10.50 = \$5,250,000. Rather than deduct this from payments to Puerto Rico in one lump sum, it will be amortized over 12 months, amounting to a deduction of \$437,500 per month from the amount due the Puerto Rican Treasury. At the end of the 12 months, the entire conversion inventory amount (\$5,250,000) will have been deducted. At this time, ATF will determine the amount of the closing inventories removed from the processing accounts for purposes other than tax payment or tax determination for domestic consumption, and make appropriate increasing adjustments to the insular government accounts.

The distilled spirits plant proprietors will only be responsible for reporting the conversion inventory quantities to the ATF regional director (compliance). Personnel of the ATF regional offices will be responsible for computing the amortization quantities, and deducting them each month from the summary report they prepare.

Executive Order 12291

This final rule is not a "major rule" within the meaning of section 1(b) of Executive Order 12291 on Federal Regulations issued February 17, 1981 (46 FR 13193). Analysis of this rule indicates that it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, or Federal, State or local government agencies, or geographic regions; or (c) a significant adverse effect on competition, employment, investments, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The requirements to collect information contained in this final rule have been submitted to the Office of Management and Budget under section 3507 of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35. These requirements have been approved by OMB under control number 1512-0198.

Disclosure

Copies of the notices of proposed rulemaking, all written comments, and this final rule are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4406, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

List of Subjects in 27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

Drafting Information

The principal author of this document is James Stephens, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

For the reasons set out in the preamble, Part 19, Subchapter A, Chapter I of Title 27, Code of Federal Regulations is amended as set forth below.

PART 19—DISTILLED SPIRITS PLANTS

Paragraph 1. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. The table of contents in Part 19 is amended to revise the heading of § 19.778 to read as follows:

* * * * *

§ 19.778 Removal on or after January 1, 1987 of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas.

* * * * *

Par. 3. Section 19.778 is revised to read as follows:

§ 19.778 Removal on or after January 1, 1987 of Puerto Rican and Virgin Islands spirits, and rum imported from all other areas.

(a) *General.* The proprietor shall maintain separate accounts, in proof gallons, of Puerto Rican spirits having an alcoholic content of at least 92 percent rum, of Virgin Islands spirits having an alcoholic content of at least 92 percent rum, and of rum imported from all other areas removed from the processing account on determination of tax. Quantities of spirits in these categories that are contained in products mixed in processing with other alcoholic ingredients may be determined by using the methods provided in paragraphs (b), (c), or (d) of this section. The proprietor shall report these quantities monthly on Form 5110.28, Monthly Report of Processing Operations, as provided in § 19.792.

(b) *Standard method.* For purposes of the separate accounts, quantities of spirits in the above categories may be determined based on the least amount of such spirits which may be used in each product as stated in the approved formula, ATF F 5110.38.

(c) *Averaging method.* For purposes of the separate accounts, quantities of spirits in the above categories may be determined by computing the average quantity of such spirits contained in all batches of the same product formulation manufactured during the preceding 6-month period. The average shall be adjusted at the end of each month so as to include only the preceding 6-month period.

(d) *Alternative method.* Distilled spirits plant proprietors who wish to use an alternative method for determining the amount of spirits in these categories contained as ingredients of other distilled spirits products shall file an application with the Director. The written application shall specifically describe the proposed alternative method, and shall set forth the reasons for using the alternative method.

(e) *Transitional rule.* On January 1, 1987 the proprietor shall take physical inventories of all Puerto Rican spirits, Virgin Islands spirits, and rum imported from all other areas which were received into the processing account prior to that date. These inventories may be taken as provided in § 19.402(a)(2). The results of the inventories shall be submitted in a letter to the regional director (compliance) within 30 days of the required date of the inventories.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5555))

Signed: August 15, 1986.

Stephen E. Higgins,

Director.

Approved: September 16, 1986.

Michael H. Lane,

Acting Assistant Secretary (Enforcement).

[FR Doc. 86–24808 Filed 11–3–86; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 705

Restriction on Financial Interests of State Employees

Correction

In FR Doc. 86–23462 beginning on page 37118 in the issue of Friday, October 17, 1986, make the following correction: On page 37121, in the third column, in the paragraph under "*Section 705.13 Time for filing.*", in the eleventh and twelfth lines, remove "(Insert: * * * publication.)", and insert "March 16, 1987."

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

45 CFR Part 96

Low Income Home Energy Assistance; Announcement of the FY 1987 State Median Income

AGENCY: Family Support Administration, HHS.

ACTION: Rule-related notice.

SUMMARY: This notice announces the estimated median income for four-person households in each state and the District of Columbia for FY 1987. This listing of state median incomes concerns maximum income levels for households to which the states may make home energy assistance payments.

FOR FURTHER INFORMATION CONTACT: Leon Litow (202) 245–2951.

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), we are announcing median income of a four-person household for each state, the District of Columbia, and for the 50 states and the District of Columbia for the period of October 1, 1986 through September 30, 1987. The purpose of this announcement is to provide information on one of the income criteria for eligibility under the Low Income Home Energy Assistance Program (LIHEAP). Section 2605(b)(2)(B)(ii) of Pub. L. 97–35 provides that 60 percent of the median income for each state, as annually established by the Secretary of Health and Human Services, is one of the income eligibility criteria for LIHEAP.

The Low Income Home Energy Assistance Program is currently authorized through the end of fiscal year 1980 by provisions of Title V of The Human Services Reauthorization Act of 1986, Pub. L. 99–425, enacted on September 30, 1986. Under this Act, the current income eligibility provisions relating to state median income remain unchanged.

Estimates of the median income of four-person households for each state and the District of Columbia for fiscal year 1987 were developed by the Bureau of the Census. In developing the median incomes, the Bureau of the Census used the following three sources of data: (1) The March 1985 Current Population Survey; (2) the 1980 Census of Population; and (3) per capita income estimates from the Bureau of Economic Analysis.

The estimating method for FY 1987 is similar to that used in previous years. However, Current Population Survey (CPS) sample estimates for three- and five-person families and their statistical relationships to four-person family medians are now used in addition to the CPS sample estimates of four-person family medians already in use. For further information, contact Dan Burkhead, Economic Statistician, at the Bureau of the Census (301–763–5060).

A state-by-state listing of median income, and 60 percent of median income, for a four-person household for fiscal year 1987 follows. The listing describes our method for adjusting median income for households of different sizes as specified in 45 CFR 96.85, (which was published in the Federal Register on July 2, 1984 at 49 FR 27145).

Dated: October 29, 1986.

Wayne A. Stanton,

Administrator, Family Support Administration.

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON HOUSEHOLDS, FISCAL YEAR 1987[1]

State	Estimated State median income 4-person household [2]	60% of estimated State median income 4-person household [3]
Alabama	$26,595	$15,957
Alaska	44,017	26,410
Arizona	29,431	17,659
Arkansas	23,075	13,845
California	33,711	20,227
Colorado	34,154	20,492
Connecticut	39,070	23,442
Delaware	33,809	20,285
Dist. of Col	31,104	18,662
Florida	28,858	17,315
Georgia	29,623	17,774
Hawaii	33,445	20,067
Idaho	25,499	15,299
Illinois	33,126	19,876
Indiana	30,302	18,181
Iowa	28,650	17,190
Kansas	30,330	18,198
Kentucky	25,815	15,489
Louisiana	28,430	17,058
Maine	26,237	15,742
Maryland	38,132	22,879
Massachusetts	36,731	22,039
Michigan	32,365	19,419
Minnesota	33,807	20,284
Mississippi	23,660	14,196
Missouri	30,050	18,030
Montana	26,072	15,643
Nebraska	28,752	17,251
Nevada	31,059	18,635
New Hampshire	33,255	19,953
New Jersey	39,096	23,458
New Mexico	25,468	15,281
New York	32,665	19,599
North Carolina	27,995	16,797
North Dakota	28,901	17,341
Ohio	30,779	18,467
Oklahoma	28,856	17,314
Oregon	28,633	17,180
Pennsylvania	29,573	17,744
Rhode Island	32,066	19,240
South Carolina	27,810	16,686
South Dakota	25,391	15,235
Tennessee	26,603	15,962
Texas	31,031	18,619
Utah	27,497	16,498
Vermont	26,645	15,987
Virginia	33,480	20,088
Washington	31,585	18,951
West Virginia	25,316	15,190
Wisconsin	30,622	18,373
Wyoming	29,752	17,851

[1] In accordance with 45 CFR 96.85, each State's estimated median income for a 4-person household is multiplied by the following percentages to adjust for household size: 52% for 1-person households, 68% for 2-person households, 84% for 3-person households, 100% for 4-person households, 116% for 5-person households, and 132% for 6-person households. For each additional household member greater than six persons, add 3% to 132% for each additional household member and multiply the new percentage by the State's dollar amount for 4-person households.

[2] Prepared by the Bureau of the Census from the March 1985 Current Population Survey, 1980 Census of Population and Housing, and per capital income estimates from the Bureau of Economic Analysis.

[3] Prepared by the Family Support Administration, Office of Family Assistance.

Note.—The estimated median income for a 4-person household in the 50 States and the District of Columbia applicable to the period of October 1, 1986 through September 30, 1987 is $31,097.

[FR Doc. 86–24912 Filed 11–3–86; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 61092–6201]

Tanner Crab Fishery Off the Coast of Alaska

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

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) issues this emergency rule to repeal the regulations implementing the Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP). This action is necessary because of serious operational difficulties in implementing the FMP, which cause probable violations of the national standards of the Magnuson Fishery Conservation and Management Act and other applicable Federal law. The intended effect of the repeal of the regulations is to suspend Federal management of the Tanner crab fishery pending study of long-term alternatives to management under the present FMP.

EFFECTIVE DATE: From 0001 hours local time, November 1, 1986, until 2400 hours local time, January 29, 1987.

ADDRESS: Comments on this emergency rule may be mailed to Robert McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Raymond Baglin, Fishery Biologist, NMFS, 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP was adopted by the North Pacific Fishery Management Council (Council), approved by the Assistant Administrator for Fisheries on behalf of the Secretary of Commerce, and published in the Federal Register on May 16, 1978 (43 FR 21170) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*).

Final implementing regulations applicable to vessels of the United States were published on December 6, 1978 (43 FR 57149). Final implementing regulations applicable to vessels of foreign nations were published on December 19, 1978 (43 FR 59075; 43 FR 59202). The FMP has been amended nine times, most recently on September 12, 1984 (49 FR 35779). The objective of the FMP is to establish management measures necessary to conserve and manage Tanner crab stocks as a unit throughout their range in compliance with the national standards of the Magnuson Act and other applicable Federal law (FMP Section 8.3.1). In order to achieve this objective and effectively coordinate management with the State of Alaska, the FMP adopts the management system presently employed by the State to the maximum extent possible (FMP section 8.3.3.2).

The management measures adopted by the FMP are characteristic of plans developed shortly after the Magnuson Act was enacted. Optimum yield (OY) is specified rigidly as a fixed range of the amounts of Tanner crab that may be taken in specified areas each year. Season opening and closing dates and maximum sustainable yield (MSY) are similarly specified for each area. Because they are specifically prescribed in the FMP, these fishing areas and the OYs assigned to them may only be altered in the long term to reflect the changing condition of the Tanner crab stocks by plan amendment. In an attempt to provide flexibility in these matters, the FMP authorizes the NMFS Regional Director to adjust season dates and fishing areas by field order in the course of the season (FMP section 8.3.1.2). Under the FMP and its implementing regulations at 50 CFR Part 671, the Regional Director may issue such a field order when he determines in the course of the fishing year that the condition of the Tanner crab stocks within a given management area is substantially different from the condition anticipated at the beginning of the fishing year, and that such

differences support the need for inseason conservation measures to protect those stocks.

Because the FMP in large part adopts the present State management regime, effective management of the Tanner crab fishery depends on close and timely cooperation between the State of Alaska and NMFS. However, shortly after approval and implementation of the FMP, problems with the management system became apparent. Since fishing areas and the OYs and season dates assigned to them are rigidly fixed in the FMP, NMFS may not, in the course of a season, impose the State's harvest guideline amounts and closures in the 3–200 mile fishery conservation zone (FCZ) unless implemented by NMFS through amendment to the FMP, promulgation of an emergency rule, or issuance of a field order.

Of these three available procedures, only a field order can generally be carried out in the short time available to coordinate State and Federal management. Practice has shown, however, that in many instances the present field order authority is too narrowly prescribed under the FMP and implementing regulations to permit NMFS to coordinate Federal actions with State management decisions. The abundance of Tanner crab off the coast of Alaska has been changing greatly from year to year. In many instances, State managers will have made an estimate of stock abundance before the beginning of the fishing year which is subsequently verified by information provided in the course of the fishery. Under these circumstances, a field order based on a State closure decision is not authorized because the stock's condition is not different from that previously anticipated. Thus, the fishery must be allowed to continue in the FCZ until either an FMP amendment or emergency rule is implemented, or until the resulting continued fishing of the stock causes its condition in fact to differ substantially from that anticipated at the beginning of the fishing year. Other situations arise in the fishery when State managers determine that a season date in an area should be advanced in response to social or economic considerations. NMFS may not advance a season opening or closure in this case by field order since the field order authority permits inseason adjustments only to protect Tanner crab stocks. For the same reason NMFS may not permit extension of a season if a Tanner crab stock should prove more abundant than was anticipated before the beginning of the fishing year.

In certain situations the regulations implementing the FMP fail to provide for timely Federal coordination with the State's management actions and may result in violations of National Standard 1 of Magnuson Act section 301(a), by failing to prevent over fishing. The implementing regulations also violate National Standard 2 in that conservation and management measures are based upon other than the best scientific information available. Compliance with National Standards 5, 6, and 7 is also called into question as the implementing regulations fail, where practicable, to promote efficiency in the utilization of fishery resources; fail to account for variations and contingencies in fisheries; and fail, where practicable, to minimize costs and avoid unnecessary duplication. A discussion of how current measures fail in this regard is contained in the preceding paragraph. In addition, the problems just described call into question conformance of the FMP's regulations with Executive Order 12291.

NMFS concurs with the Council's March 1986 recommendation that NMFS repeal the regulations implementing the FMP pending a study of long-term alternatives to management of the fishery under the present FMP. After repealing Federal regulations by this emergency action, management of the Tanner crab fishery would be undertaken in the FCZ by the State to the extent regulated vessels are registered under the laws of the State. This action would result in substantial savings to the Federal government by eliminating present Federal Tanner crab management and the FMP amendment process for the duration of the emergency. Federal expenditures for enforcement of the implementing regulations would also be eliminated, resulting in an additional savings to the Federal Government. The State is expected to increase its expenditures commensurately to maintain a comparable level of enforcement.

One of the main reasons for the initial development and implementation of the FMP was to check perceived State discrimination against non-Alaska participants in the fishery. Repealing the regulations implementing the FMP would relieve the Council and NOAA from routine management of the fishery for the duration of the emergency. However, if the State were, in fact, to adopt a regulation that discriminated on the basis of State residence, or otherwise violated the requirements of the Magnuson Act, the Council and the Secretary could take additional emergency action to respond. In addition, management measures that discriminate on the basis of State residence in violation of Magnuson Act section 301 will also frequently violate other Federal and State statutory and constitutional requirements, providing another basis for permanent judicial reversal of such measures. Thus, even in the absence of FMP implementation, adequate safeguards protect non-Alaska participants from discrimination on the basis of State residence.

The Council and NOAA will not participate in routine management of the fishery for the duration of the emergency. Since the Council will no longer be available to the industry as the forum for resolving disputes in the Tanner crab fishery, some increase in litigation and a corresponding increase in related costs may be anticipated. An estimate of the dollar amount of any such costs would be difficult to quantify, but in all likelihood these costs would be outweighed by the economic benefits to the industry from repealing the Federal regulations. If, for example, 500,000 pounds of otherwise harvestable crab remained unharvested because of the inability to extend the fishing season under Federal management, the cost to the fleet based on an average exvessel price of $1.35 recorded in Kodiak, Alaska, during 1985 would be about $675,000. Additional losses would be suffered by the processing, wholesale, and retail sectors of the industry.

On the other hand, if because of the present limited inseason management authority an overharvest were to occur in a particular area, the industry would realize immediate short-term gains associated with that harvest. For example, if a harvest guideline amount were exceeded by 2,000,000 pounds, the vessels participating in the fishery would realize an additional $2,700,000 in exvessel revenue, with corresponding gains to the processing, wholesaling, and retailing sectors. However, these gains to the industry would likely be offset by future reductions in harvest levels and possible area closures. Even though overharvest does not appear to be the cause of the recent precipitous decline in *C. bairdi* stocks in the Bering Sea, this fishery provides an example of the potential losses that might occur if an established fishery were to close. The average annual catch in the Bering Sea fishery is 15,900,000 pounds. At the 1985 exvessel price of $1.40 per pound, the loss to the fleet would be about $22,300,000 each year the fishery were closed, with corresponding industry-wide losses.

Repeal of the Federal regulations is expected to eliminate confusion caused by the the lack of timely coordination

between the State and NMFS. The effects are difficult to quantify, but management under a single regulatory regime administered by the State will likely benefit all sectors of the industry to some degree.

For these reasons, the Secretary has determined that an emergency exists. This emergency rule will be effective for 90 days from its effective date and may be extended for an additional 90 days with the agreement of the North Pacific Fishery Management Council.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law. He has determined that continuation of the regulations now in force would not allow timely management response to the needs of the fishery, would allow violations of the national standards, and continue questions of conformance of the FMP'S regulations with Executive Order 12291 and of actions under the FMP with the Administrative Procedure Act. Also, because current Federal regulations allow fishing to begin November 1, 1986, while the State of Alaska has determined it is necessary to delay such openings until January 15, 1987, it is necessary to promulgate this emergency rule immediately to avoid operational problems during November and December 1986.

The Assistant Administrator finds that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable to provide prior notice and opportunity for public comment, or to delay for 30 days the effective date of this emergency rule, as required by section 553 (b) and (d) of the Administrative Procedure Act. The public had the opportunity to comment on the substance of this emergency rule during the Council meeting in March 1986, and during the September 1986 meeting where the Council created a "working group to study the issues."

This emergency rule eleminates collection of information requirements previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act, and contains no new requirements.

The Assistant Administrator has determined that this action will be consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under Section 307 of the Coastal Zone Management Act.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the procedures of that Order.

The Assistant Administrator prepared a draft environmental assessment (EA) for this action and concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Regional Director at the address listed above.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it was not required to be promulgated as a proposed rule and the rule is issued without opportunity for prior public comment. Since notice and opportunity for prior public comment are not required to be given under section 553 of the Administrative Procedure Act; and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act no initial or final regulatory flexibility analysis will be prepared.

List of Subjects in 50 CFR Part 671

Fisheries, Reporting and recordkeeping requirements.

Dated: October 30, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 671—TANNER CRAB OFF ALASKA

50 CFR Part 671 is amended as follows:

1. The authority citation for Part 671 continues to read as follows:

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

2. Part 671 consisting of §§ 671.1 through 671.27 is suspended from 0001 hours local time, November 1, 1986, until 2400 hours local time, January 29, 1987.

[FR Doc. 86-24927 Filed 10-30-86; 4:53 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 213
Tuesday, November 4, 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 Part 1011

Milk in the Tennessee Valley Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend provisions of the order relating to the Class I disposition requirements for a pool distributing plant. The proposed suspension would lower the Class I disposition requirements from 60 percent in the months of November 1986 and January and February 1987 to 40 percent in such months. Dairymen, Inc., a cooperative that represents producers who supply milk to the market requested the action to facilitate efficiency in the processing of Class II products in the Tennessee Valley market.

DATE: Comments are due on or before November 12, 1986.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would tend to ensure that dairy farmers would continue to have their milk priced under the order for the market which is the primary outlet for their milk and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Tennessee Valley marketing area is being considered for the months of November 1986 and January and February 1987:

In § 1011.7(a)(2), the provisions "60 percent in each of the months of August through November and January and February, and" and "in each of the other months,".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968, South Building, U.S. Department of Agriculture, Washington, DC 20250, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include November 1986 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b).

Statement of Consideration

The proposed suspension would lower the total Class I disposition requirements for a pool distributing plant for the months of November 1986 and January and February 1987 from 60 percent to 40 percent of the plant's receipts of fluid milk products.

Suspension of the provisions was proposed by Dairymen, Inc., (DI), pending a hearing on DI's request that the pool plant standards for a distributing plant be amended to provide for unit pooling of two or more plants.

DI indicates that Flav-O-Rich, Inc., currently operates 3 pool distributing plants that are regulated under the Tennessee Valley milk order. The plants are located at Bristol, Virginia, London, Kentucky, and Rossville, Georgia. Flav-O-Rich indicates that it has consolidated the Class II processing operations of its three plants in the Bristol, Virginia, plant to increase efficiency in operations. As a consequence, the Bristol plant has difficulty in meeting the 60 percent Class I disposition requirement that applies during the months of August through November and January and February. DI indicates that the combined operations of its 3 pool distributing plants far exceed the 60 percent Class I requirements.

Without the requested suspension, the cooperative would have to incur added costs to insure the continued pooling of its members who deliver to the Bristol, Virginia, plant.

List of Subjects in 7 CFR Part 1011

Milk Marketing Orders, Milk, Dairy Products.

The authority citation for 7 CFR Part 1011 continues to read as follows:

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

Signed at Washington, DC, on October 29, 1986.

William T. Manley,

Deputy Administrator, Marketing Program.

[FR Doc. 86–24873 Filed 11–3–86; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Parts 115, 118

[Docket No. 86–028]

Viruses, Serums, Toxins, and Analogous Products: Inspections; Detention, Seizure, and Condemnation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Virus-Serum-Toxin Act of 1913 (VST Act), as amended by the Food Security Act of 1985, authorizes any officer, agent, or employee of the Department of Agriculture to enter and inspect any establishment preparing animal biologics at any hour, day or night. Previously, only licensed establishments were subject to this provision. The amendment also provides for detention, seizure, and condemnation of products. This proposed amendment of the regulations would add the expanded inspection authority to Part 115, and would establish a new Part 118 entitled,

"Detention, Seizure, and Condemnation."

DATE: Comments must be received on or before January 5, 1987.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Dr. David A. Espeseth, Chief Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6332.

SUPPLEMENTARY INFORMATION: This proposed rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed action would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It would also not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action would not result in adverse economic impact on a substantial number of small entities. Its purpose is to implement new enforcement provisions contained in the 1985 amendments to the VST Act.

Background

Part 115 of the regulations would be amended to provide for the expanded inspection authority under the VST Act. It would be revised to state that any establishment preparing biological products is subject to inspection at any time, day or night.

The amendment to the VST Act provides new enforcement authorities by incorporating the procedures of sections 402, 403, and 404 of the Federal Meat Inspection Act (21 U.S.C. 672, 673, and 674). These procedures, which relate to detentions, seizures, condemnations, and injunctions are applicable to the enforcement of the VST Act with respect to any animal biologic prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations.

This proposed rule would establish a new Part 118 relating to detention, seizure, and condemnation. It would be modeled after the regulations under the Federal Meat Inspection Act (9 CFR 329.1, et seq.). The period of detention would not exceed 20 days. The owner of the veterinary biologic or the owner's agent, or other person having custody of the product would be given written notice of the detention. Movement of the detained product would be allowed in accordance with the regulations. The procedures to be followed in seizing and condemning biological products would be those which are specified in § 403 of the Federal Meat Inspection Act.

List of Subjects in 9 CFR Parts 115 and 118

Animal biologics.

PART 115—INSPECTIONS

Accordingly, Chapter I, Subchapter E of Title 9 would be amended as follows:

1. The authority citation for Part 115 continues to read as follows:

Authority: 21 U.S.C. 151–159; 37 Stat. 832–833.

2. Part 115 would be amended by revising § 115.1 and § 115.2 to read as follows:

§ 115.1 Inspections of licensed establishments.

(a) Any inspector shall be permitted to enter any establishment where any biological product is prepared, at any hour during the day or night, and shall be permitted to inspect, without previous notification, the entire premises of the establishment, including all buildings, compartments, and other places, all biological products, and organisms and vectors in the establishment, and all materials and equipment, such as chemicals, instruments apparatus, and the like, and the methods used in the manufacture of, and all records maintained relative to, biological products produced at such establishment.

(b) Each inspector will have in his or her possession a numbered USDA badge or identification card. Either shall be sufficient identification to entitle him to admittance at all regular entrances and to all parts of such establishment and premises and to any place at any time for the purpose of making an inspection pursuant to paragraph (a) of this section.

§ 115.2 Inspections of biological products.

Any biological product, the container of which bears a United States veterinary license number or a United States veterinary permit number or other mark required by these regulations may be inspected at any time or place. If, as a result of such inspection, it appears that any such product is worthless, contaminated, dangerous, or harmful, the Secretary shall give notice thereof to the manufacturer or importer and to any jobbers, wholesalers, dealers, or other persons known to have any of such product in their possession. Unless and until the Secretary shall otherwise direct, no persons so notified shall thereafter sell, barter, or exchange any such product in any place under the jurisdiction of the United States or ship or deliver for shipment any such product in or from any State, Territory, or the District of Columbia. However, failure to receive such notice shall not excuse any person from compliance with the Virus-Serum-Toxin Act.

3. A new Part 118 would be added to read as follows:

PART 118—DETENTION; SEIZURE AND CONDEMNATION

Sec.

Authority: 21 U.S.C. 151–159; 99 Stat. 1654–1656.

§ 118.1 Administrative detention.

Whenever any biological product which is prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations is found by any authorized representative of the Deputy Administrator upon any premises, it may be detained by such representative for a period not to exceed 20 days, pending action under § 118.4, and shall not be moved by any person from the place at which it is located when so detained, until released by such representative.

§ 118.2 Method of detention; notifications.

An authorized representative of the Deputy Administrator shall detain any biological product subject to detention under this part by:

(a) Giving oral notification to the owner of the biological product if such owner can be ascertained, and, if not, to the agent representing the owner or to the immediate custodian of the biological product; and

(b) Promptly furnishing the person so notified with a preliminary notice of detention which shall include identity and quantity of the product detained, the location where detained, the reason for the detention, and the name of the authorized representative of the Deputy Administrator.

(c) Within 48 hours after the detention of any biological product, an authorized representative of the Deputy Administrator shall, if the detention is to continue, give written notification to the owner of the biological product detained by furnishing a written statement which shall include the identity and quantity of the product detained, the location where detained, specific description of the alleged noncompliance including reference to the provisions in the Act or the regulations which have resulted in the detention, and the identity of the authorized representative of the Deputy Administrator; or, if such owner cannot be ascertained and notified within such period of time, furnish such notice to the agent representing such owner, or the carrier or other person having custody of the biological product detained. The notification, with a copy of the preliminary notice of detention shall be served by either delivering the notification to the owner or to the agent or to such other person, or by certifying and mailing the notification, addressed to such owner, agent, or other person, at the last known residence or principal office or place of business.

§ 118.3 Movement of detained biological products; Termination of detention.

Except as provided in paragraphs (a) and (b) of this section, no biological product detained in accordance with the provisions in this part shall be moved by any person from the place at which such product is located when it is detained.

(a) A detained biological product may be moved from the place at which it is located when so detained for the purpose of providing proper storage conditions if such movement has been approved by an authorized representative of the Deputy Administrator: *Provided,* that, the biological product so moved shall be detained by an authorized representative of the Deputy Administrator after such movement.

(b) A detained biological product may be moved from the place at which it is detained on written notification by an authorized representative of the Deputy Administrator that the detention is terminated; *Provided,* that, the conditions under which the detained biological product may be moved will be specified in the written notification of the termination. The notification of termination shall be served by either personally delivering the notification, or by certifying and mailing the notification addressed to such person at the last known residence or principal office or place of business of the owner, agent, or other person having custody of the biological product.

§ 118.4 Seizure and condemnation.

(a) Any biological product which is prepared, sold, bartered, exchanged, or shipped in violation of the Act or regulations shall be liable to be proceeded against and seized and condemned, at any time, on a libel of information in any United States district court or other proper court within the jurisdiction of which the product is found. If the product is condemned, it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct, and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the product shall not be sold contrary to the provisions of the Act or the laws of the jurisdiction in which it is sold; *Provided,* that, upon the execution and delivery of a good and sufficient bond conditioned that the product shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws or jurisdiction in which disposal is made, the court may direct that such product be delivered to the owner thereof subject to such supervision by authorized representative of the Secretary as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered against the product and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the product. The proceedings in such libel cases shall conform, as nearly as may be practicable, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

Done at Washington, DC, this 29th day of October, 1986.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-24911 Filed 11-3-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ASW-11]

Airworthiness Directives; Messerschmitt-Bolkow-Blohm Gmbh (MBB), Model BK-117A-3 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) which requires immediate replacement and frequent inspections of several tail rotor blades that may be installed on MBB BK-117A-3 helicopters. This proposed amendment is needed to exclude additional tail rotor blades from further inspection or replacement.

DATES: Comments must be received on or before December 17, 1986.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: FAA, Southwest Region, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas 76106, or delivered in duplicate to the above address, Room 158, Building 3B.

Comments mailed or delivered must be marked: Docket No. 86-ASW-11.

Comments may be inspected at Room 158, Building 3B, between the hours of 8 a.m. and 4:30 p.m. weekdays, except Federal holidays.

A copy of the alert service bulletin is contained in the Rules Docket located at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106. The applicable service information may be obtained from MBB Helicopter Corp., P.O. Box 2349, West Chester, Pennsylvania 19380.

FOR FURTHER INFORMATION CONTACT: J.H. Major, Rotorcraft Standards Staff, ASW-110, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-5117.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All

communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

All comments submitted will be available, both before and after the closing date for comments, in the Office of the Regional Counsel specified above for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket Number 86–ASW–11. The postcard will be date/time stamped and returned to the commenter.

Amendment 39–5294 (51 FR 17614), AD 86–09–03, requires for certain MBB BK–117A–3 helicopters immediate replacement of certain tail rotor blades and frequent (preflight) inspections of the other blades for bond separation until rebonding of the affected blades, Serial Number (S/N) 63 through 115, is accomplished. After issuing Amendment 39–5294, MBB issued Service Bulletin No. SB–MBB–BK–117–30–1, Revision 1, dated June 12, 1986, to change the serial numbers of tail rotor blades that were affected. S/N's 63 through 82 are now affected. In addition, it is not clear in the AD that rebonded blades are no longer subject to the AD inspections although the preamble refers to rebonded blades.

The FAA has determined that inspections of certain tail rotor blades should be excluded from further inspection also. The proposed amendment would revise the AD applicability statement to limit AD 86–09–03 to tail rotor blades with S/N's 63 up to and including 82. A new paragraph would exclude rebonded blades from further inspections under the AD.

The FAA has determined that this proposed regulation only involves about six aircraft with an estimated cost of compliance of $100 per aircraft or a total of $600. In addition, the proposed amendment would relieve a requirement. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR 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 Amendment 39–5294 (51 FR 17614), AD 86–09–03, as follows:

(a) Revise the applicability statement by removing "115" and inserting "82."

(b) Add a New paragraph (f) to read as follows:

(f) A tail rotor blade with rebonded leading edge is no longer subject to this AD. (MBB Service Bulletin No. SB–MBB–BK117–30–1, Revision 1, dated June 12, 1986, pertains to this matter.)

Issued in Fort Worth, Texas, on October 15, 1986.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86–24832 Filed 11–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–CE–07–AD]

Airworthiness Directives; Mitsubishi Heavy Industries, Limited, and Mitsubishi Aircraft International, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM).

SUMMARY: This action supplements a notice published in the **Federal Register** on July 30, 1986, proposing to supersede Airworthiness Directives (AD) 74–11–02 (Amendments 39–1846 and 39–2269) and 75–02–01 (Amendments 39–2059 and 39–2269) applicable to certain Mitsubishi Heavy Industries, Limited, MHI) Models MU–2B, –10, –15, –20, –25, –26, –30, –35, and –36 airplanes. The new AD would eliminate the repetitive inspections of the superseded ADs and require a one time inspection, sealing, and replacement, as necessary, of wing flap flexible shafts as well as shaft routing adjustment for bend radius relief. Subsequent to the publication of the NPRM, the FAA ascertained that the applicability of the proposed AD should be extended to include the MU–2B airplanes certificated in the United States under Type Certificate (TC) No. A10SW, since the affected parts are common to all MU–2 airplanes. Therefore, the notice, as supplemented, includes the U.S. manufactured MU–2B airplanes.

DATES: Comments must be received on or before December 10, 1986.

ADDRESSES: (MHI) Service Bulletins (S/B) MU–2 No. 198 dated February 13, 1985, or MAI S/B MU–2 SB051/27–007, dated February 1, 1985, applicable to this AD, may be obtained from Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku Nagoya, Japan, or Beech Aircraft Corporation (Licensee to Mitsubishi Heavy Industries, Ltd.), 9709 East Central, Post Office Box 85, Wichita, Kansas 67201. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of Regional Counsel; Attention: Rules Docket No. 86–CE–07–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8:00 a.m. and 4:00 p.m. Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: For MHI TC A2PC Series airplanes manufactured in Japan: Mr. Jerry Sullivan, Aerospace Engineer, Western Aircraft Certification Office, ANM–172W, Federal Aviation Administration, Post Office Box 92007, Worldway Postal Center, Los Angeles, California, 90009–2007; Telephone (213) 297–1166. For MAI TC A10SW Series airplanes manufactured in the U.S.: Mr. Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, ACE–13OW, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4419.

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 desire. Communications should identify the regulatory docket or notice 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 Director before taking action on the proposed rule. The proposal contained in this supplemental notice may be changed in light of comments received. Comments

are specifically invited on the overall regulatory, economic, environmental, and emergency aspects of the rule. 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 NPRMs

Any person may obtain a copy of this Supplemental NPRM by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel; Attention: Rules Docket No. 86–CE–07–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

A Notice of Proposed Rulemaking, Docket No. 86–CE–07–AD, applicable to Mitsubishi Heavy Industries, Limited, Model MU–2B airplanes, was published in the **Federal Register** on July 30, 1986 (51 FR 27194). The published Notice proposed to supersede two ADs (74–11–02 and 75–02–01) that require repetitive inspections of the wing flap flexible drive shafts. The proposed superseding action was prompted by an additional failure of the wing flag flexible drive shaft on an MU–2B Model airplane. Since issuance of the NPRM the FAA has determined that it is necessary to broaden the applicability to include the MU–2B Model airplanes certificated by TC No. A10SW, based on information submitted by Beech Aircraft Corporation (Licensee to Mitsubishi Heavy Industries, Limited), for MU–2B airplanes certificated in the United States under TC No. A10SW. Beech advised that the unsafe condition addressed in the NPRM is a problem common to all MU–2 airplanes because of the commonality of parts. That problem is concerned with a report received from the manufacturer that a wing flap flexible shaft failed on a MU–2B airplane prior to the manufacturer's recommended maximum service life of 2000 hours because of water intrusion. There is one flap flexible drive shaft for each wing flap. Failure of the shaft in either wing will result in a non-operating flap on one side while the opposite flap continues to move normally. As a result, MHI issued MU–2 S/B No. 198 dated February 13, 1985, and MAI issued MU–2 S/B SB051/27–007, dated February 1, 1985, which give instructions for a torque inspection and a sealing process on flap flexible shaft joints. These instructions are more effective than inspections required by AD 74–11–02 and AD 75–02–01. The Japan Civil Aviation Bureau, which has responsibility and authority to maintain the continuing airworthiness of the MHI airplanes in Japan, has classified the MHI Service Bulletin No. 198 and the actions recommended therein by the manufacturer as mandatory and has issued (Japanese) AD TCD–2451–85, dated April 12, 1985, to assure the continued airworthiness of the affected MHI airplanes. On airplanes operated under Japanese regulations, this action has the same effect as an AD on airplanes certificated for operation in the United States.

Consequently, the proposed AD, as supplemented, including textual changes for clarity, will be applicable to all MHI and MAI Models MU–2B, –10, –20, –25, –26, –26A, –30, –35, –36, –36A, –40 and –60 airplanes. It would require inspection, sealing of joints, and replacement, if necessary, of the flap flexible shaft in accordance with MHI MU–2 S/B No. 198 or MAI MU–2 S/B SB051/27–007 and removal of flap drive shaft clamp at Wing Station (W.S.) 2590 to allow routing of the right and left hand flap flexible shafts to relieve any bend radius less than 8.7 inches and the elimination of the mandatory repetitive 100 hour time-in-service (TIS) inspections. In addition, the affected flap flexible shaft part numbers are now RY25–1 or 8022Y–OC–97.00, or 8022Y–OC–97.50 or 035A–961001–3. These actions are to preclude operational failure of the wing flaps which could result in differential flap extension.

There are approximately 548 United States registered airplanes affected by this proposed AD. The cost of complying with this proposed AD is estimated to be $240 per airplane. The cost to the private sector is estimated to be $131,520. Few, if any, small entities own the affected airplanes. The cost of compliance is so minimal that it would not impose a significant economic burden on any such owner.

Therefore, I certify that this action (1) is not a major rule under Executive Order 12291; and (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

PART 39—[AMENDED]

The Proposed Amendment

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 superseding AD 74–11–02 (Amendment 39–1846 as amended by Amendment 39–2269) and AD 75–02–01 (Amendment 39–2059 as amended by Amendment 39–2269) with the following new AD:

Mitsubishi: Applies to Models MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–26A, MU–2B–30, MU–2B–35, MU–2B–36A, MU–2B–40, MU–2B–60 (Serial Numbers 008 through 457 inclusive (incl.), 501 through 799 incl., 1501 through 1566 incl. with or without the SA suffix) airplanes, certificated in any category. (Serial numbers with "SA" suffix designate those MU–2B airplanes certified in the United States of America under Type Certificate (TC) No. A10SW, and those serial numbers without "SA" suffix designate those MU–2B airplanes certificated in Japan under TC No. A2PC.)

Compliance: Required as indicated in the body of the AD, unless previously accomplished.

To preclude failure of flap flexible shaft Part Numbers (P/N) RY25–1, or 8022Y–OC–97.00, 8022Y–OC–97.50, or 035A–961001–3, and potential differential flap operation, accomplish the following:

(a) For flap flexible shafts:

(1) With less than 1000 hours of time-in-service (TIS), on the effective date of this AD:

(i) Within the next 100 hours of TIS, seal the fitting and the connection area of the flap flexible shaft in accordance with "INSTRUCTIONS" of MHI MU–2 Service Bulletin (S/B) No. 198 dated February 13, 1985, or "ACCOMPLISHMENT INSTRUCTIONS" of MAI MU–2 S/B SB051/27–007 dated February 1, 1985, as applicable.

(ii) Prior to the accumulation of 1100 hours total TIS of the flap flexible shaft, perform torque inspection of the flap flexible shaft in accordance with the MHI MU–2 S/B No 198, or MAI MU–2 S/B SB051/27–007, as applicable.

(A) If the torque value is 1.2 in-lbs (1.4 kg-cm) or less, in both clockwise and counter clockwise rotation, seal the flexible shaft in

accordance with "INSTRUCTIONS" of MHI MU–2 S/B No. 198 or "ACCOMPLISHMENT INSTRUCTIONS" of MAI MU–2 S/B SB051/27–007, as applicable and return the airplane to service.

(B) If the torque value is greater than 1.2 in-lbs (1.4 kg-cm) in any direction of rotation, before further flight, remove flap flexible shaft and replace this shaft with a serviceable shaft, P/N 8022Y–OC–97.00, or 8022Y–OC–97.50 or 035A–961001–3 or FAA approved equivalent, in accordance with paragraph (b) of this AD, and return the airplane to service.

(2) With 1000 or more hours of TIS on the effective date of this AD: Within 100 additional hours TIS perform the torque inspection in accordance with MHI MU–2 S/B No. 198, or MAI MU–2 S/B SB051/27–007, as applicable.

(i) If the torque value is 1.2 in-lbs (1.4 kg-cm) or less, in both clockwise and counter clockwise rotation, seal the flexible shaft in accordance with "INSTRUCTIONS" of MHI MU–2 S/B No. 198 or "ACCOMPLISHMENT INSTRUCTIONS" of MAI MU–2 S/B SB051/27–007, as applicable and return the airplane to service.

(ii) If the torque value is greater than 1.2 in-lbs (1.4 kg-cm) in any direction of rotation, before further flight remove flap flexible shaft and replace this shaft with a serviceable shaft, P/N 8022Y–OC–97.00, or 8022Y–OC–97.50 or 035A–961001–3 or FAA approved equivalant, in accordance with paragraph (b) of this AD, and return the airplane to service.

(b) Prior to installing a serviceable replacement flexible shaft, seal the part in accordance with MHI MU–2 S/B No. 198 or MAI MU–2 S/B SB051/27–007, as applicable.

(c) Within 100 hours of TIS after the effective date of this AD, remove and do not reinstall the clamp at W.S. 2590 and ensure that the flap flexible shaft is installed so as to establish that no bend radius throughout the length of the shaft between Wing Station (W.S.) 2370 and W.S. 2910 is less than 8.7 inches (220 millimeters).

(d) Special flight permits may be issued in accordance with FAR 21.197 and FAR 21.199 to ferry aircraft to a maintenance base in order to comply with the requirements of this AD.

(e) An equivalent method of compliance with this AD may be used on the MHI airplanes, if approved by the Manager, Western Aircraft Certification Office, ANM–170 W, Federal Aviation Administration, Post Office Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007, and on the MAI airplanes, if approved by the Manager, FAA, Wichita Aircraft Certification Office, ACE–115W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku, Nagoya, Japan, or Beech Aircraft Corporation, 9709 East Central, Post Office Box 85, Wichita, Kansas; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment, if promulgated, will supersede AD 74–11–02 (Amendment 39–1846 (39 FR 17220) as amended by Amendment 39–2269 (40 FR 30464)) and AD 75–02–01 (Amendment 39–2059 (39 FR 44740) as amended by Amendment 39–2269 (40 FR 30464)).

Issued in Kansas City, Missouri, on October 24, 1986.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 86–24838 Filed 11–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–CE–51–AD]

Airworthiness Directives; Partenavia Models P–68, PC–68B, P–68C, P–68–TC, P–68 "OBSERVER", and P68TC "OBSERVER" Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

AGENCY: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain Partenavia Models P–68, P68B, P–68C, P–68–TC, P–68 "OBSERVER", and P68TC "OBSERVER" airplanes equipped with photogrammetric hatch, which would require an inspection and modification of the aileron control cable at the right side of this hatch to prevent chafing/cutting of the brake oil line. An incident was reported where the aileron control cable sawed through the brake oil line, causing loss of the brake system. The proposed action will detect and prevent any interference and preclude possible loss of braking and/or the loss of aileron control.

DATES: Comments must be received on or before January 9, 1987.

ADDRESSES: Partenavia Service Bulletin (S/B) No. 68 dated January 31, 1986, applicable to this AD may be obtained from Partenavia Costruzioni Aeronautiche S.p.A., Via Cava, 80026 Casoria (Naples), Italy, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86–CE–51–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Brussels Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA c/o American Embassy, B–1000, Brussels, Belgium; telephone 513.38.30; or Mr. Harvey Chimerine, FAA, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374–6932.

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 or notice 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 Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86–CE–51–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

There was a reported incident where the aileron control cable at the right side of the photogrammetric hatch sawed through the brake oil line on a Partenavia P–68. An inspection for interference between the right aileron control and brake oil line will preclude possible chafing/cutting of the brake oil line, the loss of braking ability on the right side of the aircraft as well as possible loss of right aileron control. As a result, Partenavia has issued S/B No. 68 dated January 31, 1986, which requires a one-time visual inspection for interference between the right aileron control cable and brake oil line. The Registro Aeronautico Italiano (RAI) which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy has classified this service bulletin and the actions

recommended therein by the manufacturer as mandatory and has issued Italian AD No. 86–22 dated March 30, 1986, to ensure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Partenavia S/B No. 68 dated January 31, 1986, and the mandatory classification of this service bulletin by RAI. Based on the foregoing, the FAA believes that the condition addressed by Partenavia S/B No. 68 dated January 31, 1986, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Since only one occurrence has been reported, and due to the nature of the system, the proposed AD would require a visual inspection within the next 50 hours time-in-service for interference between the right aileron control cable (at the right side of the photogrammetric hatch) and the brake oil line to be performed and repairs completed as needed on the aileron cable and/or brake line, according to Part II "REPAIR INSTRUCTIONS" of Partenavia Mandatory S/B No. 68 dated January 31, 1986.

The FAA has determined there are approximately 15 airplanes affected by the proposed AD. The cost of inspecting and repairing, if necessary, these airplanes as required by the proposed AD is estimated to be $80 per airplane. The total cost is estimated to be $1,200 to the private sector.

Few small entities own the affected airplanes and the cost of compliance is so small that it would not impose a significant economic impact on any such owners.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation, prepared for this action, has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR 39

Air transportation, Aviation safety, Aircraft, Safety.

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 FAR 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); 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Partenavia: Applies to certain Partenavia Models P–68, P–68B, P–68C, P–68C–TC, P68 "OBSERVER" and P68TC "OBSERVER" (S/N 1 to 340 inclusive) airplanes equipped with photogrammetric hatch, certificated in any category. Compliance: Required within 50 hours time-in-service (TIS) after the effective date of this AD unless already accomplished.

To preclude possible loss of braking and/or loss of aileron control.

(a) For airplanes with Serial Numbers (S/N) 1 to 298 inclusive, visually inspect the aileron control cable to the right side of the photogrammetric hatch for interference with the brake oil line in accordance with steps 1 through 6 of Part 1A "INSPECTION INSTRUCTIONS" of Partenavia Service Bulletin (S/B) No. 68 dated January 31, 1986 (referred to hereafter as S/B No. 68).

(1) If no discrepancy is found return the airplane to service.

(2) If a discrepancy is found, prior to further flight accomplish the following:

(i) Replace damaged oil tube. Carefully inspect and if necessary, replace the aileron control cable.

(ii) To prevent further interference between the brake oil lines and the aileron control cable, install a clamp (MS 21919–DG9) as shown in figure 2 on page 3/3 of S/B No. 68.

(iii) Visually, check that the clamp is properly installed and the interference is no longer present.

(iv) Return the airplane to service.

(b) For airplanes with S/Ns 299 to 340 inclusive:

(1) Remove carpeting from around the photogrammetric hatch.

(2) Cut a rectangular inspection hole 3.35 in. by 2.35 in. (85 x 60mm) in accordance with figures 1 and 2 on page 3/3 of S/B No. 68.

(3) Manufacture rectangular cover plate for the above inspection hole in accordance with figure 2 on page 3/3 of S/B No. 68.

(4) Visually inspect the aileron cable to the right of the photogrammetric hatch for interference with the brake oil line in accordance with steps 3 through 6 of Part IA "INSPECTION INSTRUCTIONS" of S/B No. 68.

(i) If no discrepancy is found return the airplane to service.

(ii) If a discrepancy is found prior to further flight, accomplish paragraph (a)(2) of this AD.

(c) For all aircraft having clamp (P/N MS21919–DG9) installed on the brake oil line in accordance with Part II "Repair Instructions" of Partenavia S/B No. 68 dated January 31, 1986, no further action required.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium.

All persons affected by this directive may obtain a copy of the document referred to herein upon request to Partenavia Construtioni Aeronautiche S.p.A., Via Cava, 80026 Casoria (Naples), Italy, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 24, 1986.

Barry D. Clements,

Acting Director, Central Region.

[FR Doc. 86–24837 Filed 11–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–AGL–2]

Proposed Alteration of Federal Airways V–7 and V–510

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Federal Airways V–7 and V–510 to provide for more efficient north/south and east/west traffic flows primarily in the states of Wisconsin and Illinois. Two actions are proposed. The first proposed action is the realignment of V–7 between Green Bay, WI, and Petty intersection to improve the north/south flow. The second action is the deletion of that portion of V–510 between Nodine, MN, and Lone Rock, WI, and extending V–510 from Nodine to Muskegon, MI, to improve east/west traffic flows.

DATES: Comments must be received on or before November 16, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 86–AGL–2, Federal Aviation

Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

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

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

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9249.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AGL–2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changd in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V–7 between Green Bay, WI, and delete a portion of V–510 from Nodine, MN, to Lone Rock, WI, and extend V–510 between Nodine and Muskegon, MI. Southern Wisconsin has historically exhibited a heavy use of north-south routings. Since 1980 routings oriented along east-west paths have increased dramatically in the area bounded by the cities of Madison, Milwaukee and Muskegon on the south and Eau Claire, Wausau, Green Bay and Traverse City on the north. Increases in air traffic in the above areas have resulted in numerous uses of off airway direct routings. The proposed realignment of V–7 and extension of V–510 is expected to help accommodate these naturally formed flows of traffic. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation Safety, VOR Federal airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. § 71.123 is amended as follows:

V–7 [Amended]

By removing the words "INT Chicago Heights 358° and Green Bay, WI, 166° radials;" and substituting the words "INT Chicago Heights 358° T (356° M) and Falls, WI, 170° T (169° M) radials; Falls;"

V–510 [Amended]

By removing the words "Lone Rock. From" and substituting the words "Dells, WI, Oshkosh, WI; Falls, WI;"

Issued in Washington, DC, on Ocober 21, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–24830 Filed 11–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 150

[Docket No. 25117; Notice No. 86–17]

Expansion of Applicability of Part 150 to Heliports

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to expand the applicability of rules governing airport noise compatibility planning to include free-standing public-use heliports. It is needed because the current rule includes only those heliports that are located on public use airports that are used by other aircraft. The proposal is intended to allow the operators of free-standing public-use heliports to benefit from the Airport Improvement Program.

DATE: Comments must be received on or before February 3, 1987.

ADDRESS: Send comments on this proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket (AGC–204), Docket No. 25117, 800 Independence Ave., SW., Washington, DC 20591; or deliver comments in duplicate to: FAA Rules Docket, Room

916, 800 Independence Ave., SW., Washington, DC 20591. Comments must be marked Docket No. 25117. Comments may be examined in the Rules Docket on weekdays except Federal holidays, between 8:30 a.m. and 5:00 p.m..

FOR FURTHER INFORMATION CONTACT: Mr. Richard Tedrick, Noise Policy and Regulatory Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591. Telephone: (202) 267–3558.

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 that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address listed above. Commentors wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25117." The postcard will be date and time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the rules docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–430, 800 Independence Ave., 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 NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

Part 150 of the Federal Aviation Regulations (14 CFR Part 150) contains requirements for airport operators who choose to submit voluntarily noise exposure maps and airport noise compatibility planning programs to the FAA. Operators of airports whose maps and programs have been accepted by the FAA as meeting the Part 150 standards are then eligible to apply for funding noise control projects under the Airport Improvement Program. The Aviation Safety and Noise Abatement Act of 1979, as amended (49 U.S.C. 2101 *et seq.* "the ASNA Act") also provides certain legal protections for those airport proprietors submitting maps.

In accordance with the ASNA Act, operators of certain public-use airports have been able to avail themselves of the benefits of Part 150 since its original adoption, on an interim basis, on January 19, 1981 (46 FR 8316, January 26, 1981). However, in that interim rule and in the final rule adopted December 13, 1984 (49 FR 49260, December 18, 1984), access to Part 150 was denied to the operators of one class of public airports, free-standing public-use heliports, i.e. those "used exclusively by helicopters." This was done primarily because there were relatively few public-use heliports and because adequate computational tools were not available for drawing noise contours around heliports.

Proposed Rule

Now, with the opening of several model public heliports and with the successful completion by the FAA of Helicopter Noise Model (HNM) computer program, the FAA proposes to lift this restriction. Sections 150.3 and 150.7 would be amended to specifically include all public-use heliports. Section A150.103 of Appendix A would be amended to reference use of the HNM and to insert map scale and size requirements more appropriate to heliports.

Regulatory Evaluation

The FAA conducted a detailed evaluation to determine the regulatory impact of removing the present regulatory restrictions on the operators of heliports. It was determined that this proposed rule is consistent with the objectives of Executive Order 12291 as part of the President's Regulatory Reform Program to reduce regulatory burdens on the public. Since Part 150 only contains a voluntary program for developing airport compatibility maps and programs, heliport operators (like other airport operations) can be expected to voluntarily bring themselves under the Part when it is only to their best interests. This proposal imposes only minor additional costs on the Federal Government, since it would only slightly increase (by less than one-tenth of one percent) the number of airport Improvement Program and the attendant administrative costs to the FAA. The Part 150 program is a well established program developed by Congress. Funds are allocated from the Airway Improvement Program from which an 8% set-aside of funds is currently required for noise mitigation purposes. Funding for the AIP is derived from passenger ticket taxes and a general aviation fuel tax as mandated by Congress. The expansion of the program to include heliports is not expected to adversely impact the current supply of funds.

In addition, this proposal, if adopted, would have no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Regulatory Flexibility Analysis

As explained in the background section, the proposed changes would broaden access to a voluntary Federal program. If any heliport operators submit any maps or programs under the proposed amendment, they would do so voluntarily and on the basis of self-interest. Moreover, as of June 1986, only six heliports would be eligible to participate in the Part 150 program; none are small entities. Therefore, it is certified that the proposed amendment would not have significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Analysis

Pursuant to Department of Transportation "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1D), a draft Finding of No Significant Impact has been prepared. The changes proposed in this Notice do not significantly affect the quality of the human environment.

Conclusion

The only costs associated with this amendment are the voluntary costs to a heliport operator for the initial cost of preparation and submission of a noise exposure map and compatibility program, and minimal FAA Administrative costs. Therefore, the FAA has determined that this proposal involves a proposed regulation that is not a major regulation under Executive

Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since no small entities would be affected by the proposed rule, it is certified under the criteria of the Regulatory Flexibility Act the proposed rule, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of entities. A copy of the initial regulatory evaluation prepared for this project may be examined in the public docket or obtained from the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 150

Airports, Aviation safety, Noise exposure maps, Noise compatibility programs, Land uses.

Proposed Amendment

PART 150—[AMENDED]

Accordingly, the FAA proposes to amend Part 150 of the Federal Aviation Regulations (14 CFR Part 150) as follows:

PART 150—AIRPORT NOISE COMPATIBILITY PLANNING

1. The authority citation for Part 150 is revised to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, 1431, 2101, 2102, 2103(a), 2104 (a) and (b), 2201 *et seq.*; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

§ 150.3 and 150.7 [Amended]

2. By removing from §§ 150.3 and 150.7 the words "not used exclusively by helicopters" and substituting in each place the words "including heliports".

APPENDIX A—[AMENDED]

3. By amending paragraph (a) of section A150.103 of Appendix A to add the words "for airports or the Helicopter Noise Model (HNM) for heliports" after the words "Integrated Noise Model (INM)".

4. By amending section A150.103(b) of Appendix A inserting the words "Except as provided in paragraph (c)," at the beginning thereof.

5. By amending section A105.103 of Appendix A to add a new paragraph (c) to read as follows:

Sec. A150.103 Use of computer prediction model.

* * * * *

(c) For heliports, the map required by paragraph (b)(1) of this section shall not be less than 1 inch to 2,000 feet and shall indicate heliport boundaries, takeoff and landing points, and typical flight tracks out to at least 4,000 feet. Where these flight tacks cannot be determined, obstructions or other limitations on flight tracks in and out of the heliport shall be identified within the map areas out to at least 4,000 feet. For static operation (hover), identify helicopter type and duration in minutes shall be identified. The other information required in paragraph (b) shall be furnished in a form suitable for input to the HNM.

Issued in Washington, DC, on October 30, 1986.

Norman H. Plummer,

Director of Environment and Energy.

[FR Doc. 86-24939 Filed 11-3-86; 8:45am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 861 0146]

L'Air Liquide Societe Anonyme Pour L'Etude et L'Exploitation des Procedes Georges Claude; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a French producer and seller of liquid gases to divest some assets to resolve any antitrust concerns raised by respondent's proposed acquisition of Big Three Industries Inc., a Houston-based competitor of respondent's American subsidiary. Additionally, respondent would be required to obtain prior FTC approval for similar future acquisitions.

DATE: Comments will be received until January 5, 1987.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/G-402, Jerry Philpott, Washington, DC 20580, (202) 254-7051.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to divest, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Liquid gases, Trade practices.

Before Federal Trade Commission

In the Matter of L'Air Liquide Societe Anonyme Pour L'Etude et L'Exploitation des Procedes Georges Claude, a corporation.

Agreement Containing Consent Order To Divest

The Federal Trade Commission having initiated an investigation into the proposed acquisition of the voting securities and certain assets of Big Three Industries ("BTI") by L'Air Liquide Societe Anonyme pour L'Etude et L'Exploitation des Procedes Georges Claude ("L'Air Liquide"), and it now appearing that L'Air Liquide is willing to enter into an agreement containing an order to divest certain assets;

It is hereby agreed by and between L'Air Liquide, by its duly authorized officer and its attorney, and counsel for the Commission that:

1. L'Air Liquide is a corporation organized and doing business under the laws of France, with its principal office located at 75 Quai d'Orsay, Paris 75321 France.

2. L'Air Liquide has a wholly owned subsidiary American Air Liquide, Inc., a corporation organized and doing business under the laws of Delaware, with its principal office at 767 Fifth Avenue, New York, New York, 10153.

3. Big Three Industries is a corporation organized under the laws of the State of Texas with its office and principal place of business located at 3535 West 12th Street, Houston, Texas 77008.

4. L'Air Liquide admits all jurisdictional facts set forth in the draft of complaint here attached.

5. L'Air Liquide waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Act.

6. This agreement shall not become part of the public record unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it and the draft of

complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

7. This agreement is for settlement purposes only and does not constitute an admission by L'Air Liquide that the law has been violated as alleged in the draft of complaint here attached.

8. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to L'Air Liquide, (a) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to divest in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to divest shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to L'Air Liquide's subsidiary American Air Liquide's address as stated in this agreement shall constitute service. L'Air Liquide waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

9. L'Air Liquide has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. L'Air Liquide further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is hereby ordered that as used in this Order the following definitions shall apply:

1. "L'Air Liquide" means L'Air Liquide Societe Anonyme pour L'Etude et L'Exploitation des Procedes Georges Claude, its officers, directors, agents, representatives, employees, successors, and assigns together with all subsidiaries it controls.

2. "Liquid Air" means Liquid Air Corporation, its officers, directors, agents, representatives, employees, successors, and assigns together with all subsidiaries it controls.

3. "Big Three" means Big Three Industries Inc., its officers, directors, agents, representatives, employees, successors, and assigns together with all subsidiaries it controls.

4. "Air separation gases" means oxygen, nitrogen and argon in gaseous or liquid form.

5. "Air separation gases plant" means a facility that produces air separation gases.

6. "Merchant Air Separation Gases" means oxygen, nitrogen and argon sold in liquid form or packaged cylinders.

7. "Merchant Air Separation Gases Producer" means any person that is engaged in all of the following: (i) production, (ii) distribution and (iii) sale of two or more merchant air separation gases.

8. "North Texas" means that portion of the State of Texas within a 200 mile radius of Dallas, Texas, but does not include customers currently served by Liquid Air's Stafford or Odessa air separation gases plants.

9. "Merchant Divestiture Assets" means the assets described in Paragraphs IIA and IIB of this Order.

10. "Material confidential information" means competitively sensitive or proprietary information not independently known to L'Air Liquide and includes, but is not limited to, customer lists and price lists.

II

It is further ordered that:

A. Within 9 months from the date this Order becomes final L'Air Liquide shall divest or shall cause to be divested, absolutely and in good faith, all of its right, title and interest in the following properties. Divestiture shall be made only to a buyer or buyers, and only in a manner, that receives the prior approval of the Commission. The purpose of the divestiture is to ensure the continuation of the assets as ongoing, viable enterprises engaged in the same businesses and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint in this matter.

1. All of Liquid Air's existing merchant air separation gases customer, dealer and distributor contracts, excluding any contracts with Texas Instruments, specifying a delivery location in the state of Texas, together with associated storage vessels and cylinders;

2. Liquid Air's air separation gases plants located in Odessa, Texas and Stafford (Houston), Texas, together with associated distribution equipment, and distribution equipment sufficient to serve Liquid Air's merchant air separation gases customers located in North Texas;

3. Big Three's West Palm Beach, Florida air separation gases plant together with all associated distribution equipment, customer, dealer and distributor contracts, and associated storage vessels and cylinders;

4. Big Three's Albuquerque, New Mexico air separation gases plant, together with all associated distribution equipment, customer, dealer and distributor contracts, and associated storage vessels and cylinders;

5. Big Three's interest in the Palmer, Alaska air separation gases plant and associated merchant air separation gases customer, dealer and distributor contracts, storage vessels and distribution equipment. *Provided, however,* that if the aforementioned interest is divested to The Lincoln Electric Company, such divestiture will not require the prior approval of the Commission under this order.

B. L'Air Liquide shall also make available in North Texas for a period of up to 3 years from the date the divestiture of Liquid Air's existing merchant air separation gases customer, dealer and distributor contracts in North Texas is completed whether by L'Air Liquide or by the trustee identified in paragraph V, up to 50 T/D of liquid oxygen and 95 T/D of liquid nitrogen, which may be purchased by the acquirer of the merchant air separation gases customer, dealer and distributor contracts of Liquid Air in North Texas at a price equal to the electric power costs of the supplying air separation gases plant plus 5 cents/hundred cubic feet, F.O.B. the supplying plant.

C. Within 12 months from the date this Order becomes final, L'Air Liquide shall enter into a contract to sell to an unrelated third party all argon to which Liquid Air is entitled under an Operating Agreement among Borden, Inc., BASF Wyandotte Corporation, Liquid Air Corporation and LAI Properties, Inc.,

dated December 14, 1984, as amended. Such contract shall be made only with a buyer or buyers, and only in a manner, that receives the prior approval of the Commission. The purpose of requiring such contract is to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint in this matter.

III

It is further ordered that, pending the divestiture of all of the assets described in Paragraphs IIA and IIB, above, L'Air Liquide will hold such assets separate and apart on the following terms and conditions:

A. Within 30 days from the date this Order becomes final, L'Air Liquide shall cause all of its right, title and interest in the Merchant Divestiture Assets to be transferred to a separate corporation ("Nucorp"), whose management and directors will be independent of and separate from the management and directors of L'Air Liquide, Liquid Air, or Big Three.

B. Nucorp and the Merchant Divestiture Assets shall be operated independently of L'Air Liquide, Liquid Air or Big Three.

C. L'Air Liquide shall not exercise direction or control over, or influence directly or indirectly, the day-to-day operations of Nucorp or the Merchant Divestiture Assets, except as may be necessary (i) to assure compliance with this order, (ii) to prevent an event of default under financing arrangements to which L'Air Liquide or any of its subsidiaries is a party, or (iii) to prevent wasting or deterioration of the Merchant Divestiture Assets.

D. Except as provided in paragraph III(C) (i)–(iii) or as required by law and except to the extent that necessary information is exchanged in the course of defending litigation or negotiating agreements to dispose of Nucorp or all or any part of the Merchant Divestiture Assets, L'Air Liquide shall not receive or have access to, or the use of, any "material confidential information" relating to the Merchant Divestiture Assets not in the public domain. Any such information that is obtained pursuant to this subparagraph shall only be used for the purposes set out in this subparagraph.

E. Each transaction in the amount of $100,000 or more, or transactions in the aggregate of $500,000 or more which are not otherwise precluded to Nucorp by paragraph III(A)–(D), shall be subject to a majority vote of the Board of Nucorp. Prior to the Board of Nucorp approving any such transaction, such transaction must be submitted for review and approval by an officer of L'Air Liquide only for the limited purpose of determining whether such transaction would impair L'Air Liquide's obligations under this Order, including L'Air Liquide's ability to divest Nucorp or the Merchant Divestiture Assets, or would create an event of default under any financing arrangement. The submission of such proposed transactions to an executive of L'Air Liquide shall be made in writing only, and L'Air Liquide's response shall also be in writing only, and copies of all such writings shall be maintained by L'Air Liquide for two years following the divestiture of the Merchant Divestiture Assets. The approval of an officer of L'Air Liquide shall not be unreasonably withheld and shall be granted within a reasonable period of time.

F. Subject to the other provisions of this Order:

1. L'Air Liquide shall have the sole right to determine the terms of sale of Nucorp or any of the Merchant Divestiture Assets, including timing of sale and purchase price, and to cause Nucorp management to enter into any agreements or arrangements, or to take any other action, to fulfill L'Air Liquide's obligations under this Order, and

2. In the event L'Air Liquide has submitted one or more acquirers of the Merchant Divestiture Assets or of Nucorp to the Commission prior to the date this Order becomes final, L'Air Liquide will not be required to cause those assets for which it has a contract or contracts to sell to be transferred to Nucorp, unless and until the Commission denies approval of such acquirers. If the Commission denies such approval, L'Air Liquide shall transfer the Merchant Divestiture Assets to Nucorp (a) within ten (10) calendar days, or (b) if L'Air Liquide has not as yet transferred assets to Nucorp pursuant to paragraph III(A), then L'Air Liquide shall be required to transfer the Merchant Divestiture Assets described in this subparagraph in accordance with paragraph III(A).

IV

It is further ordered that L'Air Liquide shall not cause or permit the wasting or deterioration of the assets and operations to be divested in accordance with Paragraph II of this Order in any manner that impairs the marketability of any such assets and operations or impairs in any manner the viability of the assets and operations as a going concern engaged in the production, sale or distribution of industrial gases. *Provided, however*, that deterioration in the ordinary course of operation and normal wear is not a violation of this paragraph.

V

It is further ordered that:

A. If L'Air Liquide has not divested all of the Merchant Divestiture Assets within the 9-month period, or has not obtained approval for the contract described in Paragraph II(C) within the 12 month period, L'Air Liquide shall consent to the appointment of a trustee in any action that the Federal Trade Commission may bring pursuant to Section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission. In the event the court declines to appoint a trustee, L'Air Liquide shall consent to the appointment of a trustee by the Commission pursuant to the Order.

B. If a trustee is appointed by a court or the Commission pursuant to Paragraph V(A) of the Order, L'Air Liquide shall consent to the following terms and conditions regarding the trustee's duties and responsibilities:

1. The Commission shall select the trustee, subject to L'Air Liquide's consent, which shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

2. The trustee shall have 18 months from the date of appointment to submit for prior approval the divestiture of any undivested assets, which shall be subject to the prior approval of the Commission, and if the trustee was appointed by the court, subject also to the prior approval of the court. If, however, at the end of the 18-month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission or by the court, if the trustee was appointed by a court.

3. The trustee shall have full and complete access to the personnel, books, records, and facilities relating to any undivested assets and Nucorp or L'Air Liquide shall develop such financial or other information relevant to the assets to be divested as such trustee may reasonably request. Nucorp and L'Air Liquide shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestiture.

4. The power and authority of the trustee to divest shall be at the most favorable price and terms available consistent with the Order's absolute and unconditional obligation to divest.

5. The trustee shall serve at the cost and expense of L'Air Liquide on such

reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall account for all monies derived from asset sales and all expenses incurred. After approval by the court or the Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to L'Air Liquide and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee divesting undivested assets.

6. Promptly upon appointment of the trustee, L'Air Liquide shall, subject to the Commission's prior approval and consistent with provisions of this Order, execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to cause divestiture of undivested assets.

7. If the trustee ceases to act or fails to act diligently, the court or the Commission may, upon its own motion or by motion of L'Air Liquide, appoint a substitute trustee for the balance of the 18-month period specified in paragraph V(B)(2) or any extension thereof.

8. The trustee shall report in writing to L'Air Liquide and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

9. The trustee shall be authorized to retain independent legal counsel and other persons for purposes of discharging the functions set forth above. L'Air Liquide shall reimburse the trustee for the reasonable value of all expenses so incurred.

10. If L'Air Liquide and the trustee are unable to resolve a dispute regarding the reasonable value of his/her services or the reasonableness of an expenditure or obligation incurred by the trustee in connection with his/her efforts to divest the plant or plants, then L'Air Liquide and the trustee shall submit the dispute to the Commission for resolution. The trust agreement shall recite that the Commission's determination of the reasonable value of the trustee's services or the reasonableness of expenditures and other obligations incurred by the trustee shall be binding upon L'Air Liquide and the trustee.

VI

It is further ordered that, within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until L'Air Liquide has fully complied with the provisions of paragraphs II(A)–II(C) of this Order, L'Air Liquide shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying or has complied with those provisions. L'Air Liquide shall include in compliance reports, among other things that are required from time to time, a full description of contacts or negotiations for divestiture, including the identity of all parties contacted.

VII

It is further ordered that for a period commencing on the date this Order becomes final and continuing for ten (10) years from and after the date this Order becomes final, L'Air Liquide shall cease and desist from acquiring, without the prior approval of the Federal Trade Commission, directly or indirectly, through subsidiaries or otherwise, the whole or any part of the stock or share capital of any United States merchant air separation gases producer, or any of the merchant air separation gases assets of any United States merchant air separation gases producer, provided, however, that nothing in this Order shall require L'Air Liquide to obtain prior Commission approval for acquisitions of (a) gas or any product for resale, (b) transportation, delivery or storage equipment, (c) cylinders, (d) converters, (e) bulk customer stations, or (f) plant equipment not incorporated in an operating merchant air separation gases plant, and provided further that nothing in this Order or in the Commission's Order entered in Docket C–2990 shall require L'Air Liquide to obtain prior Commission approval if L'Air Liquide increases its ownership in Liquid Air or causes Big Three to acquire Liquid Air. One year after the date this Order becomes final, and annually thereafter, L'Air Liquide shall file with the Commission a verified written report of its compliance with this paragraph.

VIII

It is further ordered that for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to L'Air Liquide made to its principal office, L'Air Liquide shall permit any duly authorized representatives of the Commission access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of L'Air Liquide relating to any matters contained in this Order.

IX

It is further ordered that L'Air Liquide shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of the Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has provisionally accepted a consent agreement with L'Air Liquide Societe Anonyme pour L'Etude et L'Exploitation des Procedes Georges Claude of France ("L'Air Liquide"), in settlement of a complaint alleging violations of section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The consent agreement, accepted subject to final Commission approval, would require L'Air Liquide to sell within nine months to a buyer or buyers approved by the Commission (a) all of L'Air Liquide's existing merchant air separation gases customer, dealer, and distributor contracts (excluding any contract with Texas Instruments) specifying a delivery location in the state of Texas, together with associated storage vessels and cylinders; (b) L'Air Liquide's air separation gases plants located in Odessa, Texas and Stafford (Houston), Texas, together with associated distribution equipment and distribution equipment sufficient to serve L'Air Liquide's merchant air separation gas customers located in North Texas; (c) Big Three Industries' West Palm Beach, Florida air separation gases plant together with all associated distribution equipment, customer, dealer and distributor contracts and associated storage vessels and cylinders; (d) Big Three Industries' Albuquerque, New Mexico air separation gases plant, together with all associated distribution equipment, customer, dealer and distributor contracts, and associated storage vessels and cylinders; and (e) Big Three Industries' interest in the Palmer, Alaska air separation gases plant and associated merchant air separation gases customer, dealer and distributor contracts, storage vessels and distribution equipment. The consent would also require L'Air Liquide to make available in North Texas for a period of up to three years, up to 50 tons per day of liquid oxygen and 95 tons per day of liquid nitrogen which may be purchased by the acquirer of the merchant gases customers of L'Air Liquide in North Texas. Finally, the

consent order would require L'Air Liquide within 12 months, to enter into a contract to sell to an unrelated third party all the argon to which it is entitled under an agreement by and among Borden Inc., Liquid Air Corp., BASF Wyandotte and LAI Properties, Inc. In the event that L'Air Liquide does not effectuate the divestitures within the time ordered, the order further provides that a trustee be appointed to effecutate them.

In addition to provisional acceptance of the proposed consent order, the Commission has entered into an "Agreement to Hold Separate" with L'Air Liquide. The Agreement provides that L'Air Liquide will hold separate all assets subject to the proposed consent order until L'Air Liquide has sold them or until the Commission determines that divestiture is unwarranted.

L'Air Liquide would be prohibited for ten years from acquiring, without prior Commission approval, any interest in or assets of any United States merchant air separation gases producer.

Emily H. Rock,

Secretary.

Dissenting Statement of Chairman Oliver in L'Air Liquide S.A., File No. 861–0146

I was prepared to vote to accept a consent agreement in this matter that contained a "fencing-in" provision requiring respondent to furnish advance notice to the Commission, for a set period of years, before completing future transactions in the same relevant markets. However, I believe that the circumstances of this case do not support imposition of a prior approval provision on respondent because it is not clear from this record that "market conditions and market structure in this industry are such that all such acquisitions, even under . . . conditions adopted by [a] prior approval remedy, are necessarily anticompetitive." [1] Accordingly, I have voted against acceptance of the consent order, which requires the respondent to obtain prior Commission approval before completing certain future transactions in the markets involved in this matter.

[FR Doc. 86–24845 Filed 11–3–86; 8:45 am]

BILLING CODE 6750–01–M

[1] *American Medical International*, 104 F.T.C. 1, 225 (1984); *see also Hospital Corp. of America*, 106 F.T.C. 361, 513–17 (1985).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–2980–9]

Proposed Waiver From New Source Performance Standards; Innovative Technology Waiver for One Light-Duty Truck Surface Coating Operation

Correction

In FR Doc. No. 86–22031, beginning on page 34898, in the issue of Tuesday, September 30, 1986, make the following corrections:

1. On page 34898, second column, third line from the bottom, "topcoat" should read "topcoats".

2. On the same page, third column, third complete paragraph, first line, after "Clean" insert "Air".

3. On page 34900, first column, third complete paragraph, second line from the bottom, "40/60" should read "40/46".

4. On page 34901, first column, first complete paragraph, first line, "Chrysler's" should read "Chrysler", and on the third line, "Chrysler" should read "Chrysler's".

5. On page 34902, first column, seventh line, "update" should read "updated".

BILLING CODE 1505–01–M

40 CFR Part 81

[A–4–FRL–3104–6; AL–017]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Two Ozone Nonattainment Areas in Alabama

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to approve a request by Alabama that Etowah County and Mobile County be redesignated from nonattainment to attainment for ozone. The redesignation of these counties to attainment is based on three years of ambient monitoring data showing a calculated expected exceedance of less than or equal to 1.0 per year and on implementation of EPA-approved control strategies.

The public is invited to submit written comments on this proposed action.

DATES: To be considered, comments must reach us on or before December 4, 1986.

ADDRESSES: Written comments should be addressed to Jill Thomas of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

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

Air Division, Alabama Department of Environmental Management, 1751 Federal Drive, Montgomery, Alabama 36130.

FOR FURTHER INFORMATION CONTACT: Jill Thomas, Air Programs Branch, EPA Region IV, at the above address and telephone number 404/347–4253 or FTS 257–4253.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** (43 FR 8962), EPA designated Mobile County, Alabama as nonattainment for ozone. This designation was based on ambient air quality monitoring data which revealed that Mobile County had experienced oxidant violations. Several areas in Alabama were designated nonattainment for ozone and the State was therefore required to revise their state implementation plan (SIP) for ozone. Alabama drafted and adopted statewide regulations for controlling volatile organic compound (VOC) emissions from stationary sources. Through the Federal Motor Vehicle Control Program (FMVCP) and through implementation of Group I and Group II VOC regulations, Alabama demonstrated attainment of the ozone standard. EPA approved Alabama's ozone SIP on November 26, 1979 (44 FR 67375).

In the August 31, 1982, **Federal Register** (47 FR 38322), EPA changed the designation of Etowah County, Alabama to nonattainment for ozone. This designation was based upon exceedances measured in Etowah County during 1980–1981. Alabama was not required at this time to adopt new control requirements since the State had previously adopted a statewide plan for control of VOC emissions.

Alabama has requested that EPA change the attainment status of Etowah County and Mobile County from nonattainment to attainment for ozone. In order to redesignate a nonattainment area, EPA policy requires that the most recent three years of ozone data show an expected exceedance calculation of less than or equal to 1.0 per year. In the event that three years of ozone data is not available, the most recent eight quarters of quality assured ambient air

data may suffice provided that no exceedances have occurred. In addition, the data must be accompanied by a demonstration of implementation of an EPA-approved control strategy.

Alabama's request for redesignation is based on three years of ambient ozone data. Specifically, the most recent three years of air quality data (1983, 1984, and 1985) for each county show the number of expected exceedances to be less than or equal to 1.0, as is summarized below:

	Exceedances (ppm)	Number of expected exceedances[1]	NAAQS ozone[2]
Etowah County			
Attalla:			
1983	.127	0.80	.12 ppm.
1984	.126		
1985	None		
Total	2 exceedances		
Mobile County			
Fort Everette:			
1983	.157, .126	0.67	.12 ppm.
1984	None		
1985	None		
Total	2 exceedances		
Salco:			
1983	None	0.00	.12 ppm.
1984	None		
1985	None		
Total	0 exceedances		

[1] Three-year average.
[2] Not to be exceeded more than once per year.

Furthermore, neither county has experienced any ozone exceedances during the 1986 ozone season.

For a more detailed discussion, please refer to the Technical Support Document which is available for inspection at the EPA Region IV office.

Proposed Action

Therefore, on the basis of three years of air quality data showing attainment and evidence of an implemented EPA-approved control strategy, EPA proposes to redesignate Etowah County and Mobile County from ozone nonattainment to attainment.

The public is invited to participate in this rulemaking by submitting written comment on these proposed actions.

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

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Dated: June 10, 1986.

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 86–24913 Filed 11–3–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Bonamia grandiflora (Florida Bonamia)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Bonamia grandiflora* a plant in the family Convolvulaceae (morning glories), to be a threatened species pursuant to the Endangered Species Act of 1973 (Act), as amended. Critical habitat is not proposed. This plant is endemic to sand pine scrub vegetation in the Florida peninsula, with a historic distribution from Volusia and Marion Counties south to Sarasota and Highlands Counties. The known populations of this plant are on private land and in the Ocala National Forest. *Bonamia grandiflora* is threatened by residential and commercial development of its habitat and by successional changes. This proposal, if made final, would implement the protection and recovery provisions afforded by the Act, for *Bonamia grandiflora*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by January 5, 1987. Public hearing requests must be received by December 19, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Endangered species Field Supervisor, at the above address (904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Bonamia grandiflora was first collected in Florida by Ferdinand Rugel between 1842 and 1849. Specimens collected by A.P. Garber from Manatee and Sarasota Counties, Florida in 1878 were assigned by Asa Gray (1880) to a new species, *Breweria grandiflora*. The genus *Breweria* has since been merged into *Bonamia*. Hans Hallier transferred the plant to the genus *Bonamia* in 1897 (Myint and Ward 1968; D. Austin, Florida Atlantic Univ., pers. comm., 1986), but Small (1933) attributed the transfer to A. Heller, apparently in error. The plant is endemic to peninsular Florida. It is a perennial vine with sturdy prostrate stems about a meter (3 feet) long. The leathery oval or ovate leaves, up to about 4 centimenters (1.6 inches) long, are either upright or spreading. The flowers are solitary in the leaf axils. The funnel-shaped corolla is 7–10 centimeters (2.7–3.9 inches) long and 7–8 centimeters (2.7–3.1 inches) across, pale but vivid blue with a paler center, similar to the cultivated "Heavenly Blue" morning glory. The fruit is a capsule. This plant is the only morning glory vine of the scrub with large blue flowers (Wonderlin et al. 1980) and can be readily identified even when not in flower. *Bonamia grandiflora* is restricted to sand pine scrub vegetation consisting of evergreen scrub oaks and sand pine (*Pinus clausa*), with openings between the trees and shrubs occupied by lichens and herbs. The sandy openings are created by infrequent, severe fires or by mechanical disturbance. The openings eventually disappear as oaks regrow from their roots and as sand pines grow from seed. In Highlands and Polk Counties, *Bonamia grandiflora* occupies sandy openings along with other scrub endemic plants, including three proposed for Federal listing: Highlands scrub hypericum (*Hypericum cumulicola*), papery whitlow-wort (*Paronychia chartacea*), and scrub plum (*Prunus geniculata*). In Orange County, *Bonamia grandiflora* occurs with scrub lupine (*Lupinus aridorum*), proposed as federally endangered. The historic range of *Bonamia grandiflora* was from central Highlands County northward through Polk, northwestern Osceola, western Orange, Lake, eastern Marion, and northwestern Volusia Counties on ridges and uplands of the central peninsula. An isolated site was found by Johnson (1981) in Hardee County, and collections were made in Manatee and Sarasota Counties in 1878 and 1916 (Wunderlin *et al.* 1980). The plant has been extirpated from much of its former range by urban and agricultural development, especially citrus groves. In the Ocala National Forest, *Bonamia grandiflora* is restricted to bare, sunny sand at the margins of sand pine stands

on road rights-of-way, fire lanes, and other places that are kept clear of trees and shrubs.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In this report, *Bonamia grandiflora* was listed as threatened. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) that accepted the report as a petition in the context of section 4(c)(2) of the Act (petition acceptance is now covered by section 4(b)(3) of the Act, as amended). On December 15, 1980, the Service published a notice of review for plants (45 FR 82480), which included *Bonamia grandiflora* as a category-2 candidate (a species for which data in the Service's possession indicate listing is possibly appropriate, but for which additional biological information is needed to support a proposed rule). A supplement to the 1980 notice of review, published on November 28, 1983 (48 FR 53640), treated *Bonamia grandiflora* as a category-1 candidate (a species for which data in the Service's possession indicate listing is warranted), based on a status report by Wunderlin *et al.* (1980). An updated notice of review published on September 27, 1985 (50 FR 39525), maintained the plant as a category-1 candidate.

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Bonamia grandiflora* because the Service had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, October 12, 1984, October 11, 1985, and October 10, 1986, the Service found that the petitioned listing of this species was warranted, and that, although pending proposals had precluded its proposal, expeditious progress was being made to list this species. Publication of the present proposal constitutes the next 1-year finding that is required on or before October 13, 1987.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Bonamia grandiflora* (A. Gray) H. Hallier, (Florida bonamia) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Bonamia grandiflora* is currently known from Ocala National Forest in Marion County and from 18 sites south of the Forest: Hardee County, one site; Highlands County, 2 sites; Polk County, 10 sites; and Orange County, 5 sites. Habitat destruction is the principal threat. In Highlands County, 64.2 percent of the xeric vegetation (scrub, scrubby flatwoods, and southern ridge sandhills) present before settlement was destroyed by 1981, and an additional 10.3 percent of the xeric vegetation was moderately disturbed, primarily by construction of roads for housing subdivisions (Peroni and Abrahamson 1985). Remaining tracts of scrub are rapidly being developed for citrus groves and housing (Fred Lohrer, Archbold Biological Station, pers. comm., 1985). Habitat destruction is similar in Polk County, the leading county in the State for citrus production (Fernald 1981). A careful survey of scrub vegetation by the Florida Natural Area Inventory found *Bonamia grandiflora* at only 12 sites in these counties. Farther north, most of the former habitat of the plant in northwest Osceola, western Orange and central Lake Counties has been converted to agricultural or urban uses. The five known sites for the plant in Orange County are all on small remnants of scrub vegetation or vacant lots surrounded by houses or orange groves west and southwest of Orlando, one of the fastest growing urban areas in the United States.

Current management of the Ocala National Forest seems compatible with the protection of *Bonamia*. The 1985 Land and Resource Management Plan for the National Forests in Florida appears to be beneficial for *Bonamia grandiflora*. Practices that limit off-road vehicles and that maintain the early successional habitat of this plant (see Factor E.) will contribute to this species' continued existence in the forest.

Bonamia grandiflora is protected on The Nature Conservancy's Tiger Creek preserve in Polk County, but land acquisition has not yet been completed. Land acquisition by The Nature Conservancy in the Saddle Blanket Lakes area of Polk County may result in preservation of more habitat for this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Bonamia grandiflora* is conspicuous and distinctive when in flower, and tends to grow in accessible areas, so it is vulnerable to excessive scientific collecting and to vandalism. Because of its flowers, the plant may be of interest as an ornamental.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms. Bonamia grandiflora* is listed as endangered under the Preservation of Native Flora of Florida Act (section 581.185–187, Florida Statutes), which regulates taking, transport, and sale of plants but does not provide habitat protection. The populations in Ocala National Forest are included on the "Regional Forester's Proposed Sensitive List;" species on this list are provided protection and management as outlined in 36 CFR Part 261. Listing under the Act will augment the Forest Service protective measures by providing for a recovery plan and other conservation measures throughout its range.

E. *Other natural or manmade factors affecting its continued existence.* In Hardee, Highlands, Polk, and Orange Counties, *Bonamia grandiflora* is restricted to remnant tracts of scrub. These tracts are surrounded by residential and agricultural areas and are vulnerable to trash dumping, invasion by exotic plants and weeds, and damage from off-road vehicles. *Bonamia* depends on occasional fires (see "Background" section) or equivalent mechanical land disturbance to renew the sunny openings that it inhabits. The Tiger Creek preserve, owned by the Nature Conservancy, will probably develop a prescribed burning program. *Bonamia grandiflora* does not occur within the dense managed sand pine forests of Ocala National Forest. The plant inhabits the edges of such forests, road rights-of-way, and fire lanes. The sites are created and maintained by human activity; therefore, the plant is vulnerable to changes in the management of such areas, which would allow succession to progress. The plant's spotty distribution and small geographic range make it especially susceptible to any adverse management practices.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Bonamia grandiflora* in determining to propose this rule. Based on this

evaluation, the preferred action is to list *Bonamia grandiflora* as threatened. The plant has already been extirpated from part of its historic range (Volusia County, Lake County outside the Ocala National Forest, most of western Orange County, and Manatee and Sarasota Counties). In the Ocala National Forest, in Lake and Marion Counties, existing forest management practices and the new Land and Resource Management Plan satisfactorily accommodate the habitat requirements of *Bonamia grandiflora*. However, in the National Forest the plant is effectively confined to manmade open areas, where it is vulnerable to a variety of human activities. Critical habitat is not being proposed for *Bonamia grandiflora* for the reasons described in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Bonamia grandiflora* at this time. Publication of critical habitat descriptions and maps would increase the degree of threat from taking or other human activity. *Bonamia grandiflora* has a large blue "morning glory" type flower and may be of potential horticultural interest. Forest Service personnel at the Forest Supervisor's Office and the regional office were contacted during the preparation of this proposal and informed of the precise locations of this plant. Designation of critical habitat on Forest Service land might increase the vulnerability of *Bonamia grandiflora* to vandalism, collecting, and unintentional trampling by visitors. While collecting is regulated on National Forests, such regulations are difficult to enforce. Therefore, the Service finds that designation of critical habitat for *Bonamia grandiflora* is not prudent at the present time, since such designation can be expected to increase the degree of threat from taking or other human activity.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requries Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. All presently known sites for *Bonamia grandiflora* are on private land, except for those in the Ocala National Forest. The Forest Service's present management and its new Land and Resource Management Plan appear to benefit this species; consultation or conferral are not foreseen unless a decline in *Bonamia grandiflora* is observed in the National Forest or unless the Plan is significantly revised.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a service of general trade prohibitions and exceptions that apply to threatened plant species. With respect to *Bonamia grandiflora*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export a threatened plant species, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued. Requests for copies of the regulations on plant and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Bonamia grandiflora;*

(2) The locations of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the range and habitats of this species and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Endangered Species Field Station, Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

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(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is David Martin, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946–2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 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 amend § 17.12(h) by adding the following, in alphabetical order under the family Convolvulaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Convolvulaceae—Morning glory family:						
Bonamia grandiflora	Florida bonamia	U.S.A. (FL)	T		NA	NA
*	*	*	*	*	*	

Dated: October 17, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–24894 Filed 11–3–86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered and Threatened Status for Two Populations of the Roseate Tern

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the population of the roseate tern (*Sterna dougallii dougallii*) that nests in northeastern North America to be endangered and to determine the Caribbean populations, including these of the U.S. Virgin Islands, Puerto Rico, the Florida Keys, and Dry Tortugas, to be threatened. This action is being taken because the number of suitable nesting islands for colonies of this species has been greatly reduced by human activity, competition from expanding numbers of large gulls, and predation. The proposed rule would provide protection to nesting populations within the United States jurisdiction. Critical habitat is not being proposed. The Service seeks additional data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by January 5, 1987. Public hearing requests must be received by December 19, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Masssachusetts 02158. Comments and materials received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Roger L. Hogan at the above address (617/965–5100, extension 316, or FTS 829–9316).

SUPPLEMENTARY INFORMATION:

Background

The roseate tern is a dove-sized coastal bird, and one of several similar-appearing species of terns found in the United States and elsewhere throughout most of the world (American Ornithologists' Union [AOU] 1983). All of these terns are graceful, whitish seabirds with black caps and long forked tails. They are strong fliers that feed mainly on small fish, which they capture by plunging headfirst into the water. They nest on the ground, usually on small islands, in dense colonies of hundreds and sometimes thousands of birds. Often, two or more species share the same nesting areas. Although all of the associated species face similar problems, the roseate tern is particularly vulnerable because its nesting populations in North America and the Caribbean are very small and localized. Unlike certain other terns, it occurs only along marine coasts. Gochfeld (1983) determined a documented world population of this wide-ranging species to be between 20,000 and 30,000 pairs, but estimated that the actual population might be closer to 44,000 pairs, with the largest numbers in the Indian Ocean.

In North America this species can be distinguished from its close relatives by its pale color and mostly black bill and a slight rosy tint on its breast in summer. In winter, the black cap is largely

replaced with a white forehead. The sexes look alike, but immature birds retain a distinctive plumage for their first year and do not nest until they are two or three years old. Although five subspecies are recognized worldwide, only one, the nominate subspecies (*Sterna d. dougallii*), occurs in the Northern Hemisphere, and there are three small, but widely separated, breeding populations of that subspecies: northeastern coast of North America, several islands in the Caribbean Sea, and northwestern Europe (AOU 1983). Other former breeding areas have long been vacant, and recent surveys indicate that numbers nesting in the northeastern United States, adjacent Canada, the British Isles, and northwest France have declined sharply (Buckley and Buckley 1981, Nisbet 1980).

The size and trend of the island nesting population of roseate terns in the Caribbean Sea and occasionally the Florida Keys and Dry Tortugas, is less clear due to limited observations in many areas and some confusion between this species and the common tern (*Sterna hirundo*). This population nests primarily in Puerto Rico and the U.S. Virgin Islands, where Van Halewyn and Norton (1984) estimate about 2500 pairs. Sprunt (1984 estimates that 1000 to 2000 pairs nest in small colonies on cays and small islands in the Bahamas. In Florida, a few dozen pairs nest every year among vast numbers of other terns at the Dry Tortugas and about 40 pairs have nested on flat rooftops in Key West in recent years (Clapp and Buckley 1984).

Migrants from the northeastern United States winter primarily in the waters off Trinidad and northern South America from the Pacific Coast of Colombia to eastern Brazil (Nisbet 1984). Wintering grounds of the Caribbean population are still unknown, but may be the same general areas used by terns from the northeastern United States.

Although its nesting range in North America is often listed as extending from Nova Scotia to Virginia or North Carolina, plus the southern tip of Florida, the roseate tern was always most common in the central portion of this range (Massachusetts to Long Island) and in recent years has all but disappeared from the edges of that range (Buckley and Buckley 1981). This species has not nested for many decades in Bermuda (AOU 1983). In 1984, nesting was known to have occurred only in the states of Connecticut, Maine, Massachusetts, New York, and Florida and the provinces of Nova Scotia and Quebec.

The nesting population in the northern United States was greatly reduced by hunting for the military trade in the late 19th century. The population soon recovered when protection was provided and reached a high of about 8500 pairs in the 1930's (Nisbet 1980). Subsequently, it declined to about 4800 pairs in 1952 and reached a low of 2500 pairs in 1977–78 (Erwin and Korschgen 1979). The estimated population has fluctuated in the range of 2500 to 3300 pairs since then (Nisbet 1980, Buckley and Buckley 1981, Kress *et al.* 1983) with the most intensive, complete surveys conducted in recent years. Although numbers of pairs nesting at individual colonies are known to fluctuate from year to year, some of the reported changes in regional populations may be due to census problems. In all northeastern U.S. and Canadian colonies, this species nests among common terns (*Sterna hirundo*), which usually outnumber it. An accurate census requires a careful count of nests. The nests and eggs of the two species are similar, but roseates tend to conceal their nests under vegetation, boulders, boards, etc., making a complete nest count difficult. Also, young birds nesting for the first time tend to nest substantially later than old birds and could be missed on a single census (Spendelow 1982).

At least 29 major sites used by roseate terns have been lost since 1920. Some of these colonies moved because of repeated mammal predation, but nearly half of the sites were abandoned because of competition and predation from expanding populations of gulls (Nibset 1980).

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the population of the roseate tern that nests in northeastern North America should be classified as endangered and the Caribbean nesting and wintering populations as threatened. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to roseate terns in the Western Hemisphere are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Almost all important colonies of roseate terns are and have been on small islands, often located at ends or breaks in barrier islands. Nesting habitat for the northeastern North America population has been greatly reduced by human development of barrier islands. Some roseate terns have attempted to nest in the salt marshes but with almost no success (Buckley and Buckley 1981).

In southern New England, many traditional nesting sites were abandoned during the 1940's and 1950's when herring (*Larus argentatus*) and great black-backed (*Larus marinus*) gulls rapidly expanded their nesting ranges southward into that region. These large and aggressive gulls gradually took over most of the outer islands that were preferred by nesting terns. The gulls select nesting sites and initiate nesting in early spring, before the terns return from wintering areas. After a few years, when the nesting gulls reach a certain density, the terns are forced to seek other sites. In several instances islands close to shore, or even peninsulas, have been used, but various predators caused the terns to abandon those sites within a few years.

Many of the islands used by nesting terns in recent years were long-time sites of lighthouses with occupied residences. The presence of humans usually discouraged nesting by gulls, but not terns. However, as the lights have been automated and human occupation terminated, the gulls have gradually taken over the islands. At one such site in Massachusetts nesting gulls had displaced all terns by 1966. A gull removal program was implemented and the island now supports nearly 60% of all nesting roseate terns in North America as well as large numbers of common terns. Other islands with formerly manned lighthouses or forts now support large tern colonies, but only because nesting gulls have been kept out. In the Caribbean area, almost all of the recorded breeding sites of roseate terns have been on very small islets, usually located off small or medium-sized islands. Although these islets are too small for development, they regularly visited by "eggers" who collect large quantities of eggs for food (Van Halewyn and Norton 1984).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The roseate tern, as most other terns and many other colonial nesting waterbirds, suffered a drastic population decline in the United States in the late 19th century due to hunting for the millinery trade. However, under protective laws (Migratory Bird Treaty Act, 16 U.S.C. 703–711) and changing fashions in the early 20th century, the species staged a rapid comeback. Most

existing colonies are on publicly-owned lands and receive some protection.

Some of the larger colonies are the subject of intensive, long-term research that involves nest-trapping, banding, measurements of eggs and young, and other activities that can be disruptive. However, high productivity in those colonies suggest that regular presence by humans conducting studies may actually be beneficial by deterring predation from mammals and birds as well as possible human vandalism. The research activity also habituates the birds to human presence, resulting in less harm from casual human visitation (Nisbet 1981b).

A major cause of the recent decline may be the trapping and netting of wintering terns for human food along the northeastern coast of South Ameirca (Nisbet 1984). In the Virgin Islands, and elsewhere in the Caribbean, the harvest of eggs for food is a common although illegal, practice.

C. *Disease or predation.* Disease has not been identified as a significant problem in this species in North America, but terns of other species have succumbed to avian cholera, botulism and paralytic shellfish poisoning. An arbovirus was collected from dead roseate terns at a nesting colony in the Seychelles and probably was transmitted by ticks (Converse *et al.* 1976).

Adult terns are relatively long-lived birds and not highly vulnerable to predators other than humans. On the other hand, eggs and young are vulnerable and predation may completely wipe out production in a given colony (Nisbet 1981a).

In daylight hours roseate terns, as well as the more agressive common terns with which they nest, are fairly successful in deterring avian predators by harassment. Nocturnal predators are more of a problem because they may cause the entire colony to desert eggs and young and not return until dawn. Although the predator may destroy only a few nests, other eggs and young are exposed to chilling, resulting in delayed hatching of eggs and, under extreme weather conditions, major losses of eggs and young. In some locations, delay at the hatching stage my result in losses of young to ants (Nisbet 1981a).

The main reason terns are only successful on small islands for nesting is the absence of predatory mammals such as foxes, skunks, and brown rats. If such predators do gain access, the terns soon abandon the site. Predatory birds, such as the nocturnal great-horned owl (*Bubo virginianus*) and black-crowned night-heron (*Nycticorax nyctricorax*), pose a greater problem because they can fly to the islands and attack in darkness when the terns are at a distinct disadvantage. Sometimes individuals of these two predators specialize in preying on terns. The owls prey on adult terns or nearly-grown young; the night-herons on eggs and recently hatched young. When terns nested on remote outer islands, they had less contact with these predators. However, as gulls took over the preferred remote nesting islands, the terns were restricted to islands closer to the mainland.

In the Caribbean area, populations are declining primarily as a result of disturbance and predation by man and introduced animals, including the brown rat and mongoose (Van Halewyn and Norton 1984, Sprunt 1984).

D. *The inadequacy of existing regulatory mechanisms.* The Migratory Bird Treaty Act protects the roseate tern and its parts, nests, and eggs from taking and trade while it is under United States jurisdiction, but not when in the Caribbean or South American wintering grounds. The roseate tern is a state-listed species in Florida and Massachusetts (threatened) and in New York and Connecticut (endangered), which provides some protection from take and transport, but these States' laws provide no protection of the habitat itself. Although its current major nesting islands in the Northeast are somewhat protected, pressure from human encroachment and nesting gulls limits any opportunity for expansion or shift to new or former sites. The current protection of colonies is almost entirely by volunteer private interests that are self-funded and without long-term institutional commitment. The Endangered Species Act offers additional possibilities for increased protection and management of the nesting habitat for the bird.

E. *Other natural or manmade factors affecting its continued existence.* As previously noted, the displacement of roseate terns from their traditional colonies by gulls has been the major factor in reducing the number of nesting colonies in northeastern North America, if not in reducing the population as well. The increase of gulls is primarily attributed to an increased food base provided by human garbage at landfills. Survival of young gulls in the critical first winter is greatly enhanced by the abundant food source. In order to make more nesting habitat available for the terns, it may be necessary to reduce or eliminate gull populations at some locations.

The roseate tern is a specialist feeder on small schooling marine fish that it captures by diving into the water. In New England, American sandlance *(Ammodytes americanus)* have comprised 80–100% of the fish eaten by adults or fed to young (Nisbet 1981a). This fish has become extremely plentiful in recent years and may account for relatively high reproductive success among the terns. In other places the terns feed on other small fish. They may fly up to 10 kilometers (6 miles) from nesting areas to favored feeding areas *(ibid)*. However, if conditions that now sustain the high number of sandlances in the major tern area change and fish populations dwindle, the roseate terns may become subject to considerable stress.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the population of roseate terns that nest in northeastern North America as endangered. The small, reduced population that nests within a constricted range, at only a few sites, and with nearly 60% of the population confined to one small island off southeastern Massachusetts, warrants endangered rather than threatened status. If gulls are allowed to take over the few major nesting islands, this tern will be in danger of becoming extirpated from the contiguous United States.

An additional preferred action is to list as threatened the nesting population of the Caribbean (including the Virgin Islands, Puerto Rico [Culebra], and Florida [Dry Tortugas and Florida Keys]) and all wintering birds in the Western Hemisphere. On the wintering grounds in this Hemisphere, the Northeastern and Caribbean nesting populations are very probably uniformly mixed. Protection can be extended to these terns while wintering to prevent their being imported into the U.S., although imports are not now taking place, and none are expected. Threatened status would, therefore, cover all roseate terns in the Caribbean, regardless of their origins.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. This determination has been made since it is felt that such a designation would not be beneficial to the species (50 CFR 424.12). Terns can be disturbed on nesting islands by unknowing members of the

public who might be attracted to the colony location by the publication of maps and other information. Most existing nesting colonies of the roseate tern in U.S. jurisdiction are on lands that are owned and protected by Federal, State or local government agencies, who have already been notified of the terns' locations. No other notification benefits would accrue.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act includes recognition, recovery actions, requirements for Federal protection and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State (incl. Puerto Rico and Virgin Islands), and local governments and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and (see revision at 51 FR 19926, June 3, 1986). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsquently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal involvement is expected or known that is likely to adversely affect this species and no critical habitat is proposed to be designated.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general trade prohibitions and exceptions that apply to all endangered or threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdictions of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and state conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstancs. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered, if such relief were not otherwise available. Because the roseate tern already is protected from trade under the Migratory Bird Treaty Act, hardship permits are not expected.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the roseate tern (*Sterna dougallii dougallii*) in the Western Hemisphere;

(2) The location of any additional colonies of the roseate tern in the Western Hemisphere and the reasons why any habitat should or could not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species;

(4) Current or planned activities in the subject area and their possible impacts on the roseate tern.

Final promulgation of the regulation on *Sterna dougallii dougallii* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

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(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Authors

The primary authors of this proposed rule are Ralph Andrews and Roger Hogan, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965–5100 or FTS 829–9316/829–9379).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 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 amend § 17.11(h) by adding the following, in alphabetical order under BIRDS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds:							
Tern, roseate	*Sterna dougallii dougalli*	Tropical and temperate oceans in Atlantic Basin.	U.S.A. (Atlantic coast south to NC), Canada (NS, QU), Bermuda.	E		NA	NA
Do	do	do	Western Hemisphere and adjacent oceans and seas (incl. USA [PR, VI, FL] where not listed as endangered.	T		NA	NA

Dated: October 17, 1986.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–24896 Filed 11–3–86; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Sabal miamiensis (Miami Palmetto)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a Florida palm, *Sabal miamiensis* (Miami palmetto), to be an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). This small, trunkless palmetto is currently known from only two sites in northern Dade County. One site is in a Dade County park and the other is privately owned. Fewer than 11 plants are known from the wild; 40–50 plants are in cultivation at a botanical garden in Miami. The species is threatened by the continued urbanization of the Miami area. This rule will implement the Federal protection and recovery provisions afforded by the Act for *Sabal miaminesis.*

DATES: Comments from all interested parties must be received by January 5, 1987. Public hearing requests must be received by December 19, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: David J. Wesley, Endangered Species Field Supervisor, at the above address (telephone: 904/791–2580 or FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

The Miami palmetto is a member of the palm family (Arecaceae) that was first collected in Coconut Grove, Dade County, Florida, by J.K. Small and G.V. Nash in 1901. Small subsequently collected more specimens of this large-fruited dwarf palmetto at Miami and west of Kendal in Dade County, and at Fort Lauderdale in Broward County (Zona 1983). Small (1903) named these plants *Sabal megacarpa* (Chapman) Small, basing the name on *Sabal adansonii* var.? *megacarpa* Chapman. Later, Small (1933) wrote that "the exact position in the genus of *S. adansonii*? *megacarpa* . . . is uncertain . . . We have not been able to decide whether it

is conspecific with *S. entonia* or merely a juvenile condition of *S. palmetto*."

Zona (1983) conducted a taxonomic investigation into the cabbage palm (*Sabal palmetto*) and its close relative, the scrub palmetto (*Sabal etonia*) in Florida. He concluded that these two palmettos are distinct species, and that Small's palmetto from southeastern Florida is in most respects intermediate between the two widespread species, but is distinct from them in its very large fruits and seeds, and in its restriction to Miami rock pinelands. Consequently, he recognized these plants as a separate species, as Small had in 1903. However, the name *Sabal megacarpa* is a synonym for *Sabal etonia*, so Zona (1983) proposed the new name, *Sabal miamiensis*, for the species.

Sabal miamiensis has no above-ground stem. Its fan-shaped leaves have petioles 40–60 centimeters (16–24 inches) long and blade segments 50–76 centimeters (20–30 inches) long. Each plant has 3–6 yellow-green leaves (similar to *Sabal etonia*). The numerous small flowers are borne in a loose, horizontal to arching panicle with three orders of branching (similar to *Sabal palmetto*). The fruits are 15–19 millimeters (0.6–0.8 inches) in diameter (longer than either *Sabal palmetto* or *S. etonia*), and the seeds are 10–11 millimeters (roughly 0.4 inches) in diameter (greater than *Sabal palmetto* or *S. entonioa*).

The habitat of this plant has almost entirely been urbanized. Only two populations are presently known, one in a Dade county park where no more than eight individuals inhabit a sandy area with evergreen scrub oaks (Roger Sanders, Fairchild Tropical Garden, pers. comm., April 22, 1986). The second site, also in Dade County, had many palmettos but is now being converted to a housing development. Herbarium specimens show that *Sabal miamiensis* was found in the pine rocklands with south Florida slash pine and dwarfed cabbage palms (Zona 1985), but the Miami palmetto was very likely restricted to sandy sites in the pinelands (R. Sanders, pers. comm., 1986), like the federally listed endangered species, *Polygala smallii*, which has a similar geographic range (Krauss 1980). Specimens collected by George Avery (Zona 1985) and Avery's field notes (R. Sanders, pers. comm., 1986) indicate that *Sabal miamiensis* is very rare. Avery collected extensively throughout south Florida, including Everglades National Park, but collected or noted the plant at only three sites. One of these sites has been destroyed.

Dr. W. Judd (associate professor, University of Florida) verbally notified the Service of the status of the Miami palmetto in early 1985. On May 30, 1985, the Service distributed to botanists and agencies in Florida a list of endangered, threatened, and candidate plants that contained several potential new candidates for listing, including the "Miami palmetto," and solicited comments from the recipients. Dr. J. Popenoe (Director, Fairchild Tropical Garden) responded that the plant could be made a category I candidate (a species for which sufficient biological information is available to support listing) when a description of the species appeared in print. Judd responded in writing that the palemtto was "extremely endangered" and provided additional biological information. Based on these comments, on additional information provided by Dr. R. Sanders (pers. comm., 1985, 1986), and on the published description of *Sabal miamiensis* by Zona (1985), the Service is proposing to list the Miami palmetto as endangered.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Sabal miamiensis* Zona (Miami palmetto) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In the early twentieth century, *Sabal miamiensis* was collected in pinelands of the south Florida limestone ridge from Fort Lauderdale (Broward County) south to Miami and west of Kendal (Zona 1985). Conversion of pinelands to residential and commercial uses began in the early twentieth century and accelerated after 1930. Herndon (1984) estimated that 98 percent of the Dade County pinelands outside of Everglades National Park had been destroyed by 1984. *Sabal miamiensis* is presently known from only two sites: a County park in the northern part of Dade County, where six to eight plants are known, and along a fence at the edge of a construction site, also Dade County, where only three plants survive out of what had been a sizeable population (R. Sanders, pers. comm., 1986). A nearby site where George Avery collected the palmetto is now the Bayshore campus of Florida International University, and the original vegetation has been destroyed. Other collection sites have also been lost to urbanization.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Sabal miaminesis* is so limited in distribution and population size that scientific or other collecting could cause the species to become extinct in the wild. Palms are commonly used landscape plants. Over-collecting and vandalism could become problems if the locations of the plants were to be publicized.

C. *Disease or predation.* Not applicable to *Sabal miamiensis.*

D. *The inadequacy of existing regulatory mechanisms.* At the present time, no State or Federal laws protect *Sabal miamiensis.*

E. *Other natural or manmade factors affecting its continued existence.* Because only 9 to 11 plants of *Sabal miamiensis* are known to exist in the wild, and 3 of these are on a site that will soon be destroyed, the species is highly vulnerable to any disturbance or natural disaster.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Sabal miamiensis* as endangered. Only a few individuals are known to exist at two sites. Nearly all of the original habitat of this species has been destroyed, so there are few sites within its historic range where new populations could be established. The Service judges that this species is in danger of extinction in the remnants of its former range. Critical habitat is not proposed for *Sabal miamiensis* for reasons discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Sabal miamiensis* at this time. This species inhabits only two sites, both in urban Miami, where the plants could easily be collected and/or vandalized. Palms are also commonly desired plants for landscape purposes. Publication of critical habitat maps in the **Federal Register** would increase the likelihood of such activities. The Miami palmetto occurs only on land owned by private individuals or by local

governments. All involved parties and landowners will be notified of the location and importance of protecting this species' habitat. Therefore, designation of critical habitat would be of no benefit to this species. For these reasons, the Service finds that designating critical habitat for *Sabal miamiensis* is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementating this interagency cooperation provision of the Act are codified at 50 CFR Part 402 (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Since the presently known sites for *Sabal miamiensis* are on land owned by private individuals or local governments, there will be no effect from the above requirement unless the private landowners or local governments require some Federal action for their activities, such as funding or issuance of permits.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export an endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Sabal miamiensis* is extremely rare in both the wild and cultivation. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Sabal miamiensis;*

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the range and habitat of this species and their possible impacts.

Final promulgation of the regulation on *Sabal miamiensis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

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(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 29244).

References Cited

Herdon, A. 1984. Dade County pinelands. Palmetto 4(2):3–11.

Krauss, P. Status report on *Polygala smallii.* Unpublished report prepared for U.S. Fish and Wildlife Service, Jacksonville, FL. 7 pp. + Appendices.

Small, J.K. 1903. Flora of the southeastern United States. Published by the author, New York. 1370 pp.

Small, J.K. 1933. Manual of the southeastern flora. Univ. of North Carolina Press, Chapel Hill. xxii + 1554 pp.

Zona, S. 1983. A taxonomic study of the *Sabel palmetto* complex (Palmae) in Florida. M.S. thesis, Univ. of Florida, Gainesville. viii + 88 pp.

Author

The primary author of this proposed rule is David Martin, Jacksonville Endangered Species Field Station (see address section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 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 amend § 17.12(h) by adding the following, in alphabetical order under the family Arecaceae, to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*		
Arecaceae—Palm family:						
Sabal miamiensis	Miami palmetto	USA (FL)	E		NA	NA
*	*	*	*	*		

Dated: October 17, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 86–24895 Filed 11–3–86; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 51, No. 213
Tuesday, November 4, 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.

ACTION

Members of Performance Review Board

AGENCY: ACTION.

ACTION: Revision of list of performance review board positions.

SUMMARY: ACTION publishes the revised list of positions which comprise the Performance Review Board established by ACTION under the Civil Service Reform Act.

FOR FURTHER INFORMATION CONTACT: Thomas R. Hyland, Acting Director of Personnel ACTION, 806 Connecticut Avenue NW., Washington, DC 20525 (202) 634–9230.

SUPPLEMENTARY INFORMATION: The Civil Service Reform Act of 1978 (CSRA), which created the Senior Executive Service (SES), requires that each agency establish one or more performance review boards to review and evaluate the initial appraisal of a senior executive's performance by the supervisor and to make recommendations to the appointing authority concerning the performance of the senior executive.

The positions listed below will serve as members on the ACTION Performance Review Board:

1. Deputy Director, ACTION, Chairman
2. Associate Director, Domestic and Anti-Poverty Operations, ACTION
3. Associate Director, Office of Management and Budget, ACTION
4. Assistant Director for Financial Management, ACTION
5. Director, Office of International Energy Analysis, Department of Energy
6. General Counsel, ACTION
7. Director, Division of Program Management and Assessment, Department of Energy

Issued in Washington, DC on October 6, 1986.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 86–24887 Filed 11–3–86; 8:45 am]

BILLING CODE 6050–28–M

Schedule for Awarding Senior Executive Service Performance Awards (Bonuses)

AGENCY: ACTION.

ACTION: Notice.

SUMMARY: Notice is hereby given to the schedule for awarding Senior Executive Service bonuses.

FOR FURTHER INFORMATION CONTACT: Thomas R. Hyland, Acting Director of Personnel, ACTION, 806 Connecticut Avenue, NW., Washington, DC 20525 (202) 634–9230.

SUPPLEMENTARY INFORMATION: Office of Personnel Management Guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid.

Schedule for Awarding Senior Executive Service bonuses: ACTION intends to award Senior Executive Service bonuses for the 1985–1986 rating cycle. Payouts will occur before December 31, 1986. Issued in Washington, DC on October 6, 1986.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 86–24886 Filed 11–3–86; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Advisory Committee Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting.

Name: National Commission on Dairy Policy.

Time and date: 9:00 a.m., November 20, 1986.

Place: Room 104–A, Administration Building, United States Department of Agriculture, Independence Avenue SW., Washington, DC 20250.

Status: Open.

Matters To Be Considered: The meeting is expected to consider organizational business including the election of a chairperson and other officers of the Commission; and discussion of matters including rules for Commission procedures, the placement of offices and staff and the financing of Commission activities.

Written Statements May be Filed Before or After the Meeting With: Contact person named below.

Contact Person for More Information: Mr. Floyd Gaibler, Assistant to the Secretary, Office of the Secretary, United States Department of Agriculture, Washington, DC 20250. (202) 447–3631.

William T. Manley,

Deputy Administrator, Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture.

October 29, 1986.

[FR Doc. 86–24872 Filed 11–3–86; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Herbicide Use for Weed Control; Deerlodge National Forest, Butte, Montana; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to use herbicides to control noxious weeds on the Deerlodge National Forest.

A range of alternatives will be considered including alternate methods of weed control and a no action alternative.

Federal, state, and local agencies; other individuals; and organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. The process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous envionmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

Frank Salomonsen, Forest Supervisor, Deerlodge National Forest, Butte, Montana is the responsible official.

The analysis is expected to take about five months. The draft environmental impact statement should be available for public review by January, 1987. The final environmental impact statement is scheduled to be completed by March, 1987.

Written comments and suggestions concerning the analysis should be sent to Frank Salomonsen, Deerlodge National Forest, Butte, Montana 59701, by December 8, 1986.

Questions about the proposed action and environmental impact statement should be directed to Dave Ruppert, Soil Scientist, Deerlodge National Forest, phone 406–496–3368.

Dated: October 28, 1986.

Frank Salomonsen,

Forest Supervisor.

[FR Doc. 86–24915 Filed 11–3–86; 8:45 am]

BILLING CODE 3410–11–M

Land and Resource Management Plan; Eldorado National Forest, El Dorado, Placer, Amador, and Alpine Counties, CA; Environmental Impact Statement; Extension of Comment Period

The public comment period for the Eldorado National Forest proposed Land and Resource Management Plan and Draft Environmental Impact Statement is being extended. Comments must now be postmarked by January 10, 1987.

This amends the Notice of Availability published in the **Federal Register** of August 29, 1986 (51 FR 30910).

The former due date was November 27, 1986

For further information contact: Gary Bilyeu, Forest Planning Officer, Eldorado National Forest, 100 Forni Road, Placerville, California 95667; telephone (916) 622–5061.

Dated: October 27, 1986.

Jerald N. Hutchins,

Forest Supervisor.

[FR Doc. 86–24864 Filed 11–3–86; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 60116–6175]

Federal Information Processing Standards Publication 125; MUMPS; Approval

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved the programming language MUMPS as a Federal Information Processing Standard (FIPS). This standard adopts the American National Standard for MUMPS, ANSI/MDC X11.1–1984, and will be published as FIPS Publication 125. This FIPS is added to the family of FIPS programming languages, which includes Ada, Minimal BASIC, COBOL, FORTRAN, and Pascal.

SUMMARY: On March 28, 1986, notice was published in the **Federal Register** (51 FR 9237) that a FIPS for MUMPS was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary approve the standard as a FIPS and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

This approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the FIPS, and (2) a specifications portion which deals with the technical requirements of the FIPS. Only the announcement portion of the standard is provided with this notice.

ADDRESS: Interested parties may purchase copies of this FIPS, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS is set out in the Where to Obtain Copies section of the announcement portion of the FIPS.

FOR FURTHER INFORMATION CONTACT: Ms. Mabel Vickers, Center for Programming Science and Technology, Institute for Computer Science and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921–2431.

Dated: October 28, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 125

Announcing the Standard for MUMPS

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* MUMPS (FIPS PUB 125).

2. *Category of Standard.* Software Standard, Programming Languages.

3. *Explanation.* This publication announces the adoption of American National Standard for Information Processing Systems Programming Language MUMPS, ANSI/MDC X11.1–1984, as a Federal Information Processing Standard (FIPS). The American National Standard specifies the form and meaning of program units writtin in MUMPS. The purpose of the standard is to promote portability of MUMPS programs for use on a variety of data processing systems. The standard is used by implementors as the reference authority in developing language processors; and by other computer professionals who need to know the precise syntactic and semantic rules of the language.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard for Information Systems Programming Language MUMPS, ANSI/MDC X11.1–1984.

7. *Related Documents.*[1]

a. Federal Information Resources Management Regulation 201–8.1, Federal ADP and Telecommunications Standards.

b. Federal Information Processing Standards (FIPS) Publication 29, Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages

[1] Refers to most recent revision of FIPS PUBS.

permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;
—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;
—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems; and
—To protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objective depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS MUMPS is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS MUMPS is suited for the following applications:

—Those involving the creation and manipulation of string-oriented or text-oriented, hierarchically organized collections of data;
—Those requiring interactive data management;
—Those traditionally, but not exclusively, in medical, health-service and related administrative systems.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.
—The application or program is under constant review for updating of the specifications, and changes may result frequently.
—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.
—The program will or might be run on equipment other than that for which the program is initially written.
—The program is to be understood and maintained by programmers other than the original ones.
—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.
—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of report generation, database management, or text processing languages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic generators. However, if the final output of a program is a MUMPS source program, then the resulting program should conform to the conditions and specifications of FIPS MUMPS.

10. *Specifications.* FIPS MUMPS specifications are the language specifications contained in American National Standard for Information Systems Programming Language MUMPS, ANSI/MDC X11.1–1984.

ANSI/MDC X11.1–1984 specifies the form of a program writtin in MUMPS, the formats of data for input and output, and semantic rules for program and data interpretation. The standard does not specify the results when the rules of the standard fail to establish an interpretation, the means of supervisory control of programs, or the means of transforming programs for processing.

11. Implementation. The implementation of FIPS MUMPS involves three areas of consideration: acquisition of MUMPS processors, interpretation of FIPS MUMPS, and validation of MUMPS processors.

11.1 *Acquisition of MUMPS Processors.* This publication is effective May 1, 1987. MUMPS processors acquired for Federal use after this date should implement FIPS MUMPS. Conformance to FIPS MUMPS should be considered whether MUMPS processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce MUMPS processors conforming to the standard. The transition period begins on the effective date and continues for one (1) year thereafter. The provisions of this publication apply to orders placed after the effective date; however, a MUMPS processor conforming to FLIPS MUMPS, if available, may be acquired for use prior to the effective date. If a conforming MUMPS processor is not available, a MUMPS processor not conforming to FIPS MUMPS may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS MUMPS.* NBS provides for the resolution of questions regarding FIPS MUMPS specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS MUMPS should be addressed to: Director, Institute for Computer Science and Technology, Attn: MUMPS Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of MUMPS Processors.* The National Bureau of Standards is investigating methods for providing validation services for FIPS MUMPS. For more information contact: Director, Institute for Computer Science and Technology, Attn: FIPS MUMPS Validation, National Bureau of Standards, Gaithersburg, MD 20899.

12. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 125 (FIPSPUB 125), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 24860 Filed 11–3–86; 8:45 am]
BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permits; Dr. Louis M. Herman [P166C]

Notice is hereby give that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Dr. Louis M. Herman.

b. Address: Kewalo Basin Marine Mammal Laboratory, University of Hawaii at Manoa, 1129 Ala Moana Blvd., Honolulu, HI 96814.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Humpback whales (*Megaptera novaeangliae*), 400 per year.

4. Type of Take: Harassment.

5. Location of Activity: All Regions of the North Pacific.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Services.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805 Washington, DC.;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115.

Dated: October 27, 1986.

Henry R. Beasley,

Director, Office of International Fisheries National Marine Fisheries Service.

[FR Doc. 86–24884 Filed 11–3–86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China Concerning Cotton Textile Products in Category 369 pt. (Handbags)

October 29, 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 November 4, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On August 28, 1986, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning imports into the United States of cotton handbags in Category 369 pt. (only T.S.U.S.A. numbers 706.3640 and 706.4106), produced or manufactured in China and exported to the United States.

A summary market statement concerning this part category follows this notice.

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).

Anyone wishing to comment or provide data on information regarding the treatment of this part category under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, 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, DC 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."

Pursuant to the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of cotton handbags in Category 369 pt. during the ninety-day period which began on August 28, 1986 and extends through November 26, 1986 to 1,636,267 pounds.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve months following the ninety-day consultation period (November 27, 1986–November 26, 1987) to 5,283,545 pounds.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Category 369 pt. exported during the ninety-day period at the level described above. The United States remains committed to finding a solution concerning this part category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further

notice will be published in the **Federal Register.**

In the event the limit established for Category 369 pt. for the ninety-day period is exceeded, such excess amounts, if allowed to enter, shall be charged to the level defined in the agreement for the subsequent twelve-month period.

SUPPLEMENTARY INFORMATION: On December 30, 1985 a letter to the Commissioner of Customs was published in the **Federal Register** (50 FR 53182) from the Chairman of the Committee for the Implementation of Textile Agreements which established restraint limits for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1986. The notice which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 369 pt., which are not subject to specific ceilings and for which levels may be established during the year. In the letter to the Commissioner of Customs which follows this notice a ninety-day level is established for handbags in Category 369 pt.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Category 369 Pt.—Cotton Handbags From China

August 1986.

Summary and Conclusions

U.S. imports of Category 369—Cotton Handbags—from China during the year-ending June 1986 were 4.7 million pounds, 46 percent above the 3.2 million pounds imported a year earlier. Imports for the first six months of 1986, at 2.95 million pounds, were up 37 percent from the same period in 1985. China was the second largest supplier, accounting for 38 percent of the January–June 1986 imports.

The U.S. market for cotton handbags has been disrupted by imports. China's position as a major supplier of these handbags makes it a major contributor to the U.S. market disruption.

Production and Market Share

U.S. production of cotton handbags continues to decline. Production in 1984 declined 10 percent from its 1983 level and experienced an additional 11 percent decline in 1985.

The U.S. producers' share of the market for domestically produced and imported cotton handbags dropped from 45 percent in 1983 to 36 percent in 1984. In 1985, the domestic producer provided 27 percent of the market.

Imports and Import Penetration

U.S. imports of Category 369—Cotton Handbags from all sources increased 40 percent in 1985 to a record level 11.2 million pounds. Imports for the first six months of 1986 were 7.7 million pounds, 17 percent above the same period of the 1985 level of 6.6 million pounds.

The ratio of imports to domestic production more than doubled increasing from 120.0 percent in 1983 to 276.5 percent in 1985.

Duty-Paid Values and U.S. Producers' Prices

Approximately 95 percent of Category 369—Cotton Handbag imports from China during January–June 1986 entered under TSUSA No. 706.3640—cotton handbags not of pile or tufted construction. The duty-paid landed values of these handbags are below the U.S. producers' price for comparable handbags.

October 29, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 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 Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 4, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 369 pt.,[1] produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on August 28, 1986 and extends through November 26, 1986 in excess of 1,636,267 pounds.[2]

Textile products in Category 369 pt., which have been exported to the United States prior to August 28, 1986 shall not be subject to this directive.

Textile products in Category 369 pt., 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.

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).

In carrying out the above directions, the Commissioner of customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls 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. 86-24861 Filed 11-3-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 369, only TSUSA numbers 706.3640 and 706.4106.

[2] The limit has not been adjusted to account for any imports exported after August 27, 1986.

Adjustment of an Import Limit for Certain Cotton Textiles Produced or Manufactured in the Arab Republic of Egypt

October 30, 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 November 5, 1986. For further information contact Kathy Davis, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On May 6, 1986 a notice was published in the **Federal Register** (51 FR 16733), which announced an import restraint limit for Category 313 (cotton sheeting), among others, produced or manufactured in Egypt and exported during the current agreement year which began on January 1, 1986 and extends through December 31, 1986. The Bilateral Cotton Textile Agreement of December 7 and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt, under the terms of which this limit was established, also includes provision for the carryover of shortfalls from the previous agreement year in certain categories (carryover). Under the foregoing provision of the bilateral agreement and at the request of the Government of the Arab Republic of Egypt, the limit established for Category 313 is being increased by carryover for goods exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

A description of the cotton, wool and man-made fiber 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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 30, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on April 30, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in the Arab Republic of Egypt and exported during 1986.

Effective on November 5, 1986, the directive of April 30, 1986 is hereby further amended to adjust the previously established limit for cotton textiles in Category 313, as provided under the terms of the bilateral agreement of December 7 and 28, 1977, as amended and extended:[1]

Category	Adjusted 1986 limit [1]
313	15,737,371 square yards.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-24891 Filed 11-3-86; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

October 30, 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 October 30, 1986. For further information contact Kathy Davis, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 27, 1985, April 30, 1986 and June 9, 1986 notices were published in the **Federal Register** (50 FR 52988, 51 FR 16094, 51 FR 20875) establishing specific limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. The bilateral agreement of November 18, 1982, as amended, provides for percentage increases in certain categories during an agreement year for swing and shift, provided corresponding reductions in equivalent square yards, are made in other specific limits or sublimits during the same agreement year. Pursuant to the terms of the bilateral agreement, the import restraint limits established for Categories 310/318, 313-315, 319, 320, 336, 338/339, 340-342, 345, 347/348, 353/354/653/654, 359-H, 360, 361, 363, 369-L, 433, 436, 444, 445/446, 604, 611-613, 614-P, 631, 632, 633/634/635, 636, 640-644, 647-650, 652, 659-B, 659-I, 659-S, 669-P, 670-H and 670-L, exported during the twelve-month period which began on January 1, 1986 are being adjusted, variously, for swing, shift and carryforward.

Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to adjust the restraint limits previously established for these categories.

A description of the cotton, wool and man-made fiber 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 Schedule of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 30, 1986.

Commissioner of Customs, Department of the Treasury,
Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives issued to you on December 23, 1985, April 24, 1986 and June 4, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on October 30, 1986, you are requested to further amend the directives of December 23, 1985, April 24, 1986 and June 4, 1986 to adjust the previously established limits for cotton, wool and man-made fiber textile products in the following categories, as provided under the terms of the bilateral agreement of November 18, 1982, as amended:[1]

Category	Adjusted 1986 Limit[2]
310/318	6,141,800 square yards.
313	47,524,434 square yards.
314	3,681,482 square yards.
315	30,137,311 square yards.
319	14,941,188 square yards.
320	91,972,207 square yards.
336	86,687 dozen.
338/339	701,858 dozen.
340	745,860 dozen.
341	397,946 dozen.
342	201,730 dozen.
345	94,486 dozen.
347/348	1,017,575 dozen of which not more than 499,764 dozen shall be in Category 347 and not more than 806,801 dozen shall be in Category 348.
353/354/653/654	107,063 dozen.
359-H[3]	3,582,071 pounds.
360	841,697 numbers.
361	1,060,696 numbers.
363	12,965,265 numbers.
369-L[4]	2,579,877 pounds.
433	12,716 dozen.
436	4,614 dozen.
444	15,527 dozen.
445/446	134,600 dozen.
604	511,358 pounds.
611	1,289,865 square yards.
612	10,370,457 square yards.
613	30,905,503 square yards.
614-P[5]	15,272,244 square yards.
631	3,847,398 dozen pairs.
632	4,244,525 dozen pairs.
633/634/635	1,563,530 dozen of which not more than 1,028,960 dozen shall be in Category 633/634 and not more than 766,886 dozen shall be in Category 635.
636	330,389 dozen.
640	3,286,979 dozen.
641	742,908 dozen.
642	618,160 dozen.
643	41,597 dozen.
644	175,422 dozen.
647	2,585,906 dozen.
648	3,293,038 dozen.
649	586,266 dozen.
650	41,191 dozen.
652	1,434,104 dozen.
659-B[6]	1,002,637 pounds.
659-I[7]	3,787,710 pounds.
659-S[8]	3,662,270 pounds.
669-P[9]	576,137 pounds.
670-H[10]	32,310,989 pounds.
670-L[11]	75,334,398 pounds of which not more than 3,472,553 pounds shall be in T.S.U.S.A. number 706.3415.

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[1] The agreement provides, in part, that: (1) Specific limits or submits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement period; (2) certain specific limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal amount in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[2] The limits have not been adjusted to reflect any imports exported after December 31, 1985.

[3] In Category 359, only T.S.U.S.A. numbers 702.0600 and 702.1200.

[4] In Category 369, only T.S.U.S.A. numbers 706.3210, 706.3650, 706.4111.

[5] In Category 614, only T.S.U.S.A. numbers 338.5040, 338.5045, 338.5051, 338.5056, 338.5061, 338.5065, 338.5069, 338.5072, 338.5075, 338.5079, 338.5084, 338.5087, 338.5092, 338.5095 and 338.5098.

[6] In Category 659, only T.S.U.S.A. numbers 384.1815, 384.8022.

[7] In Category 659, only T.S.U.S.A. numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359 and 384.9365.

[8] In Category 659, only T.S.U.S.A. numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2339, 384.8300, 384.8400 and 384.9353.

[9] In Category 659, only T.S.U.S.A. numbers 385.5300.

[10] In Category 670, only T.S.U.S.A. numbers 706.3405 and 706.4125.

[11] In Category 670, only T.S.U.S.A. numbers 706.3415, 706.4130, 706.4135.

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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-24893 Filed 11-3-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mauritius

October 30, 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 November 5, 1986. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On May 30, 1986, notices were published in the **Federal Register** (51 FR 20687) and FR 20686) which established import limits for certain cotton textile products in Categories 341 and 347/348, produced or manufactured in Mauritius and exported during the twelve-month periods which began on February 28, 1986 (Category 341) and January 31, 1986 (Category 347/348).

During consultations, the Governments of the United States and Mauritius agreed to further amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 3 and 4, 1985, to, among other things, establish specific limits of 300,000 dozen pairs for Category 331 (cotton gloves and mittens), 239,000 dozen for Category 341/641 (cotton and man-made fiber blouses and shirts), 425,000 dozen for Category 347/348 (cotton trousers, slacks and shorts) and 115,000 dozen for Category 640, of which 40,250 dozen can be yarn dyed shirts, produced or manufactured in Mauritius and exported during the twelve-month period beginning on October 1, 1986 and extending through September 30, 1987.

Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to cancel the directives issued on May 30, 1986 and to establish the newly agreed specific limits.

A description of the cotton, wool and man-made fiber 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).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 30, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directives issued to you on May 30, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Mauritis and exported during the twelve-month periods which began on February 28, 1986 (Category 341) and January 31, 1986 (Category 347/348).

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 3 and 4, 1985, as amended, between the Governments of the United States and Mauritius; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on November 5, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 331, 341/641, 347/348 and 640, produced or manufactured in Mauritius and exported during the twelve-month period beginning on October 1, 1986 and extending through September 30, 1987, in excess of the following restrain limits:

Category	12-mo. restraint limits [1]
331	300,000 dozen pairs.
341/641	239,000 dozen.
347/348	425,000 dozen.
640	115,000 dozen (of which not more than 40,250 dozen shall be in T.S.U.S.A. Numbers 381.3132, 381.3142, 381.3152, 381.9535, 381.9547 and 381.9550).

[1] The limits have not been adjusted to account for any imports exported after September 30, 1986.

Imports of cotton and man-made fiber textile products in Categories 331, 640 and 641, exported prior to October 1, 1986, shall not be subject to this directive. Cotton textile products in Categories 341 and 347/348, exported prior to October 1, 1986 during restraint periods established, in the case of Category 341, for the twelve-month period which began on February 28, 1986 and extends through February 27, 1987, and, in the case of Category 347/348, for the twelve-month period which began on January 31, 1986 and extends through January 30, 1987, shall be subject to this directive. Charges for imports in these categories will be provided in a separate letter.

Textile products in Categories 331, 341/641, 347/348 and 640 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.

A description of the cotton, wool and man-made fiber 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).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The 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,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-24892 Filed 11-3-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Long Term Municipal Bond Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has submitted a proposal to amend CBT Regulation 1950.01(a) regarding the standards for the municipal bonds included in the CBT's long term municipal bond index ("muni-bond index") futures contract. The proposal would provide that certain municipal bonds whose interest payments may be subject to an alternative minimum income tax under the Tax Reform Act of 1986 are eligible for inclusion in the muni-bond index. The CBT has indicated that it intends to make the proposed amendments effective upon Commission approval for existing and newly listed contracts.

DATE: Comments must be received on or before November 19, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to changes to CBT Regulation 1950.01.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. (202) 254-7303.

Text of Amendments

In accordance with section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 71(12) (1982), and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis, on behalf of the Commission, has determined that the proposal submitted by the Chicago Board of Trade relating to its long term municipal bond index futures contract is of major economic significance. Accordingly, the proposed amendments are printed below with brackets indicating deletions and italics indicating additions.

Regulation 1950.01

* * * * *

(a) General Index Composition—The Index, at all times, shall be composed of 40 [tax-exempt] term municipal bonds *that are generally exempt from federal income taxation including those generally exempt issues whose interest payments may be subject to an alternative minimum tax.*

* * * * *

The CBT states that the proposed amendments will be made effective following Commission approval for both existing and newly listed contracts.

Additional Information

According to the Exchange, under the provisions of the Tax Reform Act of 1986, the previous general exemption from federal taxation of interest payments on municipal bonds was sharply curtailed for some classes of municipal bond issues, by subjecting interest on such bonds to an alternative minimum tax. Pursuant to the Tax Reform Act of 1986, municipal bonds which are classified as "non-essential function" bonds are subject to the alternative minimum tax. This new provision applies to bonds issued on and after August 7, 1986.

In accordance with section 5a(12) of the Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposal is potentially of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act. The Director of the Division further believes that a comment period of only fifteen (15) days is warranted to expedite the review of the proposal by the Commission and therefore to avoid potential disruptions in the pricing of the muni-bond index futures contract. As indicated above, CBT Regulation 1950.01(a) currently specifies that all bonds in the muni-bond index must be tax-exempt. Further, under the provisions of the recently enacted tax law, certain municipal bonds currently included in the muni-bond index (*i.e.*, those bonds issued on and after August 7, 1986 which are deemed "non-essential function" bonds) would be subject to a federal minimum income tax under certain circumstances. With the Exchange's proposal, these generally exempt issues would continue to be eligible for inclusion in the Index. In this regard, the Division requests explicitly that persons commenting on the proposal discuss whether, in view of recent changes in the tax law, the CBT's proposal would have a significant impact on the pricing of muni-bond index futures and the value of existing contracts and whether it would significantly impact the contract in any other way.

Other materials submitted by the CBT in support of the proposed amendments are available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts, Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by November 19, 1986.

Issued in Washington, DC on October 29, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86-24862 Filed 11-3-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Scientific Advisory Committee

AGENCY: Defense Intelligence Agency Scientific Advisory Committee.

ACTION: Notice of cancellation of closed meeting.

SUMMARY: Notice is hereby given that the closed meeting of the DIA Scientific Advisory Committee's U.S. Strategic Defense Initiative Panel, scheduled for 5 November 1986, that was announced in the **Federal Register** on Thursday, 2 October 1986 (51 FR 35260) has been cancelled.

FOR FURTHER INFORMATION CONTACT: Colonel Duarte A. Lopes, USAF, Acting Executive Secretary, DIA Scientific Advisory Committee, Washington, DC, 20340-1328 (202/373-4930).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 29, 1986.

[FR Doc. 86-24876 Filed 11-3-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Military Traffic Management Command's Acceptance of Carrier Safety Ratings

AGENCY: Military Traffic Management Command (MTMC), Department of the Army, Department of Defense (DOD).

ACTION: Proposed policy statement.

SUMMARY: MTMC requests public comments concerning its proposed policy statement governing DOD use of interstate motor carriers based on the motor carrier safety ratings issued by the Federal Highway Administration (FHWA), Department of Transportation (DOT). MTMC proposes that the DOD will not do business with interstate carriers known to have "unsatisfactory" or "conditional" safety ratings. Interstate carriers with "insufficient information" ratings transporting general commodities (except hazardous materials) will be used pending completion of an FHWA safety audit. Interstate carriers with "insufficient information" ratings will not be used to transport those hazardous materials specified by MTMC until their safety ratings are upgraded to "satisfactory."

DATES: Comments must be received by this agency not later than November 28, 1986.

ADDRESS: Comments should be submitted to: Headquarters, Military Traffic Management Command, Directorate of Inland Traffic, 5611 Columbia Pike, Falls Church, Virginia 22041–5050.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Sours, Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, VA 22041–5050, Telephone: (202) 756–1356/1565.

SUPPLEMENTARY INFORMATION: MTMC proposes to amend the Commander's Policy Book, MTMC Regulation No. 1–7, in order to ensure Defense shipments are transported only via carriers operating in compliance with DOT Safety Regulations and rated by the DOT as identified in 49 Code of Federal Regulations Part 385—Safety Ratings. DOD's policy is not to do business with interstate carriers known to have "unsatisfactory" or "conditional" safety ratings assigned by FHWA. Interstate carriers determined to have "unsatisfactory" or "conditional" ratings will be placed in a nonuse status until their safety ratings are upgraded to "satisfactory."

General commodity interstate carriers having "insufficient information" ratings may transport freight shipments pending completion of an FHWA audit. This is in recognition that many carriers currently doing business with the DOD have not yet been audited by FHWA and that new entrants to the trucking industry will require sufficient time to establish a safety record and be scheduled for an audit by FHWA. Hazardous material interstate carriers with "insufficient information" ratings will not be used until their safety ratings are determined to be "satisfactory" if they are transporting bulk hazardous materials, any quantities of classes of A and B explosives or poisons, Yellow III lable radioactive material, etiological agents or any other hazardous substance identified by MTMC.

The safe transport of DOD freight is important to the DOD. Therefore, any carrier who does not meet these safety rating standards will not be permitted to transport DOD freight.

John O. Roach,

Army Liaison Officer with the Federal Register.

[FR Doc. 86–24888 Filed 11–3–86; 8:45 am]

BILLING CODE 3710–08–M

Standardized Driver Certification of Classes A and B Explosives Safety Training and Competency

AGENCY: Military Traffic Management Command, Army Department, DOD.

ACTION: Notice of a new requirement for carriers to issue a standard safety training and competency certification to their drivers hauling military classes A and B explosives.

SUMMARY: Effective December 1, 1986, all commercial carrier drivers transporting classes A and B explosives for the Department of Defense (DOD) must possess a company-issued certification card which duplicates exactly the wording and format shown below. Failure to present such certification when a shipment is picked up may result in rejection of a carrier's equipment.

CERTIFICATION OF CLASSES A AND B EXPLOSIVES SAFETY TRAINING AND COMPETENCY

(Name of Carrier)
(Carrier Address/Telephone)

Valid only while qualified by (Name of Carrier)

This is to certify that (Name of Driver) successfully completed training and is competent in the transportation of classes A and B explosives. The driver understands the hazards of the material being transported, as required by 49 CFR federal, state, and local regulations, and provisions of the Department of Defense agreement governing the transport of such materials. A record of such training is contained in the driver's qualification file located at the address above.

Signature of Company Official

Date

ADDITIONAL INFORMATION: Carriers' and Department of Defense shippers' questions regarding what constitutes acceptable proof of training led to the development of a standardized certification card format. This was accomplished in coordination with representatives of the munitions carrier industry. Only MTMC approved carriers may transport classes A and B explosives for the DOD. To obtain further information contact: Ms. Betty Yanowsky, Headquarters, Military Traffic Management Command, ATTN: MT–INFF, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, telephone (703) 756–1565/1566.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 86–24889 Filed 11–3–86; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Mankind Research Unlimited Inc., Intent to Grant Limited Exclusive Patent License

The Department of the Navy hereby gives notice of intent to grant to Mankind Research Unlimited Inc., a corporation of the State of Maryland, a revocable, nonassignable, limited exclusive license to practice the Government-owned invention described in U.S. Patent No. 4,352,542 entitled "Cable Connector" issued October 5, 1982; inventors: John E. Tydings.

This license will be granted unless within 60 days from the date of this notice written objections to this grant along with supporting evidence, if any, are received by the Office of the Chief of Naval Research (Code OOCCPP1), Arlington, VA 22217.

For further information concerning this notice, contact: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research, Code OOCCPP1, Ballston Tower No. 1, 800 N. Quincy Street, Arlington, VA 22217–5000, Telephone No. (202) 696–4005.

Dated: October 30, 1986.

H.L. Stoller,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86–24901 Filed 11–3–86; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee, Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on U.S. Marine Corps Command and Control Systems Interoperability will meet on November 20–21, 1986, at Headquarters, U.S. Marine Corps, Washington, DC. The meeting will commence at 9:00 a.m. and terminate at 4:00 p.m. on November 20; and commence at 9:00 a.m. and terminate at 3:00 p.m. on November 21, 1986. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to review interservice command and control systems requirements for naval forces in the near- and mid-term, and identify future communications and command and control systems architecture features with a view toward improving interoperability. The agenda will include technical briefings and discussions addressing warfighting and interoperability procedures. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: October 30, 1986.

Harold R. Stoller, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 86–24902 Filed 11–3–86; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee, Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Automated Submarine Detection will meet on November 20–21, 1986, at the U.S. Naval Facility, Bermuda. The meeting will commence at 8:30 a.m. and terminate at 4:30 p.m. on November 20 and 21, 1986. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to review the present undersea surveillance automated submarine detection and classification techniques and capabilities. The agenda will include technical discussions addressing the threat, maritime strategy, and industry overviews of past, present and future automated efforts. These discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: October 30, 1986.

Harold R. Stoller, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86–24903 Filed 11–3–86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Testimony Solicitation

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of testimony solicitation.

SUMMARY: This notice is intended to notify the general public of their opportunity to provide the National Advisory Council on Indian Education with written testimony regarding the reauthorization of the Indian Education Act of 1972, Pub. L. 92–318.

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, 2000 L Street, NW., Suite 574, Washington, DC 20036 (202/634–6160).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is soliciting written testimony in preparation of the reauthorization of the Indian Education Act of 1972, Pub. L. 92–318, due to expire on September 30, 1989. It is extremely important that all Indian people throughout the country who are involved in or who have been affected by the benefits of Title IV, the Indian Education Act of 1972, Pub. L. 92–318, consider submitting written testimony to the National Advisory Council on Indian Education, 2000 L Street, NW., Suite 574, Washington, DC 20036 (202/634–6160). Written testimony will be received from November 1986 to December 1988. The contents of the written testimony should state specifically what benefits have come about from the Title IV Programs, the effectiveness of the programs as it relates to the delivery of services and funding, and what improvements can be made in the programs. The testimony should be well-documented by statistics.

All testimony received will be used by the National Advisory Council on Indian Education for presentation to the Congress of the United States on the reauthorization of the Indian Education Act of 1972, Pub. L. 92–318.

Dated: October 29, 1986. Signed at Washington, DC.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 86–24938 Filed 11–3–86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Alaska Power Administration

[Rate Order No. APA–7]

Snettisham Project; Order Confirming and Approving an Increase in Power Rates on an Interim Basis

AGENCY: Alaska Power Administration, DOE.

ACTION: Notice of power rate order.

SUMMARY: On October 29, 1986, the Under Secretary of Energy confirmed and approved, on an interim basis, Rate Schedule SN–F–3 increasing wholesale firm power service from the Snettisham Project, Alaska, effective November 1, 1986. The rate is subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

EFFECTIVE DATES: The effective date for the power rate on an interim basis is November 1, 1986.

FOR FURTHER INFORMATION CONTACT:

Grodon J. Hallum, Chief, Power Division, Alaska Power

Administration, P.O. Box 50, Juneau, Alaska 99802, (907) 586–7405
Rodney L. Adelman, Director, Washington Liaison Office, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–2008.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–108 effective December 14, 1983 (48 FR 55664), and amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated to the Under Secretary of Department of Energy the authority to confirm, approve, and place in effect power and transmission rates on an interim basis and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve such rates on a final basis. The attached Rate Order No. APA–7 approves Snettisham Project's new Power Rate Schedule SN–F–3 on an interim basis, effective November 1, 1986, for a period of 12 months unless such period is extended or until the FERC confirms and approves it on a final basis. The order raises the rate from 25.0 mills per kilowatthour to 28.8 mills per kilowatthour or 15 percent.

The rate to be placed in effect on an interim basis will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued in Washington, DC October 29, 1986.

Joseph F. Salgado,

Under Secretary.

Pursuant to section 302(a) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior under section 204 of the Flood Control Act of 1962, Pub. L. 87–874, 76 Stat. 1173, 1193, for the Snettisham Project were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664), and amended May 30, 1986 (51 FR 19744), the Secretary of Energy delegated to the Under Secretary of the Department of Energy, the authority to confirm, approve, and place in effect power rates on an interim basis and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrators of the Power Marketing Administrations under the delegation.

Background

Existing Rate

The existing rate schedule, SN–F2, for 25 mills per kilowatthour for firm energy for the Snettisham Project was confirmed and approved by the Deputy Secretary of the Department of Energy on November 28, 1983. The rate was confirmed and approved on a final basis on April 19, 1984, by the Federal Energy Regulatory Commission in Docket No. EF84–1021–000 for the period December 1, 1983, through November 30, 1988.

Public Notice and Comment

Notice of a meeting to present the rate proposal was printed in the **Federal Register**, Vol, 51, No. 102, on May 28, 1986, and in the local area newspaper on May 28, June 4, June 18, and July 7, 1986. On July 8, 1986, a public meeting was held in Room 117 of the Juneau Federal Building.

The Administrator and the Chief, Power Division, explained the legislative authority and background information about the project's construction and Department of Energy policies for power sales and wholesale power rates.

The Alaska Electric Light and Power Company presented a comment paper for the implementation of an interruptible rate. There were objections to the rate increase. The public consensus was that even though the increase was small, they were opposed to any increase. Requests were made for Alaska Power Administration to review and revise if possible the estimated operation costs which increased the current rate. Alaska Power Administration did prepare new studies with revised operations cost and new sales forecast. A new proposed rate increase to 28.8 mills per kilowatthour resulted.

Discussion

Project Repayment

The Snettisham Project was authorized by section 204 of the Flood Control Act of 1962, Pub. L. 87–874, 76 Stat. 1173, 1193, in accordance with the Army-Interior Agreement of March 14, 1962. The project was constructed by the Corps of Engineers. Upon completion of construction, it was transferred to the Alaska Power Administration for operation and maintenance. Initial project construction was completed December 1, 1973. However, because of serious transmission problems, full commercial production of power did not start until October 30, 1975. Construction of the Long Lake phase of the Snettisham Project was completed in 1978.

Subsecton 201(a) of the Water Resources Development Act of 1976, Pub. L. 94–587, provides that the costs of replacing and relocating the original Salisbury Ridge secton of the 138 kilovolt transmission line shall be nonreimbursable. Subsection 201(b) of the Act further modifies the repayment provisions for the project by providing that the repayment period shall be sixty years, that the annual repayment for the first ten years shall rise from 0.1 per centum of the total principal amount to be repaid the first year to 1.0 per centum the tenth year, and that the subsequent annual repayments for the remaining fifty years shall be one-fiftieth of the remaining balance, including interest over the sixty-year period.

Snettisham has the capability of furnishing 196,000,000 kilowatthours of average energy from the Long Lake phase of the project. The Snettisham units have a nameplate capacity of 47,160 kW for the existing Long Lake stage. The units are also capable of 15 percent continuous overload. Alaska Electric Light and Power has a capability of generating 57 million kilowatthours per year from small hydroelectric plants, and an additional amount from dieselelectric generators.

As required by DOE Order RA 6120.2, two repayment studies were made: A Current Repayment Study showing a continuation of the existing rate of 25 mills per kilowatthour for the remainder of the repayment period, and a Revised Repayment Study, using a rate of 28.8 mills per kilowatthour beginning November 1, 1986, for the remainder of the repayment period.

The Current Repayment Study shows that the existing 25 mills per kilowatthour rate for energy will not provide sufficient revenues to achieve payout in the remaining 50 years of the repayment peroid.

Proposed Rates

The Revised Power Repayment Study demonstrates an increase of annual revenue in 1987 from $4,670,000 to $5,373,000, or 15 percent. This will be sufficient to recover costs as required by the authorizing legislation and the Water Resources Development Act of 1976. The costs includes operation and maintenance, wheeling, interest, required amortization of the project, and amortization of the interest which was deferred for the first 10 years of the project.

The following tabulation lists the historical and estimated revenues from the sales of energy, FY 80 through FY 85 are the historical sales. Beginning November 1, 1986, throughout the remainder of the study, the estimated revenues are based on 28.8 mills per kilowatthour.

FY	kWh × 1000	Revenues	
		Revised study (dollars)	Current study (dollars)
1980	90,753	1,421,088	1,421,088
1981	112,992	1,780,888	1,780,888
1982	140,027	2,195,211	2,195,211
1983	167,523	2,626,508	2,626,508
1984	183,015	4,277,619	4,277,619
1985	167,000	4,268,873	4,268,873
1986	180,000	4,545,000	4,545,000
1987	185,000	5,373,000	4,670,000
1988	185,000	5,373,000	4,670,000
1989	186,000	5,401,800	4,695,000
1990	187,000	5,430,600	4,720,000

Environmental Impact

The public hearings and other public outreach efforts raised no significant impacts involving the human environment within the meaning of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended by Pub. L. 94–83) and implementing regulations would be caused by implementing the rate proposal.

Availability of Information

Information regarding this rate adjustment, including studies, comments, transcripts, and other supporting material, is available for public review in the offices of the Alaska Power Administration, Room 825, Federal Building, 709 West Ninth Street, Juneau, Alaska 99802, and in the Office of Director, Washington Liaison Office, Forrestal Bldg., Room 1E184, 1000 Independence Avenue SW, Washington, DC 20585.

Submission to the Federal Energy Regulatory Commission

The rate herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Schedule of Rate For Wholesale Firm Power Service

Effective:
November 1, 1986
Available:
In the area served by the Snettisham Project, Alaska.
Applicable:
To wholesale power customers for general power service.
Character of Service:
Alternating current, sixty hertz, three-phase.
Monthly Rate:
Capacity Charge: None
Energy Charge: Firm energy at 28.8 mills per kilowatthour.
Minimum Annual Capacity Charge: None.
Minimum Annual Energy Charge:
As provided for under appropriate contract terms.
Adjustments:
FOR TRANSFORMER LOSSES: If delivery is made at the high-voltage side of the customer's transformers but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.
Supersedes: SN–F–3; SN–F–2.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective November 1, 1986, Rate Schedule SN–F–3. This rate shall remain in effect for a period of 12 months unless extended or superseded or until the FERC confirms and approves them or substitute rates on a final basis.

Issued in Washington, DC October 29, 1986
Joseph F. Salgado,
Under Secretary.
[FR Doc. 86–24928 Filed 11–3–86; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER87–47–000, et al.]

Alamito Company, et al.; Electric Rate and Corporate Regulation Filings

October 29, 1986.

Take notice that the following filings have been made with the Commission:

1. Alamito Co.

[Docket No. ER87–47–000]

Take notice that on October 24, 1986, Alamito Company tendered for filing an Amended and Restated Power Sale Agreement ("Restated Agreement") between Alamito and Tucson Electric Power Company ("TEP") (hereinafter sometimes collectively referred to as "Parties"). Alamito states that the Restated Agreement will supersede and replace Alamito Company Rate Schedule FERC No. 3 and Supplements Nos. 1, 2, and 3 thereto between the Parties if Alamito is able to complete on terms satisfactory to it, TEP and various institutional investors a sale and leaseback of Alamito's 360MW Springerville Unit 1 prior to January 1, 1987. TEP and Alamito have reached an agreement whereby, in the event of such a sale and leaseback, TEP will extend its current purchase from the Springerville Unit and shorten its current purchase from Alamito's San Juan Unit No. 3 and Alamito will enter into such a sale and leaseback at a lease payment price which will be substantially less than the demand charges under the existing Twelve Year Power Sale Agreement for depreciation, return, and income taxes attributable to the facilities so sold and leased back. Alamito Company requests that the Restated Agreement be accepted for filing to become effective on December 26, 1986, or such other date prior to January 1, 1987, as the sale and leaseback of Springerville Unit 1 becomes effective and that the existing rate schedule be superseded effective as of the date on which the sale and leaseback becomes effective. Alamito Company states that copies of the filing have been mailed to TEP and San Diego Gas and Electric Company

Comment date: November 12, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Arkansas Power and Light Co.

[Docket No. ER81–577–013]

Take notice that on October 16, 1986, Arkansas Power and Light Company (AP&L) tendered for filing a compliance report reflecting the application of final rates referred to in Docket No. ER81–577–000.

Comment date: November 12, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Centel Corp.

[Docket No. ES87–6–000]

Take notice that on October 22, 1986, Centel Corporation (Applicant), a corporation organized under the law of the State of Kansas, with its principal executive offices located in Chicago, Illinois, filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to 650,000 shares of common stock, $2.50 par value, to be issued in connection with its Retirement Savings Plan and its Dividend Reinvestment Plan.

Comment date: November 12, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power Corp.

[Docket No. ER87–25–000]

Take notice that on October 14, 1986, Florida Power Corporation (Florida Power) tendered for filing a Scheduling Service Agreement dated October 9, 1986 with Seminole Electric Cooperative, Inc. (Seminole), which provides for scheduling services for power purchased by Seminole from Oglethorpe Power Corporation. These scheduling services are ancillary to the

transmission services provided by Florida Power to Seminole. The agreement is submitted for filing as a supplement to Florida Power's Rate Schedule FERC No. 106.

Florida Power requests that the Scheduling Service Agreement be made effective as a rate schedule on October 10, 1986, and therefore requests waiver of the sixty (60) day notice requirement. Copies of this filing have been served on Seminole Electric Cooperative, Inc., Southern Company Services, Inc., Oglethorpe Power Corporation, and the Florida Public Service Commission.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this document.

5. Florida Power and Light Company.

[Docket No. ER87-32-000]

Take notice that on October 16, 1986, Florida Power and Light Company (FPL) tendered for filing a document entitled Amendment Number Seven to Revised Agreement to Provide Specified Transmission Service Between Florida Power and Light Company and City of Kissimmee (Rate Schedule FERC No. 65) and a document entitled Schedule TX Operating Agreement Between Florida Power and Light Company and Kissimmee Utility Authority, which document supplements Amendment Number Seven.

FPL states that under Amendment Number Seven, FPL will transmit power and energy for Kissimmee Utility Authority as is required in the implementation of its interchange agreements with the Florida Municipal Power Agency and Jacksonville Electric Authority.

FPL further states that the Schedule TX Operating Agreement defines the methodology used to determine the additional incremental cost under Section I.4 of Amendment Number Seven.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment and the proposed Operating Agreement be made effective immediately. FPL states that copies of the filing were served on Kissimmee Utility Authority.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Indianapolis Power and Light Co.

[Docket No. ER87-22-000]

Take notice on October 10, 1986, Indianapolis Power and Light Company ("IPL") tendered for filing a rate schedule in the form of an agreement which sets forth the rates, charges, terms and conditions for providing wholesale electric service to Boone County Rural Electric Membership Corporation ("Boone REMC"), which is the only REMC IPL serves. The new rates are intended to supersede and replace the existing agreement and rates designated as Indianapolis Power and Light Company Rate Schedule FERC No. 20, as supplemented, with respect to the type of service above-referenced.

The only customer affected by the proposed new rates is Boone REMC, which has executed an agreement with IPL, dated as of October 9, 1986, which binds IPL to render, and Boone REMC to take, service under the new rates for a period of two (2) years after their effective date.

IPL alleges that the structure of the new rates has not been changed from the present rates; that the principal change in the new rates is to provide an increase in annual revenues from Boone REMC of $188,882.00, based upon the test year ended June 30, 1985, producing a rate of return for such test year of 11.12% on the original cost, less depreciation, of its facilities devoted to wholesale service to such REMC under the new rates.

IPL states that copies of this filing, together with exhibits, were sent to Boone REMC and to the Public Service Commission of Indiana.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Louisiana Power and Light Co.

[Docket No. ER86-626-001]

Take notice that on October 16, 1986, Louisiana Power and Light Company (LP&L) tendered for filing additional information with respect to its proposed change in rates for wholesale electric service to the Town of Vidalia, Louisiana. In response to a deficiency letter LP&L states that the additional information is fully responsive to a request for such information from the FERC Staff dated September 16, 1986.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Otter Tail Power Co.

[Docket No. ER87-31-000]

Take notice that Otter Tail Power Company (OTP) on October 14, 1986 tendered for filing proposed changes in its FPC Electric Service Tariff No. 171.1. These changes are explained in the filed Amendment No. 2 and are a result of the termination on December 13, 1985 of the original contract. Amendment No. 2 covers the terms and conditions of the Integrated Transmission System of Central Power Electric Cooperative and Otter Tail Power Company.

Copies of this filing, along with the signed Amendment, have been sent to Central Power Electric Cooperative, Inc., P.O. Box 1576, Minot, North Dakota 58701.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Utah Power and Light Co.

[Docket No. ER87-24-000]

Take notice that Utah Power and Light Company (UP&L) on October 14, 1986, tendered for filing a proposed change in its FERC Fuel Adjustment Clause. The change consists of amendments to the language recommended as a result of an FERC audit to bring UP&L's Fuel Adjustment Clause in compliance with 18 CFR 35.14.

UP&L states that the missing language was inadvertent and at the time the tariff was filed in Docket No. ER84-572, the cost of service data clearly identified the costs of geothermal steam as being included in the Fuel Adjustment Clause. A Settlement Agreement submitted in Docket No. ER84-572-000 was approved by the Commission on November 20, 1985 [33 FERC ¶ 61,310 (1985)], and since this proposed amendment does not change the approved rate, there will be no adverse impact on that Settlement Agreement.

UP&L requests a waiver of the notice provisions of 18 CFR 35.13 and that the amended Fuel Adjustment Clause be made effective retroactively as of January 11, 1985, the date on which the Tariff was accepted for filing in Docket No. ER84-572-000 [30 FERC ¶ 61,015 (1985)].

Notice of this filing was served upon all of UP&L's wholesale purchasers and upon the State Commissions of Utah, Idaho, Wyoming, Nevada, California and Colorado.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this document.

10. Vermont Electric Power Co., Inc.

[Docket No. ER87-21-000]

Take notice that Vermont Electric Power Company, Inc. ("VELCO") on October 9, 1986, tendered for filing a proposed Amendment No. 1 dated as of April 15, 1986 ("Amendment No. 1") to the Vermont Participation Agreement for Quebec Interconnection dated as of July 15, 1982, VELCO Rate Schedule FERC No. 238.

The Amendment No. 1, when accepted, will provide that the obligations and rights of 16 Vermont utilities participating in the first phase of

a transmission interconnection between Hydro-Quebec and utilities that are participants in the New England Power Pool (the "Interconnection"), through VELCO which acts as the Vermont utilities' representative, apply to certain contracts executed by VELCO for support of VETCO and New England Electric Transmission Corporation (the two companies constructing the United States portion of the Interconnection) as those contracts may be "amended from time to time."

Copies of the filing were served on all affected utilities and on the State of Vermont Public Service Board and its Department of Public Service.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

11. Georgia Power Co.

[Docket No. ER87-27-000]

Take notice that on October 14, 1986, Georgia Power Company ("Georgia Power") tendered for filing a Scheduleing Services Agreement (the "Agreement") dated as of October 10, 1986, between Georgia Power and Oglethorpe Power Corporation (An Electric Membership Generation and Transmission Corporation) ("OPC").

Georgia Power states that the Agreement has been executed to facilitate a short-term, non-firm energy transaction between OPC and Seminole Electric Cooperative, Inc. Georgia Power seeks waiver of the Commission's notice requirements and seeks an effective date of October 10, 1986. The Agreement will terminate on December 31, 1986.

Comment date: November 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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 portests 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 avaialble for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-24926 Filed 11-3-86; 8:45 am]

BILLING CODE 6717-01-M

Application Filed With the Commission

October 31, 1986.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License.

b. Project No.: 4113-004.

c. Date Filed: October 14, 1986.

d. Applicant: Long Lake Energy Corporation, Oswego Corporation, and Prudential Interfunding Corporation.

e. Name of Project: The Phoenix Project.

f. Location: On the Oswego River in Onondaga and Oswego Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ms. Christine Benagh, Nixon, Hargrave, Devans, & Doyle, One Thomas Circle NW, Suite 800, Washington, DC 20005 (202) 223-7200

i. Comment Date: November 17, 1986.

j. Description of Proposed Transfer: On March 31, 1986, a license was issued to Long Lake Energy Corporation (Licensee), to construct, operate, and maintain the Phoenix Project No. 4113. The Licensee intends to tranfer the license to Long Lake Energy Corporation, Oswego Corporation, and Prudential Interfunding Corporation, (Transferee) to facilitate the financing of the project through the establishment of this joint venture. The licensee has complied with the terms and conditions of the license. The project is not constructed as of this date. The Transferee has agreed to accept all the terms and conditions of the license and the requirements of the Federal Power Act and to be bound by it as if it were the original licensee.

k. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraph

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATIONS", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-24917 Filed 11-3-86; 8:45 am]

BILLING CODE 6717-01-M

Applications Filed With the Commission

October 31, 1986.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License.

b. Project No.: 2861-011.

c. Date Filed: October 6, 1986.

d. Applicant: Pontook Hydro Partners Ltd, New Hampshire Water Resources Board, and Pontook Operating Limited Partnership.

e. Name of Project: Pontook Project.

f. Location: On the Androscoggin River in the Town of Dummer, Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. McNeill Watkins, II, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth

Street, NW., Washington, DC 20036, (202) 857-9800.

i. Comment Date: November 17, 1986.

j. Description of Proposed Transfer: On March 26, 1981, a license was issued to Robert W. Shaw to construct, operate, and maintain the Pontook Project No. 2861. On August 23, 1983, the license was transferred to Pontook Hydro Partners, Ltd (Licensee). On June 11, 1985, the New Hampshire Water Resource Board was added as a co-licensee. Pontook Hydro Partners, Ltd. and the New Hampshire Water Resources Board (Licensees) intend to transfer the project to the New Hampshire Water Resources Board and Pontook Operating Limited Partnership to facilitate more favorable financing and operation of the project. The project is currently under construction and is expected to be in operation by the end of November.

The Licensee has complied with the terms and conditions of the license. The Transferees have agreed to accept all the terms and conditions of the license and the requirements of the Federal Power Act and to be bound by it as if they were the original licensees.

k. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraphs

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. 385.210, 385.211 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Managment, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-24918 Filed 11-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS68-21, et al.]

O'Neill Properties, Ltd. (Joseph I. O'Neill, Jr.), et al.; Applications for Small Producer Certificates [1]

October 29, 1986.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authority the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make a protest with reference to said applications should on or before November 17, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure therein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS68-21	[3] 9-29-86	O'Neill Properties, Ltd. (Joseph I. O'Neill, Jr.), P.O. Box 2840, Midland, TX 79702.
CS77-432	[2] 9-16-86	Petrus Oil Co. (H.R. Perot), 12201 Merit Dr., Suite 900, Dallas, TX 75251.
CS83-102-007	[3] 9-10-86	Graham Energy, Ltd., *et al.*, P.O. Box 3134, Covington, LA 70434-3134.
CS87-1-000	[4] 20-2-86	Texas Crude Exploration, Inc., 601 Travis, Suite 2100, Houston, TX 77002.
CS87-3-000	10-3-86	Wisenbaker Production Co., 3131 Turtle Creek Blvd., Suite 900, Dallas, TX 75219.
CS87-4-000	10-3-86	Wise Oil Ventures, 3131 Turtle Creek Blvd., Suite 900, Dallas, TX 75219.
CS87-5-000	10-3-86	Tribal Drilling Co., P.O. Box 45440, Dallas, TX 75245.
CS87-8-000	10-14-86	Chieftain International, Inc., 1201 T.D. Tower, Edmonton, AB, Canada T5J 2Z1.
CS87-9-000	10-9-86	Winchester Oil Co., Winchester Production Co., and Westchester Gas Co., 300 W. Austin St., Marshall, TX 75670.
CS87-10-000	10-15-86	Robert T. Priddy and James Allan Clark, 600 City National Bldg., Wichita Falls, TX 76301.
CS87-11-000	10-15-86	Anthony Oil & Gas Co., Route 2, Lake Village, AR 71653.
CS86-12-000	10-20-86	Ronco Energy, Box 1285, Fritch, TX 79036.
CS87-13-000	10-24-86	Permian Resources, Inc./ a.k.a. Earl R. Bruno, P.O. Box 590, Midland, TX 79702.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[2] Letter dated Sept. 26, 1986, requesting redesignation of small producer certificate.

[3] Letter dated Sept. 11, 1986, as supplemented by letter dated Sept. 25, 1986, filed Sept. 29, 1986, requesting redesignation of small producer certificate.

[4] By letter dated Sept. 4, 1986, as supplemented by letter dated Oct. 14, 1986, received Oct. 15, 1986, Applicant requests the certificate in Docket No. CS83-102-002 be amended to include the following entities as certificate co-holders:

Chapman Oil of Australia, Inc.
McCormick 1976 Oil & Gas Program.
McCormick Exploration Corp.
McCormick Exco, Inc.
Graham McCormick Operating Partnership.
Graham Acquisition Ltd. Partnership 1984-I.
S.P.G. Reserve program I.
S.P.G. Reserve program II.
Grsham Acquisition Partnership 1984-II.
Chase 84 N.P.I. Venture.
Graham McCormick Oil & Gas Partnership.
Prudential Bache Energy Income Partnership III P-12.
Prudential Bache Energy Income Production Partnership III P-12.
Prudential Bache Energy Income Partnership III P-13.
Prudential Bache Energy Income Production Partnership III P-13.
Prudential Bache Energy Income Partnership III P-14.
Prudential Bache Energy Income Production Partnership III P-14.
Prudential Bache Pension & Retirement Production Partnership PBR-I.
Prudential Bache Pension & Retirement Production Partnership PBR-II.
Prudential Bache Pension & Retirement Limited Partnership PBR-I.
Prudential Bache Pension & Retirement Limited Partnership PBR-II.
The Property Warehouse, Inc.
G. P. L. Co.
Graham Energy Ventures, Inc.
Graham Research & Investment Performance, Inc.
Graham Oil & Gas, Ltd.
Graham Energy Management, Inc.
Graham Depositary Co.
Graham Production Co.
Prudential Bache Energy Income Partnership II P-4.
Prudential Bache Energy Income Partnership II P-5.
Prudential Bache Energy Income Partnership II P-6.
Prudential Bache Energy Income Partnership II P-7.
Prudential Bache Energy Income Partnership II P-8.
Prudential Bache Energy Income Partnership II P-9.
Prudential Bache Energy Income Partnership II P-10.
Prudential Bache Energy Income Partnership II P-11.
Prudential Bache Energy Income Production Partnership II P-4.
Prudential Bache Energy Income Production Partnership II P-5.
Prudential Bache Energy Income Production Partnership II P-6.
Prudential Bache Energy Income Production Partnership II P-7.
Prudential Bache Energy Income Production Partnership II P-8.
Prudential Bache Energy Income Production Partnership II P-9.
Prudential Bache Energy Income Production Partnership II P-10.
Prudential Bache Energy Income Production Partnership II P-11.

Prudential Bache Production Partnership 1983 P-1.
Prudential Bache Production Partnership 1983 P-2.
Prudential Bache Production Partnership 1983 P-3.
Prudential Bache Energy Income Fund 1983 P 1.
Prudential Bache Energy Income Fund 1983 P 2.
Prudential Bache Energy Income Fund 1983 P 3.

Applicant, an affiliate of Graham Resources, Inc., states effective June 28, 1985, McCormick Oil & Gas merged properties with Graham Resources, Inc. Applicant requests the small producer certificate issued to McCormick 1976 Oil & Gas Program in Docket No. CS77-319 be terminated.

* By supplemental letter dated Oct. 8, 1986, Applicant states that its affiliate, Texas Crude Oil Co., a small producer certificate holder in Docket No. CS69-46 was dissolved in 1981. Applicant requests termination of the small producer certificate in Docket No. CS69-46.

[FR Doc. 86-24924 Filed 11-3-86; 8:45 am]
BILLING CODE 6717-01-M

Applications Filed With the Commission

October 31, 1986.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License.

b. Project No.: 7153-005.

c. Date Filed: October 14, 1986.

d. Applicant: SNC Hydro Inc. and Victory Mills Company, Inc.

e. Name of Project: Victory Mills Project.

f. Location: On Fish Creek in Saratoga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Peter Kissel, 5604 Utah Avenue, NW., Washington, DC 20015, (202) 887-1424.

i. Comment Date: November 17, 1986.

j. Description of Proposed Transfer: On May 15, 1984, a license was issued to SNC Hydro, Inc., to construct, operate, and maintain the Victory Mills Project No. 7153. A license amendment was issued on March 27, 1986, authorizing the relocation of the powerhouse. SNC Hydro, Inc., intends to transfer the license to Victory Mills Company, Inc. (a wholly owned subsidiary for SNC Hydro, Inc.) to facilitate and obtain favorable tax treatment for the project. The licensee has complied with the terms and conditions of the license. The project is currently under construction and licensee expects that it will be in operation by the end of 1986. The Victory Mills Company, Inc. has agreed to accept all terms and conditions of the license and the requirements of the Federal Power Act and to be bound by it as if it were the original licensee.

k. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraphs

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filing must bear in all capital letters the title "Comments", "Notice of Intent to File Competing Application", "Competing Application", "Protest" or "Motion to Intervene", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-24919 Filed 11-3-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TC87-2-001]

Arkla Energy Resources, a Division of Arkla, Inc.; Tariff Sheet Filings

(October 30, 1986).

Take notice that on October 24, 1986, Arkla Energy Resources, a Division of Arkla, Inc., (Arkla Energy), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. TC87-2-001 the following revised tariff sheets to its FERC Gas Tariff to be effective November 15, 1986:

Substitute Eighth Revised Sheet No. 3F which supersedes Seventh Revised Sheet No. 3F
Substitute Eighth Revised Sheet No. 3G which supersedes Seventh Revised Sheet No. 3G

Arkla Energy is filing these sheets to correct computational errors in its original Docket No. TC87-2-000, which was submittted pursuant to § 281.204(b)(2) of the Commission's Regulations.

Arkla Energy requests that the tariff sheets be permitted to become effective November 15, 1986, as proposed.

Any person desiring to be heard or make any protest with reference to said tariff sheet filing should on or before November 12, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-24921 Filed 11-3-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI86-524-001, et al.]

FMP Operating Co., et al.; Applications for Abandonment and Blanket Limited-Term Certificate

October 29, 1986.

Take notice that the applicant listed herein has filed applications pursuant to section 7 of the Natural Gas Act for authorization to abandon service and for a blanket limited-term certificate to sell natural gas in interstate commerce, as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file petitions to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price Per Mcf	Pressure base
CI86-524-001 B, Sept. 25, 1986 [1]	FMP Operating Company, et al.[2] P.O. Box 60004, New Orleans, Louisiana 70160-0004.	Columbia Gas Transmission Corporation, Eugene Island Block 308, Offshore Louisiana.	([3])	
CI86-748-000 A, Sept. 25, 1986 [4]	....do	Various Purchasers, Eugene Island Block 308, Offshore Louisiana.	([4])	

Filing Code: A—Initial Service—B—Abandonment—C—Amendment to add acreage—D—Amendment to delete acreage—E—Total Succession—F—Partial Succession.

[1] These applications were noticed on October 24, 1986. However, that notice did not include Applicant's additional request received October 22, 1986, as amended October 24, 1986, to revise the list of non-signatory joint interest owners. Applicant states that the list first submitted incorrectly aggregated the interests of certain owners under FMP Operating Company due to a mistaken belief that certain joint interest owners were limited partners in FMP Operating Company. Applicant proposes by its October 22, 1986, submittal to include the interests of CLK Oil and Gas Co., Robert A. Day, Jr., Halliburton Company, and Continental Land & Fur Co., Inc.

[2] The *et al.* parties are Tesoro Petroleum Corporation, TXP Operating Company, CLK Oil and Gas Co., Robert A. Day, Jr., Halliburton Company, and Continental Land & Fur Co., Inc.

[3] Applicant requests a two-year limited-term abandonment of excess gas sales to Columbia, subject to a "recall" on the gas by Columbia on 30-days' notice. Applicant states that initially Columbia will require only approximately 25% of Applicant's anticipated daily deliverability. This, Applicant states, would cause Columbia to incur substantial take-or-pay liabilities and Applicant to experience a severely curtailed cash flow. As such, Applicant states it is subject to substantially reduced takes without payment. Applicant states that sales to Columbia are to be made under its FERC Gas Rate Schedule No. 31. Applicant states that the gas qualifies as NGPA section 102(d) gas and that the deliverability for all joint interest owners is estimated to be 56.8 MMcf/d. Applicant states that under a June 2, 1986, contract amendment Applicant can demand release from its obligations. Applicant further states that upon release of the gas Columbia will receive take-or-pay relief.

[4] Applicant requests a two-year blanket limited-term certificate with pre-granted abandonment to make sales for resale in interstate commerce of gas which is subject to the limited-term abandonment in Docket No. CI86-524-001. Applicant requests that the filing requirements of §§ 154.92(b), 154.94(h) and 154.94(k) and Part 271 of the Commission's Regulations be waived. Applicant states it is willing to accept reporting requirements in lieu of compliance with the foregoing.

[FR Doc. 86-24923 Filed 11-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-6-000]

El Paso Natural Gas Co.; Petition To Institute a Hearing

October 29, 1986.

Take notice that on October 3, 1986, El Paso Natural Gas Company (El Paso) tendered for filing a Petition To Institute A Hearing in accordance with Article VI of the Stipulation and Agreement in Settlement of Rate Proceedings (settlement agreement) approved by the Commission's August 14, 1985 letter order in El Paso's Docket Nos. RP85-58, *et al.* Article VI notes that the rates approved in the settlement include an "additional fixed cost reimbursement charge" applicable to sales service to Southern California Gas Company (SoCal) and Pacific Gas and Electric Company (PG and E). The charge was to be levied at any time purchases by SoCal or PG and E fell short of an "additional fixed cost reimbursement quantity." the additional fixed cost reimbursement quantity was equal to 60% of the annual contract quantity for SoCal and PG and E.

El Paso states Article VI limits the duration of the additional fixed cost reimbursement charge to SoCal and PG and E. Paragraph 6.2 recites that if the minimum commodity bill of Transwestern Pipeline Company (Transwestern) to SoCal is established at any level other than 60% of the annual contract quantity, El Paso will be required to modify its additional fixed cost reimbursement quantities to reflect the same percentage level. Nevertheless, Paragraph 6.3 provides that if the new level is less than 60%, El Paso will have the right, upon request, to a prompt hearing to determine a higher level to be proposed by El Paso.

On August 4, 1986, in Transwestern's Docket Nos. RP81-130-024, *et al.*, the Commission lowered Transwestern's minimum commodity bill level to zero. As provided by Paragraph 6.2 of the Settlement Agreement, El Paso is filing concurrently herewith revised tariff sheets which reduce its additional fixed cost reimbursement quantities to zero. This petition is intended to exercise El Paso's right under Paragraph 6.3 to inititate a prompt hearing with respect to the just and reasonable level of El Paso's additional fixed cost reimbursement charge.

El Paso has served copies of this petition upon all the parties to Docket Nos. RP85-58, *et al.*, all customers of El Paso, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before November 7, 1986. 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. 86-24922 Filed 11-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-101-002]

Superior Offshore Pipeline Co.; Compliance Filing

October 29, 1986.

Take notice that on October 20, 1986, Superior Offshore Pipeline Company (SOPCO) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet Nos. 5, 7, 8, 10, 17, 18, 32, 34, 35, 38, 39, 47, 48, 53, and 54.

According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until October 24, 1986.

SOPCO states that this filing is in compliance with the Commission's order of October 17, 1986, and that the First Revised Sheets have been modified to conform with § 154.33 of the Commission's regulations with respect to proper pagination. Additionally, First Revised Sheet No. 5 has been amended to include a one cent per MMBtu minimum rate pursuant to Ordering Paragraph (B) of the October 17, 1986 order.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before November 5, 1986. 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. 86-24920 Filed 11-3-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Solicitation No. DE-PSO1-87CE27462]

Announcement of Competitive Grant Program; Least Cost Utility Planning Program

The United States Department of Energy, Office of Conservation and Renewable Energy, Office of Buildings and Community Systems, is entering into a competitive grant program for the performance of research to determine the impacts of energy conservation technologies on utilities' load shapes and ways this data, information, and analysis can be used in least-cost utility planning.

Least-cost utility planning is a methodology that is still evolving and there is a need to develop improved data, methodologies and analytical tools to assist State energy agencies, regulatory commissions, utilities and consumer groups in identifying and evaluating various combinations of supply and demand-side options that could lead to a least-cost load-resource balance.

The U.S. Department of Energy, in the forthcoming solicitation, will request applications in the major areas of Technology Assessment, Market Penetration, Integrated Utility Planning and Technology Transfer.

Technology Assessment identifies the cost and performance *potential* of energy conservation and load-shaping technologies. Market Penetration involves a technology's penetration of the market as a result of utility programs and expected cost/benefit impacts of the use by the customer of such technologies. In Integrated Utility Planning, utilities use the information from the first two areas above to integrate their demand-side and supply-side alternatives into the combination that provides the least cost to their customers. Technology Transfer is the activity that collects information on least-cost utility programs and disseminates it to utilities, regulators and others in a form that they can use.

Multiple awards for research and technology transfer are expected to be made during FY 1987. At least $250,000 will be allocated for this program.

Eligibility: Unrestricted.

It is anticipated that a formal solicitation will be issued in November 1986 and that a Pre-Application Conference will be conducted on or about December 17, 1986. Requests for copies of this solicitation should be addressed to: U.S. Department of Energy, Office of Procurement Operations, Attn: Document Control Specialist, 1000 Independence Avenue, SW., Washington, DC 20585.

The Contract Specialist is Rose Mason at (202) 252-6757.

Dated: October 23, 1986.

Stephen J. Michelsen,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 86-24929 Filed 11-3-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL-3104-7]

Delegation of Authority to the State of Texas; Prevention of Significant Deterioration and Visibility Protection New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: Notice is hereby given which clarifies the visibility new source review (NSR) program for the State of Texas. This action is a result of a proposed rulemaking on October 23, 1984, (49 FR 42670) in which EPA proposed to disapprove State Implementation Plans (SIPs) of states, including Texas, which failed to comply with the provisions of 40 CFR 51.307 for visibility NSR.

Texas has had partial authority through delegation for technical and administrative review of the Federal Prevention of Significant Deteroration (PSD) program, 40 CFR 52.21, since April 23, 1981. The EPA revised the PSD program to incorporate the requirements of 40 CFR 51.307 on July 12, 1985. The PSD delegation to Texas includes any revision to the PSD program which occurs subsequent to the original delegation of April 23, 1981. Consequently, the technical and administrative review of the revised PSD program has been delegated to the State of Texas.

EFFECTIVE DATE: Partial delegation is effective as of July 12, 1985, for visibility NSR.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1201 Elm Street, Dallas, Texas 75270

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: John Crocker, Air Programs Branch, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767-9850 or (FTS) 729-9850. Reference Docket File Number TX-86-1.

SUPPLEMENTARY INFORMATION:

Background

Section 169A of the Clean Air Act, 42, U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined that visibility is an important value. ("Mandatory Class I Federal areas" are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400-437.) Section 169A specifically requires EPA to promulgate regulations requiring certain states to amend their State Implementation Plans (SIPs) to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations in 45 FR 80084, codified at 40 CFR 51.300 *et seq.* It required the states to submit their revised SIPs to satisfy those provisions by September 2, 1981. (See 45 FR 80091, codified in 40 CFR 51.302(a)(1).) That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, the Court stayed the litigation pending EPA action on related administrative petitions for reconsideration of the visibility regulations filed with the Agency.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. District Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under section 110 of the Act to promulgate visibility SIPs. A negotiated settlement agreement between EPA and EDF required EPA to promulgate visibility SIPs on a specific schedule. It required EPA to propose and promulgate federal regulations in states where SIPs are deficient with respect to the 1980 visibility new source review and

monitoring regulations. 40 CFR 51.307 and 51.305, respectively. Texas has two mandatory Class I areas: Big Bend National Park and Guadalupe Mountains National Park. No other Class I areas currently exist in the State. Texas is one of the states listed in 49 FR 42670 as having an inadequate New Source Review (NSR) and monitoring plan for visibility protection. Texas did not submit a visibility monitoring strategy. Consequently, EPA promulgated a Federal monitoring plan in the July 12, 1985, **Federal Register** (50 FR 28544). This notice clarifies the visibility NSR program for Texas.

On December 11, 1985, the Governor of Texas submitted a SIP Revision for Protection of Visibility for new source review. Visibility NSR regulations were included in the submittal. EPA is reviewing the submittal and will take action on it in a separate notice.

New Source Review

40 CFR 51.307 requires states to review new major stationary sources and major modifications prior to construction to assess potential impacts on visibility in any visibility protection area, regardless of the air quality status of the area in which the source is located. That is, sources locating in attainment areas and nonattainment areas must undergo visibility new source review (See 40 CFR 51.307(a) and (b)(2), respectively). These requirements ensure that (1) the visibility impact review is conducted in a timely and consistent manner, (2) the reviewing authority considers any timely Federal Land Manager (FLM) analysis demonstrating that a proposed source would have ad adverse impact on visibility, and (3) there is public availability of the permitting authority's conclusion.

Visibility NSR is addressed in two parts: one addreses major stationary sources subject to the Prevention of Significant Deterioration (PSD) regulations (40 CFR 51.24) which apply to attainment areas, and the second addresses major sources in nonattainment areas. On July 12, 1985, at 50 FR 28544, EPA promulgated three programs to meet these requirements, each to be applicable in separate circumstances. The EPA promulgated revisions to the Federal PSD program (40 CFR 52.21) which incorporate the requirements of §51.307(a) and is applicable in States with Federally operated or delegated PSD programs. The EPA created a new program, §52.27, which is applicable in States with a Federally approved State PSD program. The EPA created a new program, §52.28, to meet the requirements of §51.307(b) and is applicable in States with nonattainment areas. Texas has no nonattainment areas that may impact visibility in its mandatory Class I Federal areas and was therefore exempted from the nonattainment program requirements of 40 CFR 51.307(b)(2) by EPA (50 FR 28549). Thus, the Texas visibility new source review regulations need only apply to attainment areas and specify the standard requirements for any permit application and permit approval.

Current Plan Status

Texas has had partial authority through delegation for technical and administrative review of the Federal PSD program, 40 CFR 52.21, since April 23, 1981. The EPA revised the PSD program to incorporate the requirements of 40 CFR 51.307 on July 12, 1985. The PSD delegation to Texas includes any revision to the PSD program which occurs subsequent the original delegation of April 23, 1981. Consequently, the technical and administrative review of the revised PSD program has been delegated to the State of Texas. On December 11, 1985, the Governor of Texas submitted to EPA a SIP revision for the Prevention of Significant Deterioration Program including amendments to TACB General Rules and to TACB Regulation VI. The State has incorporated the requirements of §51.307(a) into these revisions. The EPA is currently reviewing the PSD SIP revision and will publish its determination in a separate **Federal Register** notice. If EPA approves the State's submittal, that action will supercede the PSD delegation of authority.

Dated: October 17, 1986.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 86-24914 Filed 11-3-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-776-DR]

Illinois; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-776-DR), dated October 7, 1986, and related determinations.

DATED: October 28, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Illinois, dated October 7, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 7, 1986: The Cook County Townships of Leyden, Maine, Proviso, Riverside, and Wheeling for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

[FR Doc. 86-24897 Filed 11-3-86; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-780-DR]

Kansas; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas (FEMA-780-DR), dated October 22, 1986, and related determinations.

DATED: October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Kansas, dated October 22, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 22, 1986: Allen, Bourbon, Chautauqua, Cherokee, Cowley, Montgomery, Neosho, and Wilson Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

[FR Doc. 86-24898 Filed 11-3-86; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-779-DR]

Missouri; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA-779-DR), dated October 14, 1986, and related determinations.

DATED: October 28, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3616.

Notice: The notice of a major disaster for the State of Missouri, dated October 14, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1986:

Vernon County for Individual Assistance.

Cooper County as an adjacent area for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-24899 Filed 11-3-86; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-778-DR]

Oklahoma; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma (FEMA-778-DR), dated October 14, 1986, and related determinations.

DATED: October 28, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3616.

Notice: The notice of a major disaster for the State of Oklahoma, dated October 14, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1986:

The following counties for Public Assistance:

Beckham	Greer	Ottawa
Blaine	Kay	Pawnee
Caddo	Kingfisher	Payne
Canadian	Kiowa	Sequoyah
Cherokee	Logan	Tillman
Custer	McClain	Tulsa
Garfield	Major	Wagoner
Grady	Muskogee	Washington
Grant	Osage	Washita

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-24900 Filed 11-3-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Industry Workshop; Electronic Payments Formats; Meeting

The Federal Reserve System will sponsor two workshops on a standard electronic payments format on Monday, November 17, 1986 and Monday, November 24, 1986. The two workshops, which will be open to industry representatives, are similar but are targeted towards different audiences. The November 17, 1986 workshop is for banking industry and standards setting representatives. The November 24, 1986 workshops is for software and hardware vendors. The two workshops will be held as follows:

AUDIENCE: Banking industry and standards setting groups
DATE: November 17, 1986
TIME: 9:30 to 12:00 noon
ADDRESS: Home Insurance Building, 59 Maiden Lane, New York City (between Nassau and Williams Streets, in the Financial District)
ROOM: 15th Floor

AUDIENCE: Software and hardware vendors
DATE: November 24, 1986
TIME: 9:30 to 12:00 noon
ADDRESS: Federal Reserve Bank of Boston, 600 Atlantic Avenue, Boston, Massachusetts
ROOM: Auditorium, ground level

The purpose of the workshop is to discuss with industry participants the implications of moving to one standard format for all Federal Reserve electronic payments (transfer of funds, securities transfer, and the automated clearing house). The need for such a workshop is a result of research, recently conducted by the Federal Reserve, on the future of electronic payments in this country. One of the major issues to emerge was the need for a standard format for electronic payments.

The task force studying standard formats, would like industry feedback on the implications and the viability of selecting ANSI X12 as a standard format.

The workshop is an opportunity for participants, knowledgeable about the various payments formats, to discuss the impact of such a change in formats. Changing to a new format would provide both benefits and transition hurdles to payments system users. Since acceptance by users is essential to the success of any new transaction format, the Federal Reserve is interested in the ramifications of such a change to depository institutions and their customers, and in any obstacles inherent in the use of the ANSI X12 standard.

Issues and comments generated from the workshop will help focus subsequent research and coordination efforts, helping the Federal Reserve develop an effective and efficient standard format.

Persons wishing to comment in writing regarding the above topic may do so by mailing statements to Tina Slater, Senior Analyst, Division of Bank Operations, Board of Governors of the Federal Reserve System, Washington, DC 20551, or to Frank Zalesky, Technological Consultant, Federal Reserve Bank of Minneapolis, 250 Marquette Avenue Minneapolis, Minnesota 55480. Comments must be received no later than November 10, 1986.

For further information contact Tina Slater at (202) 452-2539 or Frank Zalesky at (612) 340-2008. For Telecommunications Device for the Deaf (TDD) users, contact: Earnestine Hill or Dorothea Thompson at (202) 452-3544.

Board of Governors of the Federal Reserve System, October 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-24857 Filed 11-3-86; 8:45 am]

BILLING CODE 6210-01-M

Barnett Banks of Florida, 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 November 24, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.,* Jacksonville, Florida; to acquire 80 percent of the voting shares of First City Bancorp, Inc., Marietta, Georgia, and thereby indirectly acquire The First National Bank of Cobb County, Marietta, Georgia.

In connection with this application, Applicant also proposes to acquire Georgia Interchange Network, Inc., Atlanta, Georgia, and thereby engage in the operation of an electronic funds transfer interchange system within the state of Georgia pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-24907 Filed 11-3-86; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp.; 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 grains 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 November 24, 1986.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp,* Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, Provident National Corporation, Cherry Hill, New Jersey, in making business loans to commercial customers from an office located in New Jersey pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-24856 Filed 11-3-86; 8:45 am]

BILLING CODE 6210-01-M

Premier Bankshares 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 offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 24, 1986.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Premier Bankshares Corporation,* Tazewell, Virginia; to acquire 100 percent of the voting shares of Peoples Bank, Inc., Honaker, Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Bank South Corporation,* Atlanta, Georgia; to acquire 100 percent of the voting shares of Southern Bancorp, Inc., Waycross, Georgia, and thereby indirectly acquire the Exchange Bank, Douglas, Georgia; Southern Bank, Waycross, Georgia; and Mount Vernon Bank, Mount Vernon, Georgia.

2. *Brannen Banks of Florida, Inc.*, Inverness, Florida; to acquire 100 percent of the voting shares of The Bank of Brooksville, Brooksville, Florida, a *de novo* bank.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Bancorp, Inc.*, Yates City, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Yates City, Yates City, Illinois. Comments on this application must be received by November 21, 1986.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bankers' Bancorporation of Missouri, Inc.*, Jefferson City, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Missouri Independent Bank, Jefferson City, Missouri.

2. *Mark Twain Bancshares, Inc.*, St. Louis, Missouri; to acquire at least 95 percent of the voting shares of Bankers Trust Company, Belleville, Illinois.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Love County Bancorp*, Marietta, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Love County, Marietta, Oklahoma. Comments on this application must be received by November 21, 1986

Board of Governors of the Federal Reserve System, October 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 24908 Filed 11-3-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION

Transaction No.	Name of acquiring person	Name of acquired person	Name of acquired entity	Date terminated
(1) 86-1236	Occidential Petroleum Corp	Diamond Shamrock Corp	Diamond Shamrock Chemicals Corp	Aug. 27, 1986.
(2) 86-1323	Summit Health Ltd	Tucson General Hospital	Tucson General Hospital	Aug. 19, 1986.
(3) 86-1405	Blue James N	Chevron Corp	GA Technologies Inc	Sept. 18, 1986.
(4) 86-1439	Whittaker Corp	Arlen Corp	Steel Strip-Juster Steel Div.	Aug. 7, 1986.
(5) 86-1449	Arlen Corp	Whittar Industries Ltd	Whittar Industries Ltd	Aug 7, 1986.
(6) 86-1489	United Van Lines Inc	Sentry Insu A Mutual Co	Great Southwest Fire Insu Co	Aug. 7, 1986.
(7) 86-1508	Federal Realty Investment Trus	Berman Wolford I-Melvin J	Berman Enterprises	Aug. 7, 1986.
(8) 86-1511	BankAmerica Corp	BCI Associates L P	Beatrice Financial Services In	Aug. 7, 1986.
(9) 86-1496	Gulf Western Inc	W D Larson Cos Ltd Inc	Allstate Finance Leasing	Aug. 8, 1986.
(10) 86-1481	Natl Patent Development Corp	Baxter Travenol Labs Inc	Abbey Medical Inc	Aug. 11, 1986.
(11) 86-1497	Petroleos de Venezuela S A	Southland Corp	Citgo Petroleum Corp	Sept. 4, 1986.
(12) 86-1498	Petroleos de Venezuela S A	Colonial Pipeline Co	Colonial Pipeline Co	Sept. 4, 1986.
(13) 86-1522	Imperial Chemical Industries	Chevron Corp	Paraquat	Aug. 7, 1986.
(14) 86-1513	Mead Corp	James River Corp of Virginia	Zellerback Distribution Group	Aug. 15, 1986.
(15) 86-1534	Burmah Oil Inc	Columbia Cement Co Inc	Columbia Cement Co Inc	Aug. 8, 1986.
(16) 86-1535	Hansen Elmer F-Eileen G	Fidelcor Inc	Fidelity Bond Mortgage Co	Aug. 6, 1986.
(17) 86-1520	Triangle Industries Inc	American Can Company	American Can Company	Sept. 25, 1986.
(18) 86-1521	American Can Co	Triangle Industries Inc	Triangle Industries Inc	Sept. 25, 1986.
(19) 86-1554	Heritage Communications Inc	Rollins Communications Inc	Rollins Communications Inc	Aug. 7, 1986.
(20) 86-1551	Jefferson Smurfit Group plc	Mobil Corp	Container Corp of America	Aug. 25, 1986.
(21) 86-1552	Morgan Stanley Leveraged Equit	Mobil Corp	Container Corp of America	Aug. 25, 1986.
(22) 86-1553	H.F. Lenfest	Tele-Communications Inc	Tele-Communications Inc	Aug. 26, 1986.
(23) 86-1537	Gloucester County Times Inc	Times Mirror Co	Times Herald Printing Co	Aug. 7,1986.
(24) 86-1547	Ladd Furniture Inc	American Furniture Co Inc	American Furniture Co Inc	Aug. 7, 1986.
(25) 86-1540	Georgetown Industries Inc	V H I Inc	V H I Inc	Aug. 13, 1986.
(26) 86-1586	Exposaic Industries Inc	Georgetown Industries Inc	Andrews Wire Divi of Gll	Aug. 19, 1986.
(27) 86-1559	V F Corp	Blue Bell Savs-Profit Sharing	Blue Bell Savs-Profit Sharing	Aug. 27, 1986.
(28) 86-1563	Giant Group Ltd	Tre Corp	Tre Corp	Sept. 2, 1986.
(29) 86-1586	Exposaic Industries Inc	Georgetown Industries Inc	Andrews Wire Divi of Gll	Aug. 19, 1986.
(30) 86-1598	Interco Inc	Converse Inc	Converse Inc	Aug. 19, 1986.
(31) 86-1603	Boots Co PLC	Baxter Travenol Labs Inc	Flint Divi-Smith Labs	Aug. 26, 1986.
(32) 86-1604	Commonwealth Energy System	Texas Eastern Corp	Texas Eastern Corp	Sept. 4, 1986.
(33) 86-1611	Gillett George N Jr	A S Abell Co	Wmar Inc—WRLH-TV	Sept. 4, 1986.
(34) 86-1612	Gillett George N Jr	Times Mirror Co	Times Mirror Co	Sept. 4, 1986.
(35) 86-1656	Alaska Air Goup Inc	Jet America Airlines Inc	Jet America Airlines Inc	Aug. 22, 1986.
(36) 86-1638	Sedgwick Group-Fred S James	Armistead Group Inc	Armistead Group Inc	Aug. 26, 1986.
(37) 86-1640	Pan-American Life Insu Co	Gill Marvin D	National Insu Services Inc	Aug. 26, 1986.
(38) 86-1646	Saddlebrook Corp	First Columbia Financial Corp	Mid-Continent Computer Servs	Aug. 26, 1986.
(39) 86-1648	Cineplex Odeon Corp	Landes Michael	RKO Century Warner Theatres	Aug. 29, 1986.
(40) 86-1649	Cineplex Odeon Corp	Schwartz Albert	RKO Century Warner Theatres	Aug. 29, 1986.
(41) 86-1657	Alaska Air Group Inc	Jet America Airlines Inc	Jet America Airlines Inc	Aug. 22, 1986.
(41) 86-1661	Reed Intl P L C	Levine Mark	American Baby Inc-Cable TV	Aug. 27, 1986.
(42) 86-1665	Armstrong World Industries Inc	Henry Warner W	WW Henry Co-Henry Development	Aug. 27, 1986.
(43) 86-1668	Reed Intl P L C	Goldberg Alan	American Baby Inc-Cable TV	Aug. 27, 1986.
(44) 86-1679	Weyerhaeuser Co	Benjamin Ansehl Co	Benjamin Ansehl Co	Aug. 26, 1986.
(45) 86-1691	Weyerhaeuser Co	Jack Ansehl Living Trust	Jack Ansehl Living Trust	Aug. 28, 1986.
(46) 86-1686	Textron Inc	Ex-Cell O Corp	Ex-Cell O Corp	Aug. 28, 1986.
(47) 86-1696	Textron Inc	Ex-Cell O Corp	Ex-Cell O Corp	Aug. 28, 1986.
(48) 86-1681	Davis William Jack	Pratt-Read Corp	Pratt-Read Corp	Sept. 5, 1986.

TRANSACTIONS GRANTED EARLY TERMINATION—Continued

Transaction No.	Name of acquiring person	Name of acquired person	Name of acquired entity	Date terminated
(49) 86-1682	Genetics Institute Inc	Weigen Manufacturing Inc-J V	Weigen Manufacturing Inc-J V	Sept. 10, 1986.
(50) 86-1685	Wellcome Trust Foundation Ltd	Weigen Manufacturing Inc-J V	Weigen Manufacturing Inc-J V	Sept. 10, 1986.
(51) 86-1683	Imperial Chemical Industries	Hanson Trust PLC	HSCM-6 Inc	Sept. 11, 1986.
(52) 86-1688	Ocelot Industries Ltd-J V Lyons	State Industries Inc	State Industries Inc	Sept. 12,1986.
(53) 86-1673	Borg Warner Corp	Service Corp International	Service Corp International	Sept. 2, 1986.
(54) 86-1666	Conseco Inc	H F Ahmanson	Bankers Natl Life Insu Co	Sept. 3, 1986.
(55) 86-1641	Rowntree Mackintosh plc	Sunmark Inc	Sunmark Inc	Sept. 4, 1986.
(56) 86-1659	Kenbar Industries Inc	Dart Kraft Inc	Dart Kraft Inc	Sept. 10, 1986.
(57) 86-1676	Gonzalez Hector Luis	Champion Intl Corp	Central Natl Insu Co of Omaha	Sept. 11, 1986.
(58) 86-1651	ACI International Limited	Aancor Holdings Inc	Aancor Holdings Inc	Sept. 17, 1986.
(59) 86-1715	Fulcrum II Limited Partnership	Transamerica Corp	Budget Rent A Car Corp	Aug. 8, 1986.
(60) 86-1718	Peltz Nelson	Triangle Industries Inc	Triangle Industries Inc	Sept. 2, 1986.
(61) 86-1716	Great Western Financial Corp	T L C Associates	City Holding-City Finance Co	Sept. 3, 1986.
(62) 86-1712	Companhia Vale do Rio Doce	Dixon Group	California Steel Industries	Sept. 12, 1986.
(63) 86-1714	Kawasaki Steel Corp	Dixon Group	California Steel Industries	Sept. 12, 1986.
(64) 86-1708	Hitachi Zosen Corporation	Hanson Trust PLC	Clearing Inc	Sept. 25, 1986.
(65) 86-1698	Tenneco Inc	Fulcrum Partnership	E-Z Por Corp	Sept. 2, 1986.
(66) 86-1699	Fletcher Challenge Limited	Miller Vance C	Pacific Construction Co Ltd	Sept. 5, 1986.
(67) 86-1702	Beneficial Corp	American Savings Loan Assc	American Savings Loan Assc	Sept. 5, 1986.
(68) 86-1701	Inspiration Resources Corp	Merrill Lynch	Merill Lynch Leasing Inc	Sept. 10,1986.
(69) 86-1704	RMB Texas T Partners	Taft Broadcasting Co	Taft Broadcasting Co	Sept. 12, 1986.
(70) 86-1703	Honeywell Inc	Newco	Newco	Sept. 26, 1986.
(71) 86-1694	Sudbury Holdings Inc	West Clarence	United Industries Inc	Aug. 29, 1986.
(72) 86-1695	English China Clays P L C	Moretti Harrah Marble Co Inc	Moretti Harrah Marble Co Inc	Sept. 2, 1986.
(73) 86-1692	Lone Star Industries Inc	Pacific Ready Mix Inc	Pacific Ready Mix Inc	Sept. 4, 1986.
(74) 86-1693	CasChem Group Inc	Schering Aktiengesellschaft	Nepara Inc	Sept. 5, 1986.
(75) 86-1689	Jannock Limited	Nika Holding Inc	Richtex Corp	Sept. 17, 1986.
(76) 86-1697	NEC Corp	Newco	Newco	Oct. 12, 1986.
(77) 86-1720	FCS Energy Inc	Amax Inc	Amax Chemical Corp	Sept. 5, 1986.
(78) 86-1719	Allied Signal Inc	Becton Dickinson Co	Endevco Divi-Transducer Tech	Sept. 11, 1986.
(79) 86-1722	Lafarge Coppee S A	Aancor Holdings Inc	Aancor Holdings Inc	Sept. 11, 1986.
(80) 86-1725	Arabian Investment Banking	Peebles Inc	Peebles Inc	Sept. 16, 1986.
(81) 86-1723	Dresser Industries Inc	Newco	Newco	Sept. 29, 1986.
(82) 86-1724	Halliburton Co	Newco	Newco	Sept. 29, 1986.
(83) 86-1735	Alleghany Corp	Shelby Mutual Insu Co of Shelb	Shelby Mutual Insu Co of Shelb	Sept. 8, 1986.
(84) 86-1741	Unocal Corp	Santa Fe Southern Pacific Corp	Southern Pacific Land Co	Sept. 9, 1986.
(85) 86-1743	American Express Co	Sun Co Inc	Sun Distributors Inc	Sept. 9, 1986.
(86) 86-1761	Interco Inc	Converse	Converse	Sept. 12, 1986.
(87) 86-1739	Weston Paper Manufacturing Co	Green Bay Packaging Inc	Pioneer Container Corp	Sept. 17, 1986.
(88) 86-1742	Reckitt Colman plc	Hanson Trust plc	HSCM-7 Inc	Sept. 25, 1986.
(89) 86-1726	Mutual Life Insur Co of N Y	Hunt James R	North American Mortgage Co	Sept. 9, 1986.
(90) 86-1728	Lorimar Telepictures Corp	WBC Associates	Wometco Broadcasting Co	Sept. 12, 1986.
(91) 86-1729	Lorimar Telepictures Corp	SCI Associates L P	SCIPSCO Inc	Sept. 12, 1986.
(92) 86-1738	Interco Inc	Converse Inc	Converse Inc	Sept. 12, 1986.
(93) 86-1733	Merrill Lynch Co Inc	Gelco Corp	Gelco Corp	Sept. 17, 1986.
(94) 86-1732	Rigas John J	Prime Cable Corp	Comax Telecom Corp	Sept. 25, 1986.
(95) 86-1752	Merrill Lynch Co Inc	Wilkins James M-Orbit Manuf	Orbit-Claco Manuf-Penline Gar	Sept. 8, 1986.
(96) 86-1745	Days Inns Corp	Belz Jack A	Northwest Motel Corp-Expresswa	Sept. 12, 1986.
(97) 86-1755	Scripps Memorial Corp	Bay Hospital Medical Center	Bay Hospital Medical Center	Sept. 12, 1986.
(98) 86-1754	Oklahoma Publishing Co	Chiles H E	Rangers Management Inc	Sept. 19, 1986.
(99) 86-1748	Willamette Industries Inc	Peter Kiewit Sons, Inc	Peter Kiewit Sons, Inc	Sept. 22, 1986.
(100) 86-1751	RMS Ltd Partner-c/o Home Shop	WBC Associates L P Ltd Partner	Wometco WWHT Inc	Sept. 25, 1986.
(101) 86-1759	Peracchi Donald J-Judith E	H F Ahmanson & Co	Natl American Life Insu Co	Sept. 8, 1986.
(102) 86-1756	Aluminum Co of America	Borden Inc	Ragsdale Bros Inc-Tool Co	Sept. 12, 1986.
(103) 86-1760	Humana Inc	Womens Hospital Properties Ltd	Womens Hospital Properties Ltd	Sept. 18, 1986.
(104) 86-1758	Bonanno Carmine J-Miller Crop	I C Industries Inc	Abex Corp	Sept. 23, 1986.
(105) 86-1762	Excel Industries	Ford Motor Co	Modular Concepts Inc	Sept. 29, 1986.
(106) 86-1763	Ford Motor Co	Excel Industries Inc	Excel Industries Inc	Sept. 29, 1986.
(107) 86-1769	Chase Manhattan Co	Goff Tommy	Certified Savings Association	Sept. 12, 1986.
(108) 86-1768	Investment Ltd Partnership	Conductron Corp	Conductron Corp	Sept. 17, 1986.
(109) 86-1765	Phila Contri Insu of Houses	Rosenlund Arthur O	Germantown Insurance Co	Sept. 22, 1986.
(110) 86-1766	RMS Ltd Partnership-Home Shop	Piangere Jules L Jr	WSJT-TV 65	Sept. 23, 1986.
(111) 86-1767	RMS Ltd Partnership-Home Shop	Estate of E W Lass	WSJT-TV 65	Sept. 23, 1986.
(112) 86-1764	AlaTenn Resources Inc	Colony Energy Corp	Colony Energy Corp	Sept. 29, 1986.
(113) 86-1772	Basf Aktiengesellschaft	Intl Minerals Chemical Corp	IMC Pipeline Co	Sept. 12, 1986.
(114) 86-1775	Compact Video Inc	Revlon Group Inc	Adams Drug Co Inc	Sept. 12, 1986.
(115) 86-1777	Waste Management Inc	Baker International Corp	Baker International Corp	Sept. 12, 1986.
(116) 86-1770	National Freight Consortium	Bauphin Distribution Servs Co	Dauphin Distribution Servs Co	Sept. 23, 1986.
(117) 86-1771	Sosnoff Martin T	Caesars World Inc	Caesars World Inc	Sept. 24, 1986.
(118) 86-1776	Pfizer Inc	Intermedics Inc	Infusaid Co	Sept. 26, 1986.
(119) 86-1778	Arthur J Gallagher & Co	Heffernan Frank M Jr	Heffernan Keiler Doble Inc	Sept. 16, 1986.
(120) 86-1779	Hefferman Frank M Jr	Arthur J Gallagher & Co	Hefferman Keiler Doble Inc	Sept. 16, 1986.
(121) 86-1781	Triton Group Ltd	Intermark Inc	U S Press Inc	Sept. 18, 1986.
(122) 86-1782	Intermark Inc	Triton Group Ltd	Triton Group Ltd	Sept. 18, 1986.
(123) 86-1784	Bird Inc	Noranda Inc	Norandex Distribution Corp	Sept. 23, 1986.
(124) 86-1786	Mitsubishi Corp	Memory-Tech Inc	Memory-Tech Inc	Sept. 25, 1986.
(125) 86-1795	United Cable Television Corp	Prime Cable Corp	United CATV Inc	Sept. 22, 1986.
(126) 86-1793	Sedgwick Group plc	Crump Cos Inc	Crump Cos Inc	Sept. 23, 1986.
(127) 86-1819	Sedgwick	Crump Cos Inc	Crump Cos Inc	Sept. 23, 1986.
(128) 86-1790	Dart Kraft Inc	Distribuco Inc	Keeler Foods Inc	Sept. 24, 1986.
(129) 86-1787	Prudential Insu Co of America	Lumbermens Mutual Insu Co	Lumbermens Mutual Insu Co	Sept. 26, 1986.
(130) 86-1792	Artra Group Inc	Levinger Frederick N	Park Lane Associates Inc	Sept. 29, 1986.
(131) 86-1797	C H Beazer (Holdings) PLC	Gifford-Hill Co Inc	Gifford-Hill Co Inc	Sept. 16, 1986.
(132) 86-1798	Rockwell Intl Corp	Electronics Corp of America	Electronics Corp of America	Sept. 23, 1986.
(133) 86-1799	Rockwell International Corp	Electronics Corp of America	Electronics Corp of America	Sept. 23, 1986.
(134) 86-1804	McJunkin Corp	Grant Corps	Grant Supply Co	Sept. 23, 1986.
(135) 86-1801	General Electric Co	BankAmerica Corp	BancAmerica Acceptance Corp	Sept. 25, 1986.
(136) 86-1802	Tyco Toys Inc	K A C Inc	Kusan Inc	Sept. 25, 1986.
(137) 86-1806	InterContinental Life Corp	Standard Life Insurance Co	Standard Life Insurance Co	Sept. 22, 1986.
(138) 86-1810	Hindman Don J	simon Bros Inc	Simon Bros Inc	Sept. 22, 1986.
(139) 86-1813	Marshall Field V	Westinghouse Electric Corp	Group W Radio Inc	Sept. 22, 1986.
(140) 86-1808	Charmer Industries Inc	Handelman Irving	Service Liquor Distributors	Sept. 25, 1986.

TRANSACTIONS GRANTED EARLY TERMINATION—Continued

Transaction No.	Name of acquiring person	Name of acquired person	Name of acquired entity	Date terminated
(141) 86-1809	Oy Wartsila Ab	GCA Corp	GCA Industrial Systems Group	Sept. 25, 1986.
(142) 86-1812	Gotaas-Larsen Shipping Corp	Admiral Holdings Corp	Admiral Holdings Corp	Sept. 25, 1986.
(143) 86-1824	Brierley Investments Ltd	Anadite Inc	Anadite Inc	Sept. 26, 1986.
(144) 86-1825	U S F G Corp	Capital Guaranty Corp	Capital Guaranty Corp	Sept. 26, 1986.
(145) 86-1832	Baltimore Gas Electric Co	Capital Guaranty Corp	Capital Guaranty Corp	Sept. 26, 1986.
(146) 86-1835	Great Northern Nekoosa Corp	J J Corrugated Box Corp	J J Corrugated Box Corp	Sept. 26, 1986.
(147) 86-1816	Campeau Robert	Allied Stores Corp	Allied Stores Corp	Sept. 27,1986.
(148) 86-1817	Campeau Robert	Allied Stores Corp	Allied Stores Corp	Sept. 29, 1986.
(149) 86-1874	Roxboro Investments (1976) Ltd	Pullman-Peabody Co	Industrial Leasing Corp	Sept. 25, 1986.
(150) 86-1840	Bancorp Hawaii Inc	BankAmerica Corp	Arbella Leasing Corp	Sept. 26, 1986.
(151) 86-1845	Daniels Bill	Daniels-Hauser Holdings	GWC-3 Inc et al	Sept. 26, 1986.
(152) 86-1856	ASARCO Inc	British Petroleum Co The	Ray Mines Division	Sept. 26, 1986.
(153) 86-1849	Armstrong Rubber Co The	Dayco Corp	World Wide Rubber Operations	Sept. 29, 1986.
(154) 86-1887	Alco Standard Corp	Silvestri Corp	Silvestri Corp	Sept. 26, 1986.
(155) 86-1881	Siebe plc	Robertshaw Controls Co	Robertshaw Controls Co	Sept. 29, 1986.
(156) 86-1882	Siebe plc	Robertshaw Controls Co	Robertshaw Controls Co	Sept. 29, 1986.
(157) 86-1625	Nash-Finch Co	Thomas Howard Co of Hickory	Thomas Howard Co of Hickory	Aug. 28, 1986.
(158) 86-1623	M P G Acquisition Corp	Gould Inc	Medical Products Group	Aug. 28, 1986.
(159) 86-1624	General Instrument Corp	M-A Com Inc	Cable Home Communication Corp	Sept. 2, 1986.
(160) 86-1613	American Express Co	American Intl Group Inc	Preinco Holdings Inc	Sept. 3, 1986.
(161) 86-1614	Groupe Bruxelles Lambert S A	American Intl Group Inc	Preinco Holdings Inc	Sept. 3, 1986.
(162) 86-1623	New Zealand Dairy Board	Philip Morris Companies Inc	Otto Roth Co Inc	Sept. 4,1986.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-24844 Filed 11-3-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee Meeting; Anesthesiology and Respiratory Therapy Devices Panel

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:

Anesthesiology and Respiratory Therapy Devices Panel

Date, time, and place. November 21, 9 a.m., Rm. T-416, 12720 Twinbrook Parkway, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 11:30 a.m.; closed presentation of data, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 5 p.m.; Carolyn Derrer, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7226.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 10, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of the proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) on a high frequency ventilator.

Closed presentation of data. Trade secret and/or confidential commercial or financial information will be presented to the committee regarding the manufacturing and in vitro data contained in the PMA for a high frequency ventilator. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above 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 committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate 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.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

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: October 28, 1986.

John A. Norris,

Acting Commissioner for Food and Drugs.

[FR Doc. 24848 Filed 11–3–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86V–0196]

Approved Variance From the Standard for Diagnostic X-Ray Systems and Their Major Components; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a variance from the performance standard for diagnostic X-ray systems and their major components has been approved by FDA's Center for Devices and Radiological Health (CDRH) for heavy-duty stretchers and beds.

DATES: The variance became effective July 30, 1986, and terminates July 30, 1991.

ADDRESSES: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Land, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Donovan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), CDRH has granted the Stryker Corp., 420 East Alcott St., Kalamazoo, MI 49001–6197, a variance from § 1020.30(n) (21 CFR 1020.30(n)) of the performance standard for diagnostic X-ray systems and their major components for heavy-duty stretchers and beds that are used in emergency rooms, recovery rooms, and intensive care/coronary care units, and that can be used to hold overweight patients during diagnostic X-ray procedures.

The specific requirement of the standard from which a variance has been granted pertains to the provision of § 1020.30(n) which states that the aluminum equivalent of each of the items listed in table II which are used between the patient and the image receptor may not exceed the indicated limits. All other provisions of the performance standard remain applicable to the product.

CDRH had determined that: (1) The requirement of § 1020.30(n) is not appropriate for heavy-duty stretchers and beds that are used to hold overweight patients during diagnostic X-ray procedures; (2) the anticipated frequency of use of these heavy-duty stretchers and beds for X-ray purposes is about 5 percent of all X-rays taken in the hospital units in question; and (3) the best available estimates indicate that, under the variance, the increase in patient X-ray exposure would not be over 10 percent more than the exposure afforded by similar products that are in compliance with the standard. Thus, these heavy-duty beds and stretchers will still utilize suitable means of providing radiation safety. For these reasons, on July 30, 1986, CDRH approved the requested variance by a letter to the manufacturer from the Deputy Director of CDRH.

So that the product may show evidence of the variance approved for the manufacturer, the product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number appearing in the heading of this notice, and the effective date of the variance.

In accordance with § 1010.4, the application and all correspondence on the application have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the

Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: October 16, 1968.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–24847 Filed 11–3–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Walker River Indian Irrigation Project Schurz, NV; Proposed Annual Operation and Maintenance Charges

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

SUMMARY: The purpose of this notice is to propose an increase in the annual per acre assessment rate for the operation and maintenance of the Walker River Indian Irrigation System. The proposed increase in the annual per acre assessment is from $11.00 to $15.29 per acre. The proposed rate for lands owned and operated solely by Indians is $7.32 per acre. The Bureau of Indian Affairs' budget for FY '87 will request the difference between the full rate of $15.29 per acre and the Indian rate of $7.32 per acre for the project acreage subject to the reduced Indian rate.

COMMENTS: Written comments on the proposed rate increase will be accepted for a period of 30 days from November 4, 1986.

ADDRESS: Comments should be submitted to Robert L. Hunter, Superintendent, Western Nevada Agency, 1300 S. Curry Street, Carson City, NV 89701.

SUPPLEMENTARY INFORMATION: The current operation and maintenance charges were established in 1977. The costs of labor, materials, fuel, and equipment have increased during this period and now significantly exceed the revenue generated by the present operation and maintenance assessment.

A notice of the proposed changes in the assessment rate was sent to all water users on August 6, 1986. Three public meetings were conducted to receive and acknowledge comments from all interested parties. All comments received were carefully considered in arriving at the proposed rates.

Pursuant to § 171.1e, Part 171, Chapter 1, Title 25, of the Code of Federal Regulations, this public notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Assistant Secretary to the Area Director in 10 BIAM 3.

Walker River Indian Irrigation Project Proposed Annual Operation and Maintenance Charges

Annual Operation and Maintenance Charge—Pursuant to the Indian Appropriation Act of August 1, 1914, (Stat. 582, 25 U.S.C. 385) annual operation and maintenance charges for irrigation water shall be levied against all lands within the Walker River Indian Irrigation Project to which irrigation water can be delivered by the project operators. The charge is assessable whether or not the water is requested or used.

The annual per acre operation and maintenance charge is hereby proposed to be $15.19 per acre. Pursuant to the Assistant Commissioner's memorandum of July 11, 1960, annual per acre operation and maintenance charge for lands owned and operated soley by Indians is hereby proposed to be $7.32 per acre. Upon careful review of written comments, the Area Director shall fix and announce in the **Federal Register** pursuant to § 171.1e, Part 171, Chapter 1, Title 25, of the Code of Federal Regulations, the annual operation and maintenance assessment rates.

Payment—The proposed annual operation and maintenance charge shall become due on March 1 of every year and is payable on or before that date.

Charges that remain unpaid after the due date shall accrue interest at the rate of one percent (1%) per month. In addition, an administrative processing fee of ten dollars ($10.00) shall be added to the total charge each time an overdue payment notice is prepared and mailed by the Bureau.

Irrigation water shall not be delivered to any lands for which the annual charges have not been paid unless an agreement has been reached under the provisions of 25 CFR 171.17, Delivery or Water.

Water User's Responsibility—The water users are responsible for the water after it has been delivered to their lands and are required to maintain their field ditches in suitable condition to economically and efficiently transport the irrigation water to the place of use. Water delivery shall be refused to such ditches that are not satisfactorily maintained.

Distribution and Apportionment—All appropriated water of the project is deemed a common water supply in which all irrigable lands of the project are entitled to a fair and equitable share of the water as is practically possible.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Hunter, Superintendent, Western Nevada Agency, 1300 South Curry Street, Carson City, NV 89701.

Dated: October 16, 1986.

Robert L. Hunter,

Superintendent.

[FR Doc. 86–24865 Filed 11–3–86; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[NM NM 27504]

New Mexico; Proposed Reinstatement of Terminated Oil and Gas Lease

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of 43 CFR 3108.2–3, Chevron USA, Inc., petitioned for reinstatement of oil and gas lease NM NM 27504 covering the following described lands located in Lea County, New Mexico:

T. 26 S., R. 32 E., NMPM, New Mexico,
Sec. 13: SW¼, W½SE¼, SE¼SE¼;
Sec. 14: E½, SW¼;
Sec. 23: N½, SE¼;
Sec. 24: N½, N½S¼, S½SW¼.

Containing 1,800.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $7.00 per acre per year and royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, September 1, 1985.

Dated: October 21, 1986.

Dolores L. Vigil,

Acting Chief, Adjudication Section.

[FR Doc. 86–24811 Filed 11–3–86; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–050–07–4212–11; A–21090, A–21170]

Realty Action; Lease or Conveyance of Public Lands in Mohave County, AZ

The following lands have been determined to be suitable and will be classified for lease or conveyance to the

City of Bullhead City under the Recreation and Public Purposes Act as amended (43 U.S.C. 869 et seq.):

Gila and Salt River Meridian, Arizona

T. 20 N., R. 21 W.,
Sec. 18, NE¼ containing 160 acres.
T. 20 N., R. 22 W.,
Sec. 20, Lot 4 & SW¼NE¼ containing 54.36 acres.

The City of Bullhead City has expressed an interest in the above described lands for community purposes.

These lands are not required for Federal purposes. Lease or conveyance of these lands is consistent with the Bureau's planning for this area and would be in public interest.

The lease or conveyance would be subject to the following conditions:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights of record at the time of lease or conveyance.

Upon publication of this notice in the Federal Register, these lands will be segregated from all forms of appropriations, including the general mining laws, except as to application under the Recreationl and Public Purposes Act. For a period of 45 days from the date of publication of this Notice, interested parties may submit comments to the District Manager, Yuma District, P.O. Box 5680, Yuma, Arizona 85364. Any 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 Interior, effective 60 days from the date of publication in the Federal Register. Additional information may be obtained from the Havasu Resource Area (602) 855-8017.

Dated: October 28, 1986.

J. Dorwin Snell,

District Manager.

[FR Doc. 86-24866 Filed 11-3-86; 8:45 am]

BILLING CODE 4310-32-M

[CA-060-06-4212-14; CA 18389]

Realty Action; Sale of Public Land in Riverside County, CA

Correction

In FR Doc. 86-16691 beginning on page 26603 in the issue of Thursday, July 24, 1986, make the following correction:

On page 26603, in the table, the last line of the "Legal description" for parcel R-2 should read "SE¼NE¼, SE¼SE¼, SW¼NE¼, SE¼, E½SW¼".

BILLING CODE 1505-01-M

[CA-940-06-4212-13; CA 18780]

California; Exchange of Public and Private Lands in Riverside County and Opening Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document and order opening lands acquired in this exchange.

SUMMARY: The purpose of this exchange was 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 6,700 acres of land within the preserve. Other State or Federal agencies will acquire the remaining portion of the preserve. Within the preserve there are habitat and non-habitat areas for the fringe-toed lizards. The land acquired in this exchange is within a non-habitat area and will be used as a source of sand for the lizards' habitat areas. The public interest was well served through completion of this exchange. The land acquired in this exchange will be open to the operation of the public land laws and to the full operation of the United States mining laws and mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

The United States issued an exchange conveyance document to The Nature Conservancy on September 12, 1986, for the following described land under the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 3 S., R. 5 E.,
Sec. 30, Lots 59 and 60, E½SW¼, and SE¼.
Comprising 325.91 acres of public land.

In exchange for these lands the United States acquired the following described land from The Nature Conservancy:

San Bernardino Meridian, California

T. 4 S., R. 6 E.,
Sec. 2: Lots 3 and 4, SW¼NW¼, W½SE¼NW¼, SW¼, W½SE¼, SW¼NE¼SE¼, and SE¼SE¼.
T. 4 S., R. 7 E.,
Sec. 6: Lot 1 of NW¼, Lot 1 of SW¼, N½ of Lot 2 of SW¼, and W½SW¼ NW¼SE¼.

Except any portion within the 80.00-foot-wide right-of-way for an aqueduct road, the 50.00-foot-wide right-of-way for a transmission line, and the 80-foot--wide right-of-way for an aqueduct road, granted to the Metropolitan Water District of Southern California, by an act of Congress, approved June 18, 1932 (Ch. 270, 47 Stat. 324) as shown on the Maps of definite location thereof, approved by the Secretary of the Interior, May 2, 1933 and December 2, 1933.

Containing 641.51 acres of nonfederal land.

A payment in the amount of $1,000 has been paid to the United States by The Nature Conservancy to equalize values between the nonfederal lands and the public land.

At 10 a.m. on December 3, 1986, the nonfederal lands described above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 3, 1986, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on December 3, 1986, the nonfederal lands described above shall be open to applications under the United States mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Dated: October 24, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication and Records.

[FR Doc. 86-24867 Filed 11-3-86; 8:45 am]

BILLING CODE 4310-40-M

[M-66519]

Realty Action, Exchange; Montana

Correction

In FR Doc. 86-23438 beginning on page 37084 in the issue of Friday, October 17, 1986, make the following corrections:

1. On page 37084, in the second column, under "T.8S., R. 49E.,", in "Sec. 34", "SW¼SW¼" should read "SE¼SW¼".

2. In the same column, under "T.9S., 49E.,", in "Sec. 4", in the first line, "SW¼SW¼," should read "NW¼SW¼,".

3. Also on page 37084, in the third column, under "T.9S., R. 49E.,", in "Sec. 32", "NW¼SE¼" should read "NE¼SE¼".

4. In the third column, in the DATES caption, in the sixth line, "evaluate" should read "evaluated".

BILLING CODE 1505-01-M

[CA-940-07-4520-12; C-10-86]

California; Filing of Plat of Survey

October 15, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 6 S., R. 22 E.

2. This supplemental plat of the South West ¼ section 32, Township 6 South, Range 22 East, San Bernardino Meridian, California, showing amended lottings is based upon the plat approved October 6, 1856, the plat accepted December 14, 1960, the Bureau of Public Roads R/W Map No. 11-RIV-10-P.M. 146.9 and the Director's Deed No. R/W DK-17154-01-01, State of California, Gift of Land, dated December 17, 1974, recorded in the Official Records Book No. 1979, at Page 76218, Riverside County, was accepted September 30, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 86-24868 Filed 11-3-86; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

[FES 86-44]

Gulf of Mexico Region; Availability of the Final Environmental Impact Statement on the Proposed Central and Western Gulf of Mexico Lease Sales 110 (April 1987) and 112 (August 1987)

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a final Environmental Impact Statement (EIS) relating to proposed 1987 Outdoor Continental Shelf oil and gas lease sales of available unleased blocks in the Central and Western Gulf of Mexico (GOM). The proposed Central GOM Sale 110 will offer for lease approximately 31.7 million acres, and the Western GOM Sale 112 will offer approximately 28.2 million acres.

Single copies of the final EIS can be obtained from the Minerals Management Service, Gulf of Mexico Region, 1420 S. Clearview Parkway, New Orleans, Louisiana 70123.

Copies of the final EIS will be available for review by the public in the following libraries: Austin Public Library, 402 West Ninth Street, Austin, Texas; Houston Public Library, 500 McKinney Street, Houston, Texas; Dallas Public Library, 1513 Young Street, Dallas, Texas; Brazoria County Library, 410 Brazoport Boulevard, Freeport, Texas; LaRatama Library, 505 Mesquite Street, Corpus Christi, Texas; Texas Southmost College Library, 1825 May Street, Brownsville, Texas; Rosenburg Library, 2310 Sealy Street, Galveston, Texas; New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana; Louisiana State Library, 760 Riverside, Baton Rouge, Louisiana; Lafayette Public Library, 301 W. Congress, Lafayette, Louisiana; Calcasieu Parish Library, Downtown Branch, 411 Pujo Street, Lake Charles, Louisiana; Nicholls State Library, Nicholls State University, Thibodaux, Louisiana; Harrison County Library, 14th and 21st Avenue, Gulfport, Mississippi; Mobile Public Library, 701 Government Street, Mobile, Alabama; Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida; West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida; Northwest Regional Library System, 25 West Government Street, Panama City, Florida; Leon County Public Library, 127 North Monroe Street, Tallahassee, Florida; Lee County Library, 3355 Fowler Street, Fort Myers, Florida; Charlotte-Glades Regional Library System, 2280 NW Aaron Street, Port Charlotte, Florida; and Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, Florida.

Dated: October 29, 1986.

Donald L. Sant,

Acting Director, Minerals Management Service.

Approved.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 86-24831 Filed 11-3-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract; Oregon Caves Co.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Regional Director of the Pacific Northwest Region of the National Park Service proposes to negotiate a concession contract for the continued operation of hotel, restaurant and cave guide services for the public at Oregon Caves National Monument in the state of Oregon. The contract will be for a period of ten (10) years from January 1, 1987, through December 31, 1996.

The existing concessioner, Oregon Caves Company, has performed its obligations to the satisfaction of the Secretary under a current contract. Therefore, pursuant to the Act of October 9, 1965, the existing concessioner is entitled to be given a preference in the negotiation of a new contract. This preference allows an existing satisfactory concessioner to offer to meet the terms of the best offer made in response to the terms of the Statement of Requirements if that offer is not that of the existing satisfactory concessioner.

For a copy of the Statement of Requirements describing the opportunity offered and including the application requirements, interested parties should write to the Superintendent, Crater Lake National Park, P.O. Box 7, Crater Lake, Oregon 97604 (Administrative Headquarters for Oregon Caves National Monument) or call Mr. Phil Parker, Concession Analyst, 206-442-5193.

The Secretary will consider and evaluate all proposals timely received. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

This contract action has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

Dated: July 14, 1986.

William J. Briggle,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 86-24826 Filed 11-3-86; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 25, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 19, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Coconino County

Tutuveni

Willow Springs

ARKANSAS

Phillips County

Helena, *Beech Street Historic District,* Roughly bounded by McDonough, Columbia, Beech, Elm, Perry, and College

Union County

El Dorado, *Exchange Bank,* Corner of Washington and Oak Sts.

Washington County

Fayetteville, *Lewis Brothers Building,* 1 S. Block

CALIFORNIA

Los Angeles County

Los Angeles, *Granada Shoppes and Studios,* 672 S. Lafayette Park Place.

CONNECTICUT

Fairfield County

Fairfield, *Osborne, John, House,* 909 King's Highway W.

Hartford County

Simsbury, *Simsbury Bank and Trust Company Building,* 760–762 Hopmeadow St.

Windsor, *Fitch, John, School,* 156 Bloomfield Ave.

Middlesex County

East Haddam, *Warner House,* 307 Town St.

Middletown, *Wilcox, Crittenden Mill,* 234–315 S. Main St., Pameacha, and Highland Aves.

New Haven County

Meriden, *Meriden Curtain Fixture Company Factory,* 122 Charles St.

Southbury, *South Britain Historic District,* E. Flat Hill, Hawkins, Library and Middle Rd., and 497–864 S. Britain Rd.

New London County

Waterford, *Eolia—Harkness Estate,* Great Neck Road

GEORGIA

Fulton County

Atlanta, *Raoul, William, G., House,* 848 Peachtree St.

KANSAS

Cowley County

Winfield vicinity, Silver Creek Bridge, East of Winfield

Douglas County

Lawrence, *Eldridge House Hotel,* Seventh and Massachusetts

Miami County

Osawatomie, *Mills, William, House,* 212 First St.

MISSISSIPPI

Hancock County

Bay St. Louis, *Glen Oak—Kimbrough House (Bay St. Louis MRA),* 806 N. Beach Blvd.

Bay St. Louis, *Taylor House (Bay St. Louis MRA),* 808 N. Beach Blvd.

NORTH CAROLINA

Pitt County

St. John's, *St. John's Episcopal Church,* SE corner of SR 1917 and SR 1753

Richmond County

Rockingham vicinity, *Dockery, Alfred, House,* E side SR 1005, 0.1 mile S of jct. with SR 1143

OHIO

Hamilton County

Cincinnati, *Doctor's Building,* 19 Garfield Pl.

PENNSLYVANIA

Philadelphia County

Philadelphia, *Bache, Alexander Dallas, School (Philadelphia Public Schools TR), 801 N. 22nd St.*

Philadelphia, *Bartlett School (Philadelphia Public Schools TR), 1100 Catharine St.*

Philadelphia County, Philadelphia, *Bartram, John, High School (Philadelphia Public Schools TR), 67th & Elmwood Sts.*

Philadelphia, *Bok, Edward, Vocational School (Philadelphia Public Schools TR), 1901 S. 9th St.*

Philadelphia, *Boone, Daniel, School (Philadelphia Public Schools TR), Hancock and Wildley Sts.*

Philadelphia, *Brooks, George L., School (Philadelphia Public Schools TR), 5629–5643 Haverford Ave.*

Philadelphia, *Central High School (Philadelphia Public Schools TR), Olney & Ogontz Aves.*

Philadelphia, *Darrah, Lydia, School (Philadelphia Public Schools TR), 708–732 N. Seventeenth St.*

Philadelphia, *Drexel, Francis M., School (Philadelphia Public Schools TR), 1800 S. Sixteenth St.*

Philadelphia, *Dunbar, Paul Lawrence, School (Philadelphia Public Schools TR), Twelfth above Columbia Ave.*

Philadelphia, *Dunlop, Thomas, School (Philadelphia Public Schools TR), 5031 Race St.*

Philadelphia, *Farragut, David, School (Philadelphia Public Schools TR), Hancock & Cumberland Sts.*

Philadelphia, *Fayette School (Philadelphia Public Schools TR), Old Bustleton and Welsh Rd.*

Philadelphia, *Federal Street School (Philadelphia Public Schools TR),* 1130–1148 Federal St.

Philadelphia, *Fitler School (Philadelphia Public Schools TR),* SE Seymour and Knox Sts.

Philadelphia, *Fleischer, Helen, Vocational School (Philadelphia Public Schools TR),* Thirteenth and Brandywine Sts.

Philadelphia, *Fulton, Robert, School (Philadelphia Public Schools TR),* 60–68 E. Haines St.

Philadelphia, *Furness, Horace Jr., High School (Philadelphia Public Schools TR),* 1900 S. Third St.

Philadelphia, *Germantown Grammar School (Philadelphia Public Schools TR),* McCallum & Haines Sts.

Philadelphia, *Hanna, William B., School (Philadelphia Public Schools TR),* 5720–5738 Media St.

Philadelphia, *Hawthorne, Nathaniel School (Philadelphia Public Schools TR),* 712 S. 12th St.

Philadelphia, *Horn, George L., School (Philadelphia Public Schools TR),* Frankford and Castor Aves.

Philadelphia, *Institute for Colored Youth (Philadelphia Public Schools TR),* Tenth and Bainbridge Sts.

Philadelphia, *Key, Francis Scott, School (Philadelphia Public Schools TR),* 2226–2250 S. 8th St.

Philadelphia, *Kinsey, John L., School (Philadelphia Public Schools TR),* 65th Ave. & Limekiln Pike

Philadelphia, *Landreth, David, School (Philadelphia Public Schools TR),* 1201 S. Twenty-third St.

Philadelphia, *Martin Orthopedic School (Philadelphia Public Schools TR),* 800 N. Twenty-second St.

Philadelphia, *McDaniel, Delaplaine, School (Philadelphia Public Schools TR),* 2100 Moore St.

Philadelphia, *Meade, George, School (Philadelphia Public Schools TR),* 1801 Oxford St.

Philadelphia, *Mechanicsville School (Philadelphia Public Schools TR),* Mechanicsville Rd.

Philadelphia, *Meredith, William M., School (Philadelphia Public Schools TR),* Fifth & Fitzwater St.

Philadelphia, *Mifflin School (Philadelphia Public Schools TR),* 808–818 N. Third St.

Philadelphia, *Mitchell, S. Weir, School (Philadelphia Public Schools TR),* Fifty-sixth & Kingsessing St.

Philadelphia, *Muhr, Simon, Work Training School (Philadelphia Public Schools TR),* Twelfth & Allegheny St.

Philadelphia, *Northeast Manual Training School (Philadelphia Public Schools TR),* 701 Lehigh St.

Philadelphia, *Olney Elementary School (Philadelphia Public Schools TR),* Tabor Rd. & Water St.

Philadelphia, *Olney High School (Philadelphia Public Schools TR)*, Duncannon and Front Sts.
Philadelphia, *Overbrook High School (Philadelphia Public Schools TR)*, Fifty-ninth & Lancaster Ave.
Philadelphia, *Penn, William, High School for Girls (Philadelphia Public Schools TR)*, 1501 Wallace St.
Philadelphia, *Philadelphia High School for Girls (Philadelphia Public Schools TR)*, Seventeenth & Spring Garden Sts.
Philadelphia, *Poe, Edgar Allen, School (Philadelphia Public Schools TR)*, 2136 Ritner St.
Philadelphia, *Powers, Thomas, School (Philadelphia Public Schools TR)*, Frankford Ave. and Somerset St.
Philadelphia, *Ralston, Robert, School (Philadelphia Public Schools TR)*, 221 Bainbridge St.
Philadelphia, *Ramsey, J. Sylvester, School (Philadelphia Public Schools TR)*, Pine and Quince Sts.
Philadelphia, *Read, Thomas Buchanan, School (Philadelphia Public Schools TR)*, Seventy-eighth and Buist Ave.
Philadelphia, *Schaeffer, Charles, School (Philadelphia Public Schools TR)*, Germantown Ave. and Abbottsford St.
Philadelphia, *Shoemaker, William Jr., High School (Philadelphia Public Schools TR)*, 1464–1488 N. Fifty-third St.
Philadelphia, *Smith, Walter George, School (Philadelphia Public Schools TR)*, 1300 S. Fourteenth St.
Philadelphia, *Southwark School (Philadelphia Public Schools TR)*, Eighth & Mifflin Sts.
Philadelphia, *Spring Garden School No. 1 (Philadelphia Public Schools TR)*, Twelfth & Ogden Sts.
Philadelphia, *Spring Garden School No. 2 (Philadelphia Public Schools TR)*, SS Melon St., S of 12th St.
Philadelphia, *Stevens, Thaddeus, School of Observation (Philadelphia Public Schools TR)*, 1301 Spring Garden St.
Philadelphia, *Stokely, William J., School (Philadelphia Public Schools TR)*, 1844–1860 N. 32nd St.
Philadelphia, *Tilden, William J. Jr., High School (Philadelphia Public Schools TR)*, Sixty-sixth St. and Elmwood Ave.
Philadelphia, *Vare, Abigal, School (Philadelphia Public Schools TR)*, Morris St. & Moyamensing Ave.
Philadelphia, *Wagner, Gen. Louis Jr., High School (Philadelphia Public Schools TR)*, Seventeenth and Chelten Sts.
Philadelphia, *Walton, Rudolph, School (Philadelphia Public Schools TR)*, 2601–2631 N. Twenty-eighth St.
Philadelphia, *Washington, George, School (Philadelphia Public Schools TR)*, Fifth & Federal Sts.
Philadelphia, *Wayne, Anthony, School (Philadelphia Public Schools TR)*, 2700 Morris St.
Philadelphia, *West Philadelphia High School (Philadelphia Public Schools TR)*, 4700 Walnut St.
Philadelphia, *Willard Francis E., School (Philadelphia Public Schools TR)*, Emerald & Orleans Sts.
Philadelphia, *Wilson, Woodrow Jr., High School (Philadelphia Public Schools TR)*, Cottman Ave. & Loretta St.
Philadelphia, *Wright, Richardson L., School (Philadelphia Public Schools TR)*, 1101 Venango St.

TENNESSEE

Marshall County

Verona vicinity, *Bethbirei Presbyterian Church*, Bethberei Rd.

Williamson County

Brentwood, *Mountview*, 913 Franklin Rd.

WISCONSIN

La Crosse County

Samuels' Cave

[FR Doc. 86–24834 Filed 11–3–86; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Park and Preserve; Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9A, Sam Koppenberg has filed a plan of operations in support of proposed mining operations on lands embracing the Caribou-Howtay Association Nos. 7–11 Placer Mining Claims within Denali National Park and Preserve. This plan is available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska.

Robert Peterson,

Acting Regional Director, Alaska Region.

[FR Doc. 86–24835 Filed 11–3–86; 8:45 am]
BILLING CODE 4310-70-M

Illinois and Michigan Canal National Heritage Corridor Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Illinois and Michigan Canal National Heritage Corridor Commission will be held November 14, 1986, beginning at 10 a.m. at the McCook Village Hall, McCook, Illinois.

The Commission was originally established on August 24, 1984, pursuant to provisions of the Illinois and Michigan Canal National Heritage Corridor Act of 1984, 98 Stat. 1456, 16 U.S.C. 461 note, to implement and support the conceptual plan.

Matters to be discussed at the meeting will include the review of the FY 87 budget, the presentation of sign design by representatives of Graphic Solutions, Inc., and a discussion of the proposed final boundaries of the Illinois and Michigan Canal National Heritage Corridor.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting. Further information concerning the meeting may be obtained from Alan M. Hutchings, Chief, Division of External Affairs, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone 402–221–3481 (FTS 864–3481). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 3 weeks after the meeting.

Dated: October 16, 1986.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 86–24827 Filed 11–13–86; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30861(B)]

Austin Railroad Co., Inc., Operation, City of Austin, TX; Notice of Exemption

Austin Railroad Company, Inc., has filed a notice of exemption to operate approximately 162 miles of railroad line [1] that the City of Austin, TX, is acquiring from Southern Pacific Transportation Company.[2] Any comments must be filed with the Commission and served on Ellen M. Burger; Weiner, McCaffrey, Brodsky & Kaplan, Suite 800, 1350 New York Avenue, NW., Washington, DC 20005–4797.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 10, 1986.

[1] The line includes two segments: (1) One segment extends from milepost 57.00 near Giddings to milepost 113.4 near Austin, TX; and (2) one segment extends from milepost 0.00 near Austin to milepost 99.04 near Llano, TX. The line also includes the Marble Falls Branch, which extends from milepost 6.2 near Marble Falls to milepost 0.0 near Fairland, TX.

[2] The City of Austin's notice of exemption for acquisition of the involved line is being served simultaneously in Finance Docket No. 30761(A).

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee

Secretary.

[FR Doc. 83-24905 Filed 11-13-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30861(A)[1]]

City of Austin, TX, Acquisition, Southern Pacific Transportation Co.; Notice of Exemption

The City of Austin, TX has filed a notice of exemption[2] to acquire Southern Pacific Transportation Company's line extending: (a) From milepost 57.00 near Giddings to milepost 113.4 near Austin, TX; and (b) from milepost 0.0 near Austin to milepost 99.04 near Llano, TX. The line also includes the Marble Falls Branch, from milepost 6.2 near Marble Falls to milepost 0.0 near Fairland, TX. Any comments must be filed with the Commission and served on: Richard H. Streeter; Wheeler & Wheeler, 1729 H Street, NW., Washington, DC 20005.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505 may be filed at any time.

The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 10, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-24906 Filed 11-3-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[Tax Division, Directive No. 86-59]

Authority To Approve Grand Jury Expansion Requests to Include Federal Criminal Tax Violations

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This Directive delegates the authority to approve requests seeking to expand nontax grand jury investigations to include inquiry into possible federal criminal tax violations from the Assistant Attorney General, Tax Division, to any United States Attorney, Attorney-In-Charge of a Criminal Division Organization Strike Force or Independent Counsel. The Directive also sets forth the scope of the delegated authority and the procedures to be followed by designated field personnel in implementing the delegated authority.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Edward M. Vellines, Senior Assistant Chief, Office of Policy & Tax Enforcement Analysis, Tax Division, Criminal Section (202-633-3011). This is not a toll fee number.

SUPPLEMENTARY INFORMATION: This order concerns internal Department management and is being published for the information of the general public.

Tax Division Directive No. 86-59

By virtue of the authority vested in me by Part O, Subpart N of Title 28 of the Code of Federal Regulations, particularly § 0.70, delegation of authority with respect to approving requests seeking to expand a nontax grand jury investigation to include inquiry into possible federal criminal tax violations is hereby conferred on the following individuals:

1. Any United States Attorney appointed under section 541 or 546 of Title 28, United States Code.

2. Any Attorney-In-Charge of a Criminal Division Organization Strike Force established pursuant to section 510 of Title 28, United State Code.

3. Any Independent Counsel appointed under section 593 of Title 28, United States Code.

The authority hereby conferred allows the designated official to approve, on behalf of the Assistant Attorney General, Tax Division, a request seeking to expand a nontax grand jury investigation to include inquiries into potential federal criminal tax violations in a proceeding which is being conducted within the sole jurisdiction of the designated official's office. (§ 301.6103(h)(2)-1(a)(2)(ii) (26 CFR)). *Provided,* that the delegated official determines that—

1. There is reason to believe, based upon information developed during the course of the nontax grand jury proceedings, that federal criminal tax violations may have been committed.

2. The attorney for the Government conducting the subject nontax grand jury inquiry has deemed it necessary in accordance with F.R.Cr.P. 6(e)(A)(ii) to seek the assistance of Government personnel assigned to the Internal Revenue Service to assist said attorney in his/her duty to enforce federal criminal law.

3. The subject grand jury proceedings do not involve a multijurisdictional investigation, nor are the targets individuals considered to have national prominence—such as local, state, federal, or foreign public officials or political candidates; members of the judiciary; religious leaders; representatives of the electronic or printed news media; officials of a labor union; and major corporations and/or their officers when they are the targets (subjects) of such proceedings.

4. A written request seeking the assistance of Internal Revenue Service personnel and containing pertinent information relating to the alleged federal tax offenses has been forwarded by the designated official's office to the appropriate Internal Revenue Service official (e.g., Chief, Criminal Investigations).

5. The Tax Division of the Department of Justice has been furnished by certified mail a copy of the request seeking to expand the subject grand jury to include potential tax violations, and the Tax Division interposes no objection to the request.

6. The Internal Revenue Service has made a referral pursuant to the provisions of 26 U.S.C. section 6103(h)(3) in writing stating that it: (1) Has determined, based upon the information provided by the attorney for the Government and its examination of relevant tax records, that there is reason to believe that the federal criminal tax violations have been committed; (2) agrees to furnish the personnel needed to assist the Government attorney in his/her duty to enforce federal criminal law; and (3) has forwarded to the Tax Division a copy of the referral.

7. The grand jury proceedings will be conducted by attorney(s) from the designated official's office in sufficient time to allow the results of the tax segment of the grand jury proceedings to be evaluated by the Internal Revenue Service and the Division before undertaking to initiate criminal proceedings.

The authority hereby delegated includes the authority to designate: The targets (subjects) and the scope of such tax grand jury inquiry, including the tax years considered to warrant investigation. This delegation also includes the authority to terminate such grand jury investigations, *provided,* that prior written notification is given to both the Internal Revenue Service and the Tax Division. If the designated official terminates a tax grand jury investigation or the targets (subjects) thereof, then the designated official shall indicate in its correspondence that such notification

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[1] This proceeding is directly related to Finance Docket No. 30861(B), in which a notice of exemption filed by Austin Railroad Company, Inc., is being served simultaneously.

[2] The City of Austin, TX also filed a motion seeking dismissal of its notice of exemption. The motion will be addressed in a separate decision.

terminates the referral of the matter pursuant to 26 U.S.C. 7602(c).

This delegation of authority does not include the authority to file an information or return an indictment on tax matters. No indictment is to be returned or information filed without specific prior authorizaton of the Tax Division. Except in Organized Crime Drug Task Force Investigations, individual cases for tax prosecution growing out of grand jury investigations shall be forwarded to the Tax Division by the United States Attorney, Independent Counsel or Attorney-in-Charge of a Strike Force with a special agent's report and exhibits through Regional Counsel, (Internal Revenue Service) for evaluation prior to transmittal to the Tax Division. Cases for tax prosecutions growing out of grand jury investigations conducted by an Organized Crime Drug Task Force shall be forwarded directly to the Tax Division by the United States Attorney with a special agent's report and exhibits.

The authority hereby delegated is limited to matters which seek either to: (1) Expand nontax grand jury proceedings to include inquiry into possible federal criminal tax violations; (2) designate the targets (subjects) and the scope of such injuiry; or (3) terminate such proceedings. In all other instances, authority to approve the initiation of grand jury proceedings which involve inquiries into possible criminal tax violations, including requests generated by the Internal Revenue Service, remains vested in the Assistant Attorney General in charge of the Tax Division as provided in 28 CFR 0.70. In addition, authority to alter any actions taken pursuant to the delegations contained herein is retained by the Assistant Attorney General in charge of the Tax Division in accordance with the authority contained in 28 CFR 0.70.

Approved to take effect on October 1, 1986.

Roger M. Olsen,

Assistant Attorney General, Tax Division.

[FR Doc. 86-24880 Filed 11-3-86; 8:45 am]

BILLING CODE 4410-01-M

Voting Rights Act Certifications Apache County, AZ

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments to the Constitution of the United States in Apache County, Arizona. This county was included within the scope of the determinations of the Attorney General and the Director of the Census made on March 15, 1971, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on March 27, 1971 (36 FR 5809). Apache County was also included within the scope of the determinations of the Attorney General and the Director of the Census made on September 18, 1975 and October 20 and 21, 1975 under sections 4(b) and 4(f)(3) of the Voting Rights Act of 1965, as amended in 1975, and published in the **Federal Register** on September 23, 1975 (40 FR 43746) and October 22, 1975 (40 FR 49422).

Dated: October 31, 1986.

Edwin Meese III,

Attorney General of the United States.

[FR Doc. 86-25003 Filed 10-31-86; 4:00 pm]

BILLING CODE 4410-01-M

Voting Rights Act Certifications; Navajo County, AZ

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments to the Constitution of the United States in Navajo County, Arizona. This county was included within the scope of the determinations of the Attorney General and the Director of the Census made on March 15, 1971, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on March 27, 1971 (36 FR 5809). Navajo County was also included within the scope of the determinations of the Attorney General and the Director of the Census made on September 18, 1975 and October 20 and 21, 1975 under sections 4(b) and 4(f)(3) of the Voting Rights Act of 1965, as amended in 1975, and published in the **Federal Register** on September 23, 1975 (40 FR 43746) and October 22, 1975 (40 FR 49422).

Dated: October 31, 1986.

Edwin Meese III,

Attorney General of the United States.

[FR Doc. 86-25004 Filed 10-31-86; 4:00 pm]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Notice of Extension of the Task Force on Economic Adjustment and Worker Dislocation; Correction

AGENCY: Department of Labor.

ACTION: Notice; correction.

SUMMARY: This document corrects the notice of extension which appeared at page 37797 in the **Federal Register** of Friday, October 24, 1986 (51 FR 37797). This action is necessary to correct the date on which the document was signed.

FOR FURTHER INFORMATION CONTACT: Gerald Holmes, Office of the Assistant Secretary for Policy, telephone (202) 523-7571.

The following correction is made in FR Doc. 86-24035 appearing on page 37797 in the issue of October 24, 1986. On page 37797, column two, "November" is corrected to read "October."

Signed at Washington, DC, this 28th day of October 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-24909 Filed 11-3-86; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

[TA-W-17,553]

BBC Brown Boveri, Inc.; Greensburg, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an applicant for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the BBC Brown Boveri, Incorporated, Greensburg, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-17,553; BBC Brown Boveri, Incorporated
Greensburg, Pennsylvania (October 21, 1986)

Signed at Washington, DC, this 28th day of October 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-24851 Filed 11-3-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,551]

Stackpole Corp.; St. Marys, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Stackpole Corporation, St. Marys, Pennsylvania. The review indicated that the application contained no new substantial information which would

bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-17,351; Stackpole Corporation St. Marys, Pennsylvania (October 27, 1986)

Signed at Washington, DC this 28th day of October 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-24852 Filed 11-3-86; 8:45 am]

BILLING CODE 4510-30-M

Summaries of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period October 13–October 17, 1986 and October 20–October 24, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-17,687; Twin Disc, Inc., Rockford, IL

TA-W-17,460; F.E. Hale Manufacturing Co., Herkimer, NY

TA-W-17,423; William Orsteen Heel Co., Bradford, MA

TA-W-17,336; Andiamo Knitwear, Inc., West New York, NJ

In the folowing cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-17,463; Burnham Trucking, Inc., W. Milwaukee, WI

Aggregate U.S. imports of metal building and parts were negligible.

TA-W-17,464; Inryco, Inc., W. Milwaukee, WI

Aggregate U.S. imports of metal building and parts were negligible.

TA-W-17,443; Jeffrey Chain Company, Morristown, TN

A survey of customers indicated that increased imports did not contribute importantly to workers separations at the firm.

TA-W-18,210; Horizon Mud Company, Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,791; Teledyne Firth Sterling, Houston, TX

Aggregate U.S. imports of rock drill bits are negligible.

TA-W-18,009; Koomey Incorporated, Brookshire, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,024; J.M. Huber Houston, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,038; Western Company of North America, Pacesetter Tool Div., Houston, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,042; Joy Industrial Equipment Company, Houston, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,062; Lufkin Industries, Lufkin, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,070; Shoreline Equipment Company, Odessa, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,085; Reedy Manufacturing and Repair Service, Inc., Odessa, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,096; Axelson, Inc., Longview, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,104; Dailey Oil Tools, Inc., Corpus Christi, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA-W-18,255; Rebel Mud Company, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,246; Ashland Chemical Company, Laredo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,783; Sabine Ranch, Hampshire, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,923; Bibbins & Rice, Morgan City, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,594; Snyder Logging, Inc., Grayville, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,595; Snyder Completion, Inc., Grayville, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,537; ASARCO, Inc., Central Research Dept., South Plainfield, NJ

The research and development activities were transferred to another domestic location.

TA-W-18,137; Jamco Sales and Service, Mirando City, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,138; Spain Construction Service, Inc., St. Elmo, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,145; Kelli-Ray Corp., Oklahoma City, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,149; Enserch Corp., Newtown, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,155; Reliant Management Services Company, Stafford, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,161; N.L. McCullough Corp., McAllen, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,162; Lafayette Well Testing, Inc., Laredo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,093; Zapata Offshore Company, Houston, Texas

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,097; Advance Consultants Corp., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–18,103; Dresser Atlas, Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–103A; Dresser Atlas, Bryan, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,105; Offshore Casing and Hammers, Inc., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,106; Karl F. Edmonds, Inc., Laredo, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,107; Karl F. Edmonds, Inc., Kilgore, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,110; Loffland Brothers Company, Central Division, New Brunfels, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,128; Kelsch Basin Tire, Inc., Williston, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,157; Geo-Search Corp., Lubbock, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,159; Schlumberger Production Service, Laredo, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,160; Schlumberger Offshore, Beaumont, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,212; Wipco Hydraulic & Valve, Inc., Odessa, TX

Aggregate U.S. imports of oilfield machinery did not increase as required for certification.

TA–W–18,158; Chromalloy American Corp., Laredo, TX

Aggregate U.S. imports of drilling fluid are negligible.

TA–W–17,803; Schlumberger Offshore Service, Victoria, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–17,775; Eastman Whipstock, Inc., Abilene, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA–W–17,917; Dresser Industries, Security Div., Dallas, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA–W–18,075; Otis Engineering Corp., Corpus Christi, TX

Aggregate U.S. imports of oilfield machinery are negligible.

TA–W–18,144; Homco International Oilfield Supply Div., Williston, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,108; N.L. Baroid Industries, Laredo, TX

Aggregate U.S. imports of drilling fluids are negligible.

TA–W–18,109; N.L. Bariod Industries, Bay City, TX

Aggregate U.S. imports of drilling fluids are negligible.

TA–W–17,852; Halliburton Co., Halliburton Services Div., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,035; Teledyne Movible Offshore, New Iberia, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,036; The Reliable Specialty Company, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,039; Riley Drilling Company, Big Springs, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,041; Safari Drilling Corp., Abilene, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,043; Wards Oilfield Service Gladewater, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,044; F.W.A. Drilling Co., Inc., Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,052; B & G Roustabout, Williston, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,053; N.L. Acme Tool, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,054; N.L. Acme Tool, Laredo, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,139; Core Service, Inc., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,140; Core Service, Inc., San Antonio, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,141; Core Service, Inc., Carrizo Springs, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–18,142; Core Service, Inc., Hebbronville, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,143; Core Service, Inc., Victoria, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,129; Henkel Corp., Kenedy, TX

Aggregate U.S. imports of drilling fluid are negligible.

TA-W-18,081; IMCO, Laredo, TX

Aggregate U.S. imports of drilling fluid are negligible.

TA-W-18,156; Halliburton Services, Amarillo, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,091; Welex Div., of Halliburton Service, Alice, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,100; Halliburton Services, Tioga, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,101; Halliburton Service, Alice, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,120; Halliburton Service, Abilene, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,880; M.F. Machen Contractor, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,882; Petroleum Information Corp., San Antonio, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,895; Petco Fishing & Rental, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,056; Nevada Scout (subsidiary of Cedar Strat), Reno, NV

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,057; Cedar Strat, Ely, NV

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,058; Cedar Strat, Reno, NV

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,059; Cedar Strat Lobs, Ely, NV

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,060; Cedar Strat Supply, Ely, NV

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,061; Petro-Tex Drilling Company, Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,063; AMF Tuboscope, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,065; W.B. Hinton Drilling Co., Mt Pleasant, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,066; Repcon, Inc., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,068; Drilling Measurements, Inc., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,076; Stage Drilling, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,079; Zarsky Lumber Company, Laredo, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,084; Oil Well Servicing Company, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,866; Geoservice, Inc., Denver CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,867; Willis Drilling, Edinburg, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,566; USX Corp., Oilwell Div., Garland, TX

Aggregate U.S. imports of oilfield pumps are negligible.

TA-W-17,425; Alpine Knitting Mill, Boulder, CO

Separations from the subject firm were seasonal in nature.

TA-W-17,534; Sioux Tools, Inc., Sioux City, IA

Imports did not contribute importantly to employment declines at the firm.

TA-W-18,211; J.H. Clough Oilfield Contracting Service, Inc., Beecher City, IL

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,213; Sharp Drilling Co., Inc., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,225; Benton Casing Service, Inc., Victoria, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,228; Canal's Well Service, Kermit, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,229; Dixilyn-Field Drilling Company, Alice, Texas

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,232; AMF Scientific Drillings, Inc., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,233; The B of Fournet Company, Corpus, Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,235; Westwood Drilling Company, Laredo, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,236; Wilson Downhole Service, Bay City, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,237; Halliburton Services, Elkview, WV

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,249; Clint Hurt and Associates, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,253; Dowell Schlumberger, Alice, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,254; Franks Casing Crew and Rental Tools, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,256; Dresser Atlas, Alice, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,258; Vachel's Telecommunications, Ross, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,842; Hayhurst Brothers, Drilling Company, Abilene, Tx

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,863; Schlumberger Offshore Service, Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,889; Harbor Electronics Aransas Pass, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,903; Conquest Exploration, Denver, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,920; Gearhart Industries, Inc., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,921; Houston Offshore International, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,040; Veco Drilling, Inc., Grand Junction, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,046; Leamco Services, Inc., Snyder, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,050; Flournoy Drilling Company, Alice, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,072; Republic Supply Co., Dickinson, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,073; Republic Supply Co., Tioga, ND

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,078; Texas Drilling Co., Laredo, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,080; The Western Company, Rankin, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,086; J.R. Drilling, Mt. Pleasant, MI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-17,588; Felmont Oil Corp., Midland, TX

A survey of Customers indicated that increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-17,575; Creative Footwear, McAdoo, PA

A certification was issued covering all workers of the firm separated on or after June 3, 1985 and before January 20, 1986.

TA-W-17,472; Transue and Williams Corp., Forging Plant, Alliance, OH

A certification was issued covering all workers of the firm separated on or after May 2, 1985.

TA-W-17,467; Florsheim Shoe Co., Hermann, MO

A certification was issued covering all workers of the firm separated on or after May 3, 1985.

TA-W-17,367; Ralph Edwards Sportswear, Cape Girardeau, MO

A certification was issued covering all workers of the firm separated on or after April 8, 1985 and before May 31, 1985.

TA-W-17,287; Sellersville, Manufacturing Co., Sellersville, PA

A certification was issued covering all workers of the firm separated on or after May 3, 1985 and before July 31, 1986.

TA-W-17,429; Florsheim Shoe Co., Kirksville, MO

A certification was issued covering all workers of the firm separated on or after December 1, 1985.

TA-W-17,442; Florsheim Shoe Co., West Belmont Street Plant, Chicago, IL

A certification was issued covering all workers of the firm separated on or after May 5, 1985 and before August 1, 1986.

TA-W-17,442A; Florsheim Shoe Co., South Canal Street Main Office, Chicago, IL

A certification was issued covering all workers of the firm separated on or after May 5, 1985.

TA-W-17,458; Christina Dress Co., Shenandoah, PA

A certification was issued covering all workers of the firm separated on or after May 19, 1985 and before January 31, 1986.

TA-W-17,397; Firestone Tire and Rubber Co., Bloomington, IL

A certification was issued covering all workers of the firm separated on or after April 25, 1985.

TA–W–17,407; Everett Piano Div., Yamaha International Corp., South Haven, MI

A certification was issued covering all workers of the firm separated on or after April 21, 1985.

TA–W–17,482; Smith Victor Corp., Griffith, IN

A certification was issued covering all workers of the firm separated on or after December 1, 1985.

TA–W–17,457; Reichard Coulston, Inc., Bethlehem, PA

A certification was issued covering all workers of the firm separated on or after May 6, 1985 and before January 31, 1986.

TA–W–17,884; Duluth Missabe & Iron Range Railway Co., Duluth, MN

A certification was issued covering all workers of the firm separated on or after August 11, 1985.

TA–W–17,673; Marsha Lee, Inc., West Hazleton, PA

A certification was issued covering all workers of the firm separated on or after June 30, 1985 and before December 1, 1985.

TA–W–17,726; California Manufacturing, California, MO

A certification was issued covering all workers of the firm separated on or after July 18, 1985.

TA–W–17,415; Burlington Industries, Inc., Domestics Div., Sherman, TX

A certification was issued covering all workers of the firm separated on or after April 29, 1985 and before July 1, 1986.

TA–W–17,444; J. Saveri Sportswear, Inc., Wind Gap, PA

A certification was issued covering all workers of the firm separated on or after April 11, 1985 and before April 30, 1986.

TA–W–17,550; Allis-Chalmers Corp., Industrial Truck Div., Matteson, IL

A certification was issued covering all workers of the firm separated on or after June 6, 1986 and before January 31, 1987.

TA–W–17,438; Bingham-Willamette Co., Shreveport, LA

A certification was issued covering all workers of the firm separated on or after April 25, 1985.

TA–W–17,376; D & R Sportswear Co., Roseto, PA

A certification was issued covering all workers of the firm separated on or after July 1, 1985 and before April 30, 1986.

TA–W–17,437; Burlington Industries, Inc., Domestics Div., Rocky Mount, VA

A certification was issued covering all workers of the firm separated on or after May 5, 1985 and before July 1, 1986.

TA–W–17,576; Elkem Metals Co., Alloy, West VA

A certification was issued covering all workers of the firm separated on or after June 3, 1985.

TA–W–17,605; International Playtex, Manchester, GA

A certification was issued covering all workers of the firm separated on or after June 3, 1985 and before October 27, 1985.

TA–W–17,366; Polytex, Bayonne, NJ

A certification was issued covering all workers of the firm separated on or after March 25, 1985 and before September 30, 1985.

TA–W–17,700; U.S. Steel Mining Co., Inc., Maple Creek Complex, New Eagle, PA

A certification was issued covering all workers of the firm separated on or after January 1, 1986.

TA–W–17,660; Kast Metals Corp., Mid-Continent Steel Casting Div., Shreveport, LA

A certification was issued covering all workers of the firm separated on or after June 21, 1985.

TA–W–17,740; U.S. Steel Mining Co., Inc., Central Div., Kanawha, WV

A certification was issued covering all workers at the 34 Morton and Job 50 Surface Mines, the Winifred Miscellaneous Unit and the River Tipple Facility separated on or after January 1, 1986.

TA–W–17,757; Timken Company, Research Facility, Canton, OH

A certification was issued covering all workers of the firm separated on or after April 21, 1985.

TA–W–17,651; Ross Bicycles, Inc., Allentown, PA

A certification was issued covering all workers of the firm separated on or after June 12, 1985 and before March 31, 1986.

TA–W–17,544; Michael Scott, Milltown, NJ

A certification was issued covering all workers of the firm separated on or after May 19, 1985 and before January 31, 1986.

TA–W–17,549; Acme Boot Co., Inc., Springfield, TN

A certification was issued covering all workers of the firm separated on or after August 15, 1985 and before April 5, 1986.

TA–W–17,470; Maul Technology Co., Millville, NJ

A certification was issued covering all workers of the firm separated on or after May 14, 1985 and before September 30, 1986.

TA–W–17,499; Tex Tech Industries, Inc., Auburn, ME

A certification was issued covering all workers of the firm separated on or after September 1, 1985.

TA–W–17,280; Donora Sportswear Co., Inc., Donora, PA

A certification was issued covering all workers of the firm separated on or after February 15, 1985 and before March 14, 1986.

TA–W–17,365; Picker International, Inc., Ultrasound & Nuclear Div., Northford, CT

A certification was issued covering all workers of the firm separated on or after July 1, 1985 and before January 1, 1987.

TA–W–17,418; Firestone Steel Products Co., Henderson, KY

A certification was issued covering all workers of the firm separated on or after July 1, 1985.

TA–W–17,303; Bellaire Garment Co, Division Bobbie Brooks, Bellaire, OH

A certification was issued covering all workers of the firm separated on or after October 1, 1985 and before May 12, 1986.

TA–W–17,431; Harris/Lanier, Thomaston, GA

A certification was issued covering all workers of the firm separated on or after May 2, 1985.

TA–W–17,350; Hamilton Sportswear, Inc., Stroudburg, PA

A certification was issued covering all workers of the firm separated on or after October 15, 1985 and before March 21, 1986.

TA–W–17,332; Regal Ware, Inc., Flora, MS

A certification was issued covering all workers of the firm separated on or after March 24, 1985 and before September 1, 1986.

I hereby certify that the aforementioned determinations were issued during the period October 13 October 17, 1986, and October 20–October 24, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 28, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–24854 Filed 11–3–86; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Office of Worker's Compensation Programs; Report on Computer Matching Project Involving Certain Beneficiaries Under the Black Lung Benefits Act (BLBA)

Summary

The Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs (OWCP) announces a computer match to be performed by the OWCP of the names and Social Security Numbers of Kentucky Workmen's Compensation black lung beneficiaries and federal black lung beneficiaries under the BLBA. The match will be made under written agreement.

a. *Authority:* Title IV of the Federal Mine Safety and Health Act, 30 U.S.C. 901, et seq.

b. *Description of Match:* It is the responsibility of the OWCP in the administration of the BLBA to assure that benefit payments are proper and to prevent fraud and abuse. The computer matching program is an efficient and non-intrusive method of determining the propriety of program beneficiaries receiving compensation due to black lung disease.

The matching effort will compare the names and Social Security Numbers of those persons receiving Kentucky Workmen's Compensation black lung benefits with the names and Social Security Numbers of those persons receiving black lung benefits under the BLBA. The intent of the match is to identify those beneficiaries receiving benefits under both programs. The OWCP will match the information furnished by the Kentucky Labor Cabinet, Division of Special Fund, against its Black Lung Benefit Payments File. The records resulting in matches will be used by both the OWCP and the Kentucky Labor Cabinet to determine which dual beneficiaries, if any, are receiving benefits in excess of the amount allowed under state and/or federal law. In those cases in which it is determined that improper payments have been made, the involved agencies will initiate steps to have these payments reduced or terminated, if appropriate. Certain findings may be submitted to the Department of Justice through the U.S. Department of Labor, Office of the Inspector General, for prosecution.

c. *Description of Federal Records to be Matched:* DOL/ESA–7 Office of Workers' Compensation Programs, Black Lung Benefit Payments File (47 FR 30378, July 13, 1982; as amended in 48 FR 5824, February 8, 1983; and 50 FR 5144, February 6, 1985) will be the source of the federal black lung information.

d. *Period of Match:* The first match should begin on or about November 1, 1986, and recur annually.

e. *Security:* The personal privacy of individuals identified is protected by strick compliance with the Privacy Act (Pub. L. 93–579) and OMB Cirular A–108. Information from the match will be used only for official purposes and will not be released to the public. Specific data obtained from the match will be entered into claim files subject to release only under Privacy Act provisions.

The extract files will be used and accessed only for the purposes previously agreed upon. Extract files will not be used to obtain included in the file of matches. Extract files will not be duplicated or disseminated within or outside the matching or source agency, unless agreed upon in writing by both agencies. The agencies involved will use the data supplied in a manner prescribed by law and will maintain proper safeguards to prevent unauthorized release or use of all data supplies.

Access to working spaces and claim folder file storage areas in the Kentucky Labor Cabinet, Division of Special Fund, Payment Unit offices is restricted to Kentucky state employees. File areas are locked after normal duty hours and the offices are protected from outside access by security personnel. Strict control measures are enforced to ensure that access to and disclosure of these claim file records is limited to a need-to-know basis.

f. *Disposition of Records:* The Kentucky source data will remain the property of the Kentucky Labor Cabinet and will be returned to Kentucky with an extract of the matches. The matching file will become the joint property of the Kentucky Labor Cabinet and the OWCP. The extract of matches that is sent to Kentucky will be destroyed by Kentucky upon receipt from the OWCP of the following year's extract of matches.

The OWCP extract of matches will be kept so long as an administrative audit is active and will be disposed of in accordance with the requirements of the Privacy Act and the Federal Records Schedule.

Signed at Washington, DC, this 30th Day of October 1986.

Richard Staufenberger,

Deputy Director, Office of Workers' Compensation Programs.

[FR Doc. 86–24910 Filed 11–3–86; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

[Docket No. M–86–12–M]

American Aggregates Corp. Petition for Modification of Application of Mandatory Safety Standard

American Aggregates Corporation, 3101 Honeywell Lake Road, P.O. Box 272, Milford, Michigan 48042 has filed a petition to modify the application of 30 CFR 56.9087 (audible warning devices and back-up alarms) to its Milford 315 Pit and Mill (I.D. No 20–01768) located in Oakland County, Michigan. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that heavy duty mobile equipment be provided with audible warning devices or an observer to signal safe backup when the operator of the equipment has an obstructed view to the rear.

2. Petitioner has received several complaints from neighbors to this property about the noise of the back-up alarms prior to 8:00 a.m. and after 5:00 p.m.

3. As an alternate method, petitioner proposes to use a high intensity strobe light on the front end loaders in lieu of the back-up alarms prior to 8:00 a.m. and after 5:00 p.m.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1986. Copies of the petition are available for inspection at that address.

Dated October 27, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86–24850 Filed 11–3–86; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M-86-14-M]

Texasgulf Chemicals; Petition for Modification of Application of Mandatory Safety Standard

Texasgulf Chemicals, P.O. Box 100, Granger, Wyoming 82934 has filed a petition to modify the application of 30 CFR 57.4761 (underground shops) to its Trona Operations (I.D. No. 48–00639) located in Sweetwater County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement of routing the mine shop air directly to an exhaust system to confine or prevent the spread of toxic gases from a fire originating in an underground shop where maintenance work is routinely done on mobile equipment.

2. The main underground shop is located east of the shaft bottom area. 50,000 cubic feet per minute of ventilation air is coursed through the area and distributed by mandoor/regulators and two auxiliary fans. Along with battery charging station air, shop air is directed north through a regulator to No. 1 exhaust shaft.

3. As an alternate method, petitioner proposes to route shop air from the present west to north flow through the regulator to an east then south airflow around the Zero North Beltway intake airway. This air would then be utilized to ventilate working areas in the mine. Auxiliary fans and mandoor/regulators will still be used to draw air from the shop working locations, but reversed to flow eastward instead of west to the regulator. The shop split will be ventilated by the rerouted east flowing intake air from the Zero North Beltway by installing a door just southeast of the No. 2 intake shaft, allowing more than 50,000 cfm to flow through, improving ventilation.

3. In further support of this request a carbon monoxide (CO) sensor will be installed in the east shop exhaust air to monitor air quality. In case of a fire, at a specific CO level, the CO monitor will trip an alarm, automatically opening an air actuated door south of the shop regulator, short circuiting fumes directly to the No. 1 exhaust shaft away from all shop and mining section personnel.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 4, 1986. Copies of the petition are available for inspection at that address.

Dated: October 27, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-24853 Filed 11-3-86; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Utah State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1973, notice was published in the **Federal Register** (38 FR 1178) of the approval of the Utah Plan and adoption of Subpart E to Part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee recommendation.

2. Publication in newspapers of general/major circulation with a 30-day waiting period for public comment and hearings.

3. Commission order adopting and designating an effective date.

4. Provision of certified copies of Rules and Regulations or Standards to the Office of the State Archivist.

OSHA regulations (29 CFR 1953.22 and 1953.23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated July 28, 1986, from Douglas J. McVey, Administrator, Utah Occupational Safety and Health Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to Federal OSHA's General Industry Standards (29 CFR 1910.1047: Ethylene Oxide; Labeling Requirements, 50 FR 41491, October 11, 1985.)

The above adoptions of Occupational Federal standards have been incorporated in the State Plan, and are contained in the Utah Occupational Safety and Health Rules and Regulations for General Industry, as required by Utah Code annotated 1943, Title 63–46–1. In addition, the standards were published in newspapers of general/major circulation throughout the State. No public comments were received and no hearings were held.

State Standards for 29 CFR 1910.1047: Ethylene Oxide; Labeling Requirements, were adopted by the Industrial Commission of Utah, Archive's File Number 8201 on December 20, 1985, (effective February 1, 1985) pursuant to Title 35–9–6, Utah Code, annotated 1953. The State Standard on Ethylene Oxide; Labeling Requirements is identical to the Federal standard action, with the only exception being paragraph numbering.

2. *Decision.* The above State Standard has been reviewed and compared with the relevant Federal Standard and OSHA has determined that the State Standard is at least as effective as the comparable Federal Standard, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal Standards are minimal and that the Standards are thus identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of Supplement for Inspection and Copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; Utah State Industrial Commission, UOSHA Offices at 160 East 300 South, Salt Lake City, Utah 84111; and the Office of State Programs, Room N–3476, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Utah State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason(s):

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious. This decision is effective November 4, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at Denver, Colorado this 8th Day of September, 1986.

Harry C. Borchelt,

Acting Regional Administrator.

[FR Doc. 86-24849 Filed 11-3-86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing in Upper Darby, PA, Railroad Accident

In connection with its investigation of the accident involving the collision and derailment of Southeastern Pennsylvania Transportation Authority Single-Car Train No. 167 at the 69th Street Terminal, Upper Darby, Pennsylvania, on August 23, 1986, the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on December 3, 1986, at the Adam's Mark Hotel, City Avenue and Monument Road, Philadelphia, Pennsylvania. For more information contact Bill Bush, Office of Government and Public Affairs, National Transportation Safety Board, 800 Independence Ave., SW., Washington, DC 20594, telephone (202) 382-6607.

Ray Smith,

Federal Register Liaison Officer.

October 28, 1986.

[FR Doc. 86-24904 Filed 11-3-85; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 6-8, 1986, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on October 23, 1986.

Thursday, November 6, 1986

8:30 a.m.-8:45 a.m.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 a.m.-10:30 a.m.: Improved Light-Water Reactors (Open)—The members of the Committee will discuss proposed ACRS comments and recommendations to the NRC regarding characteristics of improved light-water reactors.

10:45 a.m.-12:45 p.m.: NRC Safety Research Program (Open)—Briefing and discussion of matters related to the NRC safety research program including prioritization of research activities, specifically those related to fire protection research for nuclear power plants.

1:45 p.m.-3:30 p.m.: Review of the Regulatory Process (Open)—Discuss the basis for proposed ACRS review of NRC Regulatory requirements and related regulatory processes and procedures.

3:45 p.m.-5:45 p.m.: Prioritization of Generic Issues (Open)—Members of the Committee will discuss proposed priorities for a new (fourth) group of unresolved generic issues.

5:45 p.m.-6:00 p.m.: Nomination of Candidates for ACRS CY 1987 Officers (Closed)—The Members of the Committee will discuss the qualifications of candidates for ACRS officers and membership on the ACRS Planning Subcommittee for CY 1987.

This portion of the meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy consistent with 5 U.S.C. 552b(c)(6).

6:00 p.m.-6:45 p.m.: Safety of Nuclear Power Plants (Open/Closed)—Discuss implications of ACRS International Meeting on Nuclear Power Plant Safety.

Portions of this session will be closed as necessary to discuss information provided in confidence by representative of foreign governments consistent with 5 U.S.C. 552b(c)(1).

Friday, November 7, 1986

8:30 a.m.-9:30 a.m.: NRC Quantitative Safety Goals (Open)—Discuss proposed ACRS comments regarding development of a methodology for interpretation of NRC Quantitative Safety Goals in terms of the population doses associated with nuclear power plant accidents.

9:30 a.m.-10:15 a.m.: Office of Nuclear Material Safety and Safeguards' Activities—Radioactive Waste Management and Disposal (Open)—Briefing and discussion regarding activities of the NRC Office of Nuclear Material Safety and Safeguards, Division of Waste Management.

10:30 a.m.-11:30 a.m.: ACRS Subcommittee Activities (Open)—Report and discussion of ACRS subcommittee review of the implications of the Chernobyl nuclear plant accident to U.S. nuclear power plants.

11:30 a.m.-12:30 p.m.: Safety Features of Foreign Nuclear Plant (Open)—The members will hear and discuss a report by representatives of the NRC Staff regarding safety-related modifications in the Paluel Nuclear Plant.

1:30 p.m.-2:00 p.m.: Future ACRS Activities (Open)—Discuss anticipated ACRS subcommittee activities and proposed items for consideration by the full Committee.

2:00 p.m.-4:45 p.m.: ACRS Subcommittee Activities (Open)—Discuss reports of designated ACRS subcommittees regarding the status of safety-related activities including Phase I of the NRC Maintenance and Surveillance Program; the NRC inspection and enforcement program; safety technology, philosophy and criteria, and management of ACRS resources.

4:45 p.m.-5:30 p.m.: Nuclear Power Plant Improvements (Open)—Discuss proposed ACRS comments regarding the basis for nuclear power plant improvements.

5:30 p.m.-6:30 p.m.: Emergency Planning (Open)—Discuss the bases for NRC/FEMA Guidelines and requirements for emergency planning in the vicinity of nuclear power plants.

Saturday, November 8, 1986

8:30 a.m.-12:00 Noon: Preparation of ACRS Reports to the NRC (Open)—Discuss proposed ACRS reports to the NRC regarding items considered during this meeting and a proposed report regarding selection of nuclear power

plant personnel by use of aptitude testing.

1:00 p.m.–3:00 p.m.: Generic Safety Issues (Open)—Complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attned should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss privileged and classified informaiton from foreign sources [5 U.S.C. 552b(c)(1)] and information the release of which would represent a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)]

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M.

Dated: October 30, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–24932 Filed 11–3–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–400]

Shearon Harris Nuclear Power Plant, Unit 1; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. NPF–53 to Carolina Power & Light Company, and North Carolina Eastern Municipal Power Agency (the licensees) which authorizes operation of the Shearon Harris Nuclear Power Plant, Unit 1, at reactor core power levels not in excess of 2775 megawatts thermal in accordance with the provisions of the license, the Technical Specifications, and the Environmental Protection Plan with a condition limiting operation to five percent of reactor core power (139 megawatts thermal).

Shearon Harris Nuclear Power Plant, Unit 1, is a pressurized water reactor located in Wake and Chatham Counties, North Carolina, approximately 16 miles southwest of Raleigh, North Carolina.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on January 27, 1982 (47 FR 3898). The power level authorized by this license and the conditions contained therein are encompassed by that prior notice.

The commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of relief and the issuance of the exemption included in this license will have no significant impact on the environment (51 FR 36329, dated October 9, 1986).

For further details with respect to this action, see (1) Facility Operating License No. NPF–53; (2) the Commission's Safety Evaluation Report, dated November 1983 (NUREG–1038), and Supplements 1 through 4; (3) the Final Safety Analysis Report and Amendments thereto; (4) the Environmental Report and supplements thereto; (5) the Final Environmental Statement, dated October 1983; (6) the Partial Initial Decisions of the Atomic Safety and Licensing Board, dated February 20, August 20, December 11, 1985, and April 28, 1986.

These items are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Wake County Public Library, 1313 New Bern Avenue, Raleigh, North Carolina 27601. A copy of the Facility Operating License NPF–53 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-A. Copies of the Safety Evaluation Report and its supplements (NUREG–1038) and the Final Environmental Statement may be purchased through the U.S. Government Printing Office by calling (202) 275–2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 24th day of October, 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate #2, Division of PWR Licensing–A, Office of Nuclear Reactor Regulation.

[FR Doc. 86–24805 Filed 11–3–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–324 and 50–325]

Carolina Power and Light Company; Brunswick Steam Electric Plant; Relocation of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has relocated the local public document room (LPDR) for Carolina Power and Light Company's Brunswick Steam Electric Plant from the Brunswick County Library, Southport, to the William Madison Randall Library, University of North Carolina at Wilmington, Wilmington, North Carolina.

Members of the public may now inspect and copy documents and correspondence related to the licensing and operation of the Brunswick Steam Electric Plant at the William Madison Randall Library, University of North Carolina at Wilmington, 601 S. College Road, Wilmington, NC, 28403. The Library is open on the following

schedule: Monday through Thursday 7:30 a.m. to midnight; Friday 7:30 a.m. to 9 p.m.; Saturday 10 a.m. to 6 p.m.; and Sunday 3 p.m. to midnight.

For further information, interested parties in the Wilmington area may contact the LPDR directly through Mrs. Arlene Hanerfeld, telephone number (919) 395–3760. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room 1717 H Street, NW., Washington, DC 20555, telephone number (202) 634–3273.

Questions concerning the NRC's local public document room program or the availability of documents at the Brunswick LPDR should be addressed to Ms. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (800) 638–8081 toll-free.

Dated at Bethesda, Maryland, this 30th day of October, 1986.

For The Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 86–24934 Filed 11–3–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Company et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–65, issued to Northeast Nuclear Energy Company (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

By applications for license amendments dated October 20, October 24 and October 27, 1986, the licensee requested changes to the Technical Specifications (TS) for Millstone Unit No. 2. The proposed changes to the TS provide for: (1) Revised temperature pressure limits in TS 3/4.4.9, "Pressure/Temperature Limits" and TS Figure 3.4.–2, "Reactor Coolant System Pressure Temperature Limitations for 12 Full Power Years," (2) a change to the surveillance frequency for determining reactor coolant system (RCS) flow rate in TS 4.2.6, "DNB Margin," and (3) changes to several TS associated with RCS flow and reactor power peaking limits.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The October 20, 1986 application for license amendment proposes revised temperature/pressure limitations for the reactor pressure vessel that would be applicable to 12 effective full power years (EFPY). The existing limitations in the TS are only applicable up to 7 EFPY which will be reached early during Cycle 8 operation. The reactor is presently in a refueling outage in preparation for Cycle 8 operation.

Operation of the reactor vessel is restricted to safe pressures for a given temperature. Since exposure to radiation embrittles the vessel, the operating restrictions are modified over time. To maintain a constant safety margin, either the maximum allowable pressure for a given temperature is reduced or the maximum allowable rate of temperature change is modified. The goal is to reduce the vessel stresses in recognition of the vessel's reduced resistance to brittle fracture. In the case of the proposed TS, safety margin is maintained through a combination of proposed reduced heat-up and cooldown rates (maximum allowable rate of temperature change) in TS 3/4.4.9 and reduction in the maximum allowable pressure for a given temperature as shown in proposed TS Figure 3.4–2.

The proposed changes to TS 3/4.4.9 and TS Figure 3/4–2 do not involve a significant increase in the probabiliy or consequences of accidents previously evaluated. The requirements of TS 3/4.4.9 and TS Figure 3.4–2 are associated with preventing brittle fracture of the vessel and not with any previously analyzed accident. The proposed changes to the TS will not create the possibility of a new or different type of accident since the proposed limitations conservatively account for progressive vessel embrittlement to 12 EFPY; thus, operation within the limits of the proposed TS will prevent a brittle fracture of the reactor pressure vessel. Finally, the proposed change to the TS will not involve a reduction in a safety margin. As indicated previously, the proposed TS maintain the safety margin for reactor vessel failure by increasing the restrictions on reactor vessel temperature change rates and on minimum temperature at given pressures. Accordingly, the Commission proposes to determine that the proposed changes to TS 3/4.4.9 and TS Figure 3.4–2 involve no significant hazards considerations.

The October 24, 1986 application for license amendment proposes a change to the RCS flow surveillance requirements of TS 4.2.5.2. At the present time, RCS flow must be determined every 12 hours. The licensee proposes that the surveillance interval be increased to require RCS flow measurement every 31 days.

The measurement of RCS flow, together with other measurements, is important to assure that the core thermal margins are sufficient. In this regard, the departure from nucleate boiling (DNB) ratio is an important indicator of the reactor core thermal margin. Significant changes in DNB ratio due to RCS flow changes could result from two sources. The first, type of flow-related DNB change could result from the loss of one or more reactor coolant pumps. This change would be dramatic and would result in the automatic shutdown of the reactor by the reactor protection system (RPS). The second type of flow-related DNB change could result from the deposition of corrosion products (crud) in the core. Experience has shown that crud buildup, should it occur, is a long term problem that is manifested over several months and thus would be observed over several of the proposed surveillance intervals.

Based upon the above, the proposed change to TS 4.2.5.2 does not involve a significant increase in the probability or consequences of accidents previously evaluated. Accidents involving sudden RCS flow decreases are mitigated by the RPS and not by determination of RCS flow via TS 4.2.5.2. The proposed change to the TS does not create the possibility of a new or different type of accident since no changes to equipment or operating modes are involved. Finally, no safety margins would be significantly reduced. The slow buildup of crud, should it occur, would still be detected prior to any significant decrease in DNBR. Accordingly, the Commission proposes to determine that the proposed change to TS 4.2.5.2 involves no significant hazards considerations.

The October 27, 1986 application for license amendment proposes changes to the TS that would allow the reduction in the RCS flow rate from the current value of 350,000 GPM to 340,000 GPM. Since the reduction in the RCS flow rate would reduce the DNB margin, a change is also proposed to reduce the total integrated radial peaking factor (F_r^T). The current value for F_r^T is 1.565 for full power operation and is defined by TS figure 3.2–3b for reduced power. It is proposed to replace (F_r^T) with a 1.537 limit for full power operation and a more restrictive Figure 3.2–3b for reduced power levels. The proposed change, therefore, is a trade-off of RCS flow for F_r^T. The following TS would change:

- TS Figure 2.1–1, "Reactor Core Thermal Margin Safety Limit"—The indicated flow on this figure would be changed.
- TS Table 2.2–1, "Reactor Protective Instrumentation Trip Setpoint Limits"—The setpoint for low RCS flow would be changed.
- TS Figure 3.2–3b, "Total Radial Peaking Factor vs. Allowable Fraction of Rated Thermal Power"—This would be a revised curve.
- TS 3.2.3, "Total Integrated Radial Peaking Factor—F_r^T"—The limit on F_r^T would be changed.
- TS Table 3.2–1, "DNB Margin"—The indicated RCS flow would be changed.

The licensee has provided a reanalysis of accidents and transients which could be affected by the proposed change in RCS flow and F_r^T and has determined that there are no significant changes in the analytic results.

Based upon the above, the proposed changes to the TS do not involve a significant increase in the probability or consequences of an accident previously evaluated. Since the reduction in RCS flow rate will be offset by a reduction in F_r^T, the Millstone Unit No. 2 design basis accidents are not adversely affected. The proposed TS changes will not create the possibility of a new or different kind of accident from any previously evaluated. Because the change in RCS flow rate is offset by changes to the total integrated radial peaking factor, no new unanalyzed events are created. Finally, the proposed TS changes do not involve a significant reduction in a margin of safety. The potential reduction in DNB margin which would be caused by a reduction in the RCS flow rate is offset by the reduction in F_r^T. Accordingly, the Commission proposes to determine that the proposed changes to the TS do not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing. Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By December 4, 1986 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commisson may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public

Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Ashok C. Thadani: petitioner's name and telephone number; date petition was mailed: plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the applications for amendments dated October 20, October 24 and October 27, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06103.

Dated at Bethesda, Maryland, this October 29, 1986.

For The Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate #8, Division of PWR Licensing-B.

[FR Doc. 86–24935 Filed 11–3–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–124]

Finding of No Significant Environmental Impact Regarding Proposed Order Authorizing Dismantling of the Reactor and Disposition of Component Parts; Virginia Polytechnic Institute and State University

The Nuclear Regulatory Commission is considering issuance of an Order authorizing the Virginia Polytechnic Institute and State University to dismantle the Argonaut reactor facility in Blacksburg, Virginia and to dispose of the reactor component in accordance with the application dated July 17, 1986, as supplemented.

The Order would authorize the dismantling of the facility and disposal of the components in accordance with the application for decontamination and dismantling, dated July 17, 1986, as supplemented. Opportunity for hearing was afforded by the Proposed Issuance of Orders Authorizing Disposition of Component Parts and Termination of Facility License published in the **Federal Register** on August 26, 1986 at 51 FR 30455. No request for hearing or petition for leave to intervene was filed following notice of the proposed action.

Finding of No Significant Environmental Impact

The Commission has determined not to prepare an Environmental Impact Statement for the proposed action. The Commission has prepared an Environmental Assessment of this action, dated October 29, 1986, and has concluded that the proposed action will not have a significant effect on the quality of the human environment.

Summary of Environmental Impacts

The environmental impacts associated with the dismantling and decontamination operations are discussed in an Environmental Assessment associated with this action, dated October 29, 1986. The operations are calculated to result in a total radiation exposure of less than 2 person-rem to facility staff and the public. The Environmental Assessment concluded that the operation will not result in any significant environmental impacts on air, water, land or biota in the area, and that an Environmental Impact Statement need not be prepared. These conclusions were based on the fact that all proposed operations are carefully planned and controlled, all contaminated components will be removed, packaged, and shipped offsite, and that the radiological effluent control procedures and systems ensure that releases of radioactive wastes from the facility are a small fraction of the limits of 10 CFR Part 20 and are as low as is reasonably achievable (ALARA).

For further details with respect to this proposed action, see the application for dismantling, decontamination and license termination dated July 17, 1986, as supplemented, the Environmental Assessment, and the Safety Evaluation prepared by the staff. These documents and this Finding of No Significant Environmental Impact are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTENTION: Director, Division of PWR Licensing-B.

Dated at Bethesda, Maryland, this 29th day of October, 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–24931 Filed 11–3–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–124]

Virginia Polytechnic Institute and State University, (VPI Argonaut Reactor); Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated July 17, 1986, as supplemented, the Virginia Polytechnic Institute and State University (VPI or the licensee) requested authorization to dismantle the Argonaut reactor facility, Facility Operating License No. R–62, located in Blacksburg, Virginia and to dispose of the component parts, in accordance with the plan submitted as part of the application. A "Proposed Issuance of Orders Authorizing Dismantling of Facility and Disposition of Component Parts, and Terminating Facility License" was published in the **Federal Register** on August 26, 1986 at 51 FR 30455. No request for hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the application in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plan will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment, dated October 29, 1986, for the proposed action. Based on that Assessment, the Commission has determined that the proposed action will not result in any significant environmental impact and

that an Environmental Impact Statement need not be prepared.

Accordingly, VPI is hereby ordered to dismantle the reactor facility and dispose of the component parts in accordance with its dismantling plan and the Commission's rules and regulations.

After completion of the dismantling and disposal, VPI will submit a report on the radiation survey it will perform to confirm that radiation and surface contamination levels in the facility area satisfy the values specified in the dismantling plan and in the Commission's guidance. Following an inspection by representatives of the Commission to verify the radiation and contamination levels in the facility, consideration will be given to issuance of a further order terminating Facility Operating License No. R–62.

For further details with respect to this action, see (1) the VPI application for authorization to dismantle the facility and dispose of component parts, dated July 17, 1986, as supplemented, (2) the Commission's related Safety Evaluation, and (3) the Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of items (2) and (3) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Director, Division of PWR Licensing–B.

Dated at Bethesda, Maryland this 29th day of October, 1986.

For The Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing–B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–24936 Filed 11–3–86; 8:45 am]

BILLING CODE 7590–0–M

SMALL BUSINESS ADMINISTRATION

[Disaster Loan Area #2261]

Alaska; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on October 27, 1986, I find that the Boroughs of Matanuska-Susitna and Kenai Peninsula and the City of Cordova in the State of Alaska constitute a disaster loan area because of flooding which occurred on October 10–13, 1986. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on December 26, 1986, and for economic injury until the close of business on July 27, 1987, at: Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	7.500
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 226106 for physical damage and for economic injury the number is 646200.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 28, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–24839 Filed 11–3–86; 8:45 am]

BILLING CODE 8025–01–M

[Disaster Loan Area #2258; Amendment #1]

Missouri; Declaration of Disaster Area

The above-numbered Declaration (51 FR 37532) is hereby amended in accordance with the Notice of Amendment to the President's disaster declaration, dated October 22, 1986, to include Boone, Callaway, Cole, Franklin, Gasconade, Montgomery, Saline, Warren and the adjacent Counties of Howard, Moniteau and Osage in the State of Missouri because of damage from severe storms and flooding beginning on September 18, 1986. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on December 15, 1986, and for economic injury until the close of business on July 14, 1987.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 23, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–24840 Filed 11–3–86; 8:45 am]

BILLING CODE 8025–01–M

[Disaster Loan Area #2257; Amendment #1]

Montana; Declaration of Disaster Loan Area

The above-numbered Declaration (51 FR 37533) is hereby amended in accordance with the Notice of Amendment to the President's declaration, dated October 24, 1986, to include Rosebud and Valley Counties and the adjacent Counties of McCone and Hill in the State of Montana because of damage from severe storms and flooding beginning on September 25, 1986. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on December 15, 1986, and for economic injury until the close of business on July 14, 1987.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 28, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–24841 Filed 11–3–86; 8:45 am]

BILLING CODE 8025–01–M

[Disaster Loan Area #2259; Amendment No. 1]

Oklahoma; Declaration of Disaster Area

The above-numbered Declaration (51 FR 37533) is hereby amended in accordance with the Notice of Amendment to the President's declaration, dated October 20, 1986, to include the Counties of Kay, Payne and Rogers in the State of Oklahoma because of damage from severe storms and flooding beginning on September 26, 1986. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on December 15, 1986, and for economic injury until the close of business on July 14, 1987.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 23, 1986.

Alfred E. Judd,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–24842 Filed 11–3–86; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2259]

Oklahoma; Declaration of Disaster Area

Correction

In FR Doc. 86-23820, appearing on page 37533, in the issue of Wednesday, October 22, 1986, first column, in the fourth line from the bottom, "Loan" should read "Logan".

BILLING CODE 1505-01-M

[License No. 02/02-5483]

Fans Capital Corp.; Issuance of a Small Business Investment Company License

On March 26, 1985, a notice was published in the **Federal Register** (50 FR 11977) stating that an application has been filed by Fans Capital Corporation, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)) for a license as a small business investment company.

Interested parties were given until close of business April 26, 1985, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5483 on September 26, 1986, to Fans Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 27, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-24843 Filed 11-3-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Proposed Suspension of the Section 401 Certificate of Pride Air, Inc.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of order to show cause (Order 86-10-67) Docket 42139.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order suspending the certificate of Pride Air, Inc., issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than November 20, 1986.

ADDRESSES: Responses should be filed in Docket 42139 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590 (202) 366-9721.

Dated: October 30, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-24925 Filed 11-3-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

[Georgia Project EDS-460(2); P.I. Number 662200]

Environmental Impact Statement; Forsyth and Gwinnett Counties, GA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Forsyth and Gwinnett Counties, Georgia.

FOR FURTHER INFORMATION CONTACT: Tom Myers, District Engineer, Federal Highway Administration, Suite 300, 1720 Peachtree Road, N.W., Atlanta, Georgia 30367, telephone (404) 347-4751, or Peter Malphurs, State Environment/Location Engineer, 3993 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696-4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (GDOT) will prepare an environmental impact statement (EIS) on a proposal to construct a new location connector from S.R. 371 in Forsyth County to I-85 in Gwinnett County. The proposed project consists of two sections. The first section consists of the construction of a two-lane highway beginning at S.R. 371 in Forsyth County and extends to S.R. 400 in Forsyth County (beginning of section two). The second section consists of the construction of a four-lane divided highway beginning at S.R. 400 in Forsyth County and extends southeasterly to I-85 in Gwinnett County. Project length is approximately 18.3 miles. The proposed work is necessary to accommodate existing and future traffic demand resulting from the continued growth in the Metropolitan Atlanta area.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Georgia DOT at the address provided above.

The catalog of Federal Domestic Assistance Program Number is 20.205 *Highway Research, Planning and Construction.* Georgia's approved clearinghouse review procedure apply to this program.

Issued on October 27, 1986.

Tom Myers,

District Engineer, Federal Highway Administration Atlanta, Georgia.

[FR Doc. 86-24870 Filed 11-3-86; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Hampden Township, Cumberland County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Cumberland County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Philibert A. Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717) 782-4422, or William Greene, Project Manager, Pennsylvania Department of Transportation, 21st and Herr Sts., Harrisburg, Pennsylvania 17120, Telephone (717) 783-5148.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT) will prepare an Environmental Impact Statement on a proposal to relieve traffic congestion and improve safety on U.S. 11 in Hampden Township, located in south central Pennsylvania. The proposed project is approximately 2.5 miles in length and may consist of a highway on a new alignment to connect U.S. 11 with

an existing interchange of Interstate 81. The proposed project begin on U.S. 11 and travels north to tie in with I–81. Section 4(f) Evaluations will be performed as necessary in conjunction with the proposed project.

Three basic alternatives will be considered: a transportation system management alternative using much of the existing highway system, an alignment mainly on new location with limited access, and a no-build alternative. For each of the alternatives under study, the following areas will be investigated: traffic, preliminry design and cost, air quality, noise, energy, water quality and aquatic biota, ground water and hydrogeology, vegetation and wildlife, floodplains the flood hazard areas, endangered species, hazardous waste facilities, wetland, solid and erosion, farmlands, visual quality, socio-economics and land use, construction impacts, and archaelogical and historic resources.

Public involvement and interagency coordination will be maintained throughout the development of the Environmental Impact Statement. A Plan of Study and an invitation to scoping meeting will be distributed to interested agencies. A public hearing will be held, if required, to obtain formal public input on the findings of the environmental and engineering studies.

To insure that the full range of issues related to the proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the Environmental Impact Statement should be directed to the FHWA or PennDOT at the addresses listed above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provision of Executive Order 12372, Intergovernmental Review of Federal Program regarding State and local review of Federal and Federally assisted programs and projects apply to this program.)

Issued on: October 27, 1986.

Manuel A. Marks,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 86–24871 Filed 11–3–86: 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement, Wyomissing Borough and Brecknock, Cumru, and Spring Townships, Berks County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Berks County, Pennsylvania. A Section 4(f) Evaluation and/or Section 106 reports will be prepared as necessary.

FOR FURTHER INFORMATION CONTACT: Philibert A. Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717) 782–4422 or Steve Caruano, Project Manager, Pennsylvania Department of Transportation, 1713 Lehigh Street, Allentown, Pennsylvania 18105, Telephone: (215) 821–4150.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement on a proposal to relieve traffic problems and improve safety on Traffic Route 222 near Reading, located in southeastern Pennsylvania. The proposed project is approximately 6.5 miles in length and may consist of a Transportation Systems Management Alternative, or a relocation of Traffic Route 222 on a new alignment to connect with the existing Warren Street Bypass (Traffic Route 422). The proposed project begins at the Berks/Lancaster County line in Cumru Township on Traffic Route 222 and travels northeast through Brecknock and Spring Townships to tie in with T.R. 422. The purpose of the proposed project is to facilitate traffic flow in the southwestern section of Berks County.

Four basic alternatives will be considered: a transportation systems management alternative using much of the existing highway system, an alignment mainly on new location with controlled access, an alignment mainly on new location with limited access, and a no-build alternative. For each of the alternatives under study, the following areas will be investigated: traffic, preliminary design and cost, air quality, noise, energy, vibration, surface water and ground water quality, surface water and ground water hydrology, terrestrial ecology, wetlands, soils and erosion, farmlands, visual quality, socio-economics and land use, construction impacts, and archaeological and historic resources. The three build alternatives will require the acquisition of additional right of way.

Public involvement and interagency coordination will be maintained throughout the development of the Environmental Impact Statement. A Plan of Study and an invitation to scoping meetings will be distributed to interested agencies. A public hearing will be held, if required, to obtain formal public input on the findings of the environmental and engineering studies.

To ensure that the full range of issues related to the proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the Environmental Impact Statement should be directed to the FHWA or PennDOT at the addresses listed above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Execute Order 12372, Intergovernmental Review of Federal Programs, regarding State and local review of Federal and Federally assisted programs and projects apply to this program.)

Issued on: October 27, 1986.

Manuel A. Marks,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 86–24869 Filed 11–3–86; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[Docket No. RSSI–86–1, Notice No. 1]

Special Safety Inquiry; Radio Communications

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Special Safety Inquiry.

SUMMARY: FRA is initiating Special Safety Inquiry to provide a forum for a broad-based examination of communications in railroad operations.

DATES: (1) A public hearing will begin at 10:00 a.m. on January 27, 1987, and continue at the same time on the 28th and 29th of January.

(2) Prepared statements to be made at the hearing should be submitted to the Docket Clerk at least two working days before the hearing date (close of business, January 22, 1987). Parties not meeting that deadline will not be permitted to present oral testimony; however, their written statements will be included in the record of this proceeding.

(3) Persons not desiring to testify, but wishing to submit written comments for inclusion in the safety inquiry docket should submit them by February 27, 1987.

ADDRESSES: (1) Hearing location—Room 2230, Nassif Building, 400 Seventh Street, SW., Washingotn, DC 20590.

(2) Docket Clerk, Office of Chief Counsel (RCC–30), Federal Railroad

Administration, Washington, DC 20590. Telephone 202–366–0817.

FOR FURTHER INFORMATION CONTACT: Mark J. Weihofen, Office of Safety Analysis, RRS–21, Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590 (telephone (202) 366–0547), or Mark Tessler, Office of Chief Counsel, Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590 (telephone (202) 366–0628).

SUPPLEMENTARY INFORMATION: High quality communications are essential to both efficient and safe railroad operations. In the railroad industry, communications have taken various forms: published timetables, telegraphic and hand-written messages, and electronic, electric, and manual signal systems. Today, radios have become a common and often indispensable feature in railroad operations, and given recent developments in communications technology, the railroad industry stands poised on the brink of a communications revolution.

At an accident investigation symposium in July 1984, Federal Railroad Administrator John Riley expressed his intention that the agency address this subject in detail. FRA staff has been examining the issue for some time, and we believe that obtaining views and information from the public is necessary for further progress. This is a propitious moment in railroad history to sponsor a public forum where the safety issues that arise from changing communications methods and practices can be explored. At the same time, there exists a need to examine current use of radios in relation to safe and effective communication practices.

FRA's decision to initiate this inquiry arises in part form an examination of railroad accident data. In recent years, the proportion of reportable railroad accidents attributable to human factors has approached 30 percent. Many of these may involve communications failures or situations in which better communications could have averted or reduced the likelihood of an accident.

The National Transportation Safety Board (NTSB) has also expressed concern about railroad communications. On January 15, 1986, the NTSB issued Safety Recommendation R–85–129, in which it recommended that FRA

> [e]stablish regulations that address the issues surrounding the uses of radio for operational purposes on trains to include, but not be limited to, requirements for radios to be installed on trains; usage requirements for inter- and intra-train communications; usage requirements for dispatching and control operations; frequency compatibility requirements; and maintenance, inspection, and testing requirements.

Although FRA expects that *radio* communications will be an important focus of this inquiry, our intent is that the scope of the proceeding be considerably broader, considering the issue of communications generally. The inquiry will address present railroad operating and dispatching practices, types of radios and other equipment now in use and current FRA regulations and industry standards that affect communications. It will also address the future: (a) What new communications technologies and other innovations having potential application in the railroad environment are on the horizon; and (b) what changes in FRA or industry rules may be needed to accommodate changing technologies, while assuring their consistency with sound safety practices.

We urge the parties in this proceeding to consider these general questions and the more specific questions we present below. We stress, however, that our list is illustrative, not all-inclusive. We ask that parties present comments on any issue they identify as falling within the broad scope of this inquiry.

Further FRA action on this subject will depend entirely on the record developed. A variety of results are possible. For example, the evidence may support issuance of a notice of proposed rulemaking in one or more areas. It may foster joint, voluntary action within the industry, or justify taking no action at this time. A major FRA goal underlying this inquiry is to increase our knowledge of current and future communications issues so we can anticipate rather than react to changing technologies, and so that agency action, or inaction, is based on a firm understanding of the salient facts, technical data, and economic and safety elements of the changing railroad communications environment.

Background

The following is a brief review of the various railroad operations using radio communications:

Train Operations: Mobile radio operations permit communication from one end of a train to the other (either through manned cabooses or end of train devices), from one train to another, and from a stationary point to a moving train. These uses, on a specific channel assigned to each railroad, permit normal working communications as well as the transmittal of information of an unusual or emergency nature. Voice communication from one train to another is limited by the transmission and reception range of radios, so that generally one is limited to speaking to the crew of a passing train only. There is a further limitation in that the radios of one railroad cannot be used to communicate with another railroad due to the different assigned frequencies for each carrier.

Radio voice communication today is generally used as a backup system to signalization and written train orders, but on certain subdivisions of some railroads it is the sole method of controlling train movements. This method provides for voice communications between moving trains and the train dispatcher. Such methods of train control (called variously, track warrant control, manual block systems, direct traffic control, or absolute block system) involve specific verbal orders being given directly to the train crew by the dispatcher.

The dispatcher is at the center of an increasingly complex communications network. The dispatcher now uses a combination of one or more telephone systems, one or more base radio stations, and computer communications. Because the dispatcher is the center of this communications hub, he or she often assumes duties beyond those directly associated with train movements. Among those extra duties are placement of locomotives and crews, operating computer terminals, and receiving and transmitting messages and instructions among field personnel and carrier officials.

Yard and Terminal Operations: Radio voice communications enable a yardmaster to communicate with the yard crews equipped with hand-carried radios and radio-equipped locomotives. In addition, switcher crews use radios to guide switcher locomotives, and in some cases to control hump locomotives.

Maintenance Operations: Aside from normal operational communications among maintenance workers, radios serve the essential safety function of providing a communications link to warn the men and women working along the right-of-way of approaching trains and to direct those trains through the area of track under repair.

Automated Communications: Automated radio communication is also part of current railroad operations. In cabooseless trains, radio telemetry devices keep the engineer aware of the end-of-train brake pipe pressure and the condition of the rear marker. In addition, many wayside detection systems, such as hot box and shifted load detectors, communicate information by radio to dispatcher stations, or in some cases, directly to the train crew.

Emergency Situations: Radio communication is also an important

means to summon emergency aid for victims of train and grade crossing accidents and to warn the train crew of hazards and emergency situations up the line. In rural areas, the train crew is frequently the only witness to an accident. Radios also permit the train crew to report dangerous or suspicious activities to police, such as children playing on tracks, acts of vandalism, or forced entry of standing railroad cars.

Current Railroad Communications

To assist FRA in obtaining the most comprehensive information available regarding the state of radio communications in the railroad industry, interested parties are strongly encouraged to comment on the broad range of communications related subjects in which they have expertise or interest. Labor, industry, and supplier representatives should provide information they believe to be relevant to radio use, safe train operations, and employee and public safety.

FRA would like equipment manufacturers to provide technical information on the present state-of-the-art equipment used in railroad communications as well as a preview of future systems. Representatives of the industry and individual railroads are also encouraged to provide an overview of the communications systems on the nation's railroad's, from the perspectives of both large and small carriers. Submission of system maps showing radio coverage and explaining the system, equipment, and use applications would be helpful.

We urge interested parties to submit all information and ideas and may be helpful in addition to addressing the following listed areas of inquiry:

Mandatory Installation and Use of Radio Equipment

1. Should a radio be required on:
(a) Every train operating on a main track or over joint use trackage?
(b) Every locomotive operating in yards, switching areas or terminals?
(c) All maintenance-of-way equipment, signal and high-rail vehicles?
2. Are there any operational, technical, or other type of constraints that would render compliance with such a requirement difficult or impossible?
3. What technical features would be necessary in these radios? What technical features would be desirable in these radios? What are the costs of the recommended equipment?
4. Should there be compatibility standards for the required radios? Should there be compatibility requirements for radio equipment among interconnecting carriers?
5. What, if any, technical, operational, or economic problems would be associated with such compatibility requirements?
6. If mandatory installation and use of radios is not appropriate in general, are there specific situations in which mandatory installation and use would be appropriate?
7. Should radios be required on any other railroad equipment?
8. Should all road equipment be equipped with radios capable of contacting local emergency response personnel?
9. To what extent should there be regulations or industry-wide standards governing the specifications, installation and maintenance of radio equipment?

Radio Communications Use—General

1. What has been your experience with FRA's Radio Standards and Procedures regulations (49 CFR Part 220)? Do you suggest any changes to the regulations?
2. Please identify any radio communications problems you are experiencing. Do you propose any solutions to the problem?
3. Should *specific* radio rules be implemented for any of the following: (a) Yard areas; (b) urban areas; (c) emergency situations; (d) train order transmissions; (e) voice controlled manual block system; (f) high speed operations; (g) passenger operations; (h) cabooseless operations; (i) foreign crew operations; (j) hazardous materials operations; (k) maintenance-of-way activity; (l) rail-highway crossings; (m) slave locomotive control; (n) hump activity control; (o) wayside detector tramsmissions; (p) other.
4. Under what conditions should the use of radio communications be required in train operations and train control? in other situations?
5. Is the extent of extraneous and non-railroad related conversations a significant problem for radio users? If so, what should be done to eliminate the problem?
6. Should stricter radio discipline be enforced? If so, how?
7. Is there a need to limit radio transmissions on channels designated for train or yard operations strictly to operational communications? If so, how should this be enforced?

Radio Communication Use—Voice Controlled Manual Block System

1. What has been your experience with voice controlled manual block systems (VCMBS) such as manual block, direct traffic control and track warrant control?
2. Are there any "checks and balances" or redundant procedures that have been instituted to provide an extra measure of safety? Are any needed?
3. Is there sufficient capacity in your assigned frequency channels to operate a voice-controlled manual block system? If not, how would you deal with the situation?
4. If adjacent VCMBS's are operated on the same channel, does one dispatcher interfere with another? If so, how can that problem be eliminated?
5. Current FRA regulations govern the transmission of train orders by radio (49 CFR 220.61). What has been your experience under these regulations? Do you have any changes to suggest?

Technical Areas

1. FRA field personnel have identified several areas in which specific problems have alleged. Please comment on the presence or absence of these problems and possible solutions: (a) Interference; (d) congestion; (c) dead spots; (d) lack of reliability and durability of equipment; (e) poor maintenance; (f) lack of availability of equipment when needed; (g) limited range; and (h) other problems.
2. Have you experienced any problems with the transmission or reception of radio communications? How have these problems affected your operations? How have they affected employee and public safety?
3 Have there been any situations in which dead spots have prevented radio communication of voice-controlled manual block system operations? If so, please explain.
4. Should there be periodic testing of all radio equipment? What type of testing would be necessary to ensure consistent equipment performance?
5. Do radio transmissions from automatic wayside detectors interfere with normal radio communications? If so, please provide details and discuss what changes should be made in the operation of such wayside detectors to eliminate unnecessary interference.
6. Certain radio systems require that the caller initiate the call by first transmitting a tone or series of "clicks." Are there any particular problems or advantages associated with this type of system?
7. Has consideration been given to using radios with selectable power outputs as an aid to decreasing congestion and interference and as a method of increasing battery life? What would such an option cost? What problems would be created by selectable power outputs?
8. Has consideration been given to the use of radio telephones by the

maintenance-of-way or signal department as a method of providing more open channels for other uses?

9. What improvements, if any, are needed in the location of radio controls in order to improve safety and operational efficiency?

10. Could the location of locomotive radios be improved in terms of employee safety, equipment survival in accidents, or operational efficiency?

11. Please comment on the quality, reliability, and durability of the radio equipment available on today's market. Are there differences in maintenance costs, range, susceptibility to atmospheric or geographic conditions, or in other areas?

12. How many road and yard locomotives are currently equipped with a radio? How many are not equipped with a radio?

13. How many of each of the following types of radio are used in road service? yard service?

(a) Fixed frequency, crystal controlled.

(b) Synthesized, external frequency controlled.

(c) Other (please specify).

14. At what rate are you currently replacing crystal radios with those with external frequency controls?

15. What are the costs of various types of radio equipment? (a) Base stations; (b) mobile units; (c) portable units; (d) relay stations; (e) repeaters; (f) other (please specify).

Spectrum Availability

1. Is the present 91-channel railroad VHF radio spectrum sufficient to assure safety of train operations nationwide?

2. With the understanding that FRA is limited in its jurisdiction regarding spectrum availability, are there any changes in today's system that would relieve the effects of limited spectrum availability.

3. What is your position regarding inter-service sharing?

4. How will satellite-based systems or fiber optics communication affect the present limitations in the VHF spectrum?

Future Railroad Communications

In an effort to improve operating efficiency and maintenance costs, improve safety, and become more competitive with other transportaton modes, the railroad industry is moving to research and develop microprocessor-based communication and control systems for railroad operations. Most of these activities involve the identification and control of trains and other track-occupying equipment. Competing types of train control systems are presently in varying stages of development.

Proponents and developers of these systems in addition to other interested parties are invited to respond to the following series of questions regarding future railroad communications:

1. Please discuss the new communications technologies that are currently under development and those that may be developed in the future. How might they be used?

2. What are the general safety issues implicated by new and different means of communication in the railroad industry?

3. Are FRA's current regulations a barrier to the introduction of new technologies? Are they adequate to preserve safety if new technologies are introduced?

4. To what extent are these new technologies additions to or replacements for standard signal system?

5. Satellite-based train control systems hold out the potential for highly sophisticated communications links for monitoring rail equipment and for train control. What are the safety implications of those technologies? Are FRA regulations a barrier to their implementation? How will these technologies affect future operations?

6. In situations where satellite communications are planned for train operations, what, if any, provision have been made for fail-safe or back-up systems of the following: (a) Train control; (b) voice communications; and (c) computer data links?

Authority: Secs. 202, 208, 84 Stat. 971, 974 (45 U.S.C. 431, 437); Section 1.49(m) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(m)); 49 CFR 211.61.

Issued in Washington, DC, on October 29, 1986.

John H. Riley,

Administrator.

[FR Doc. 86-24781 Filed 11-3-86; 8:45 am]

BILLING CODE 4910-06-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 213
Tuesday, November 4, 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).

CONTENTS

1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 29, 1986.

CHANGE IN PREVIOUSLY ANNOUNCED AGENDA

TIME AND DATE: 10:00 a.m., Thursday, October 30, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Closed (Previously announced as open)—Pursuant to 5 U.S.C. 552b(c)(10).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor, MSHA v. Cathedral Bluffs Shale Oil Company, Docket No. WEST 81-186-M.
2. Secretary of Labor, MSHA v. Brown Brothers Sand Co., Docket No. SE 86-11-M. (Issues include discussion of the Administrative Law Judge's entry of default and order to pay the proposed civil penalties.)

It was determined by a unanimous vote of Commissioners that this meeting be closed and no earlier announcement of the closure or addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean Ellen,
Agenda Clerk.

[FR Doc. 86–24967 Filed 10–31–86; 10:59 am]
BILLING CODE 6735–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 29, 1986.

TIME AND DATE: 10:00 a.m., Thursday, November 6, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Hobet Mining & Construction Co. v. Secretary of Labor, Docket No. WEVA 84–113–R, etc., (Issues include whether the judge properly found a violation of 30 CFR 77.1303(h), dealing with warnings before blasting.)

FOLLOWING THE ARGUMENT: The Commission will consider and act upon the following in a Closed meeting (pursuant to 5 U.S.C. 552b(c)(10).

1. Hobet Mining & Construction Co. v. Secretary of Labor, Docket No. WEVA 84–113–R, etc.

It was determined by a unanimous vote of Commissioners that this portion of the meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean Ellen,
Agenda Clerk.

[FR Doc. 86–24968 Filed 10–31–86; 10:59 am]
BILLING CODE 6735–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, November 7, 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. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on October 29, 1986.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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: October 30, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86–24937 Filed 10–31–86; 8:45 am]
BILLING CODE 6210–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, November 10, 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. Proposed purchaser of computer equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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: October 31, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86–25015 Filed 10–31–86; 4:00 pm]
BILLING CODE 6210–01–M

5

NATIONAL SCIENCE FOUNDATION

DATE AND TIME:

November 14, 1986
8:30 a.m. Closed Session
8:45 a.m. Open Session

PLACE: National Science Foundation Washington, DC.

STATUS:

Most of this meeting will be open to the public.
Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED NOVEMBER 14:

Closed Session (8:30–8:45 a.m.)

1. Minutes—August 1986 Meeting
2. NSB and NSF Staff Nominees
3. Grants, Contracts, and Programs—Action Items

Open Session (8:45–11:30 a.m.)

4. Grants, Contracts, and Programs
5. Chairman's Report
6. Minutes—August 1986 Meeting
7. Director's Report
8. Proposed 1987 Award Review Exemptions
9. Proposed Amendments to the NSF Act
10. Presentation on University/Industry Research Centers
11. Report from the Committee on International Science
12. Other Business

Thomas Ubois,

Executive Officer.

[FR Doc. 86–24969 Filed 10–31–86; 11:02 am]

BILLING CODE 7555–01–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:00 a.m., Thursday, November 13, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first item will be open to the public. The last two items will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Intercity Bus Loss of Control and Collision with Bridge Rail, Interstate 70, Frederick, Maryland, August 25, 1985.
2. *Opinion and Order:* Administrator v. Smith, Docket SE–5559; disposition of the Appeals of respondent and the Administrator.
3. *Opinion and Order:* Administrator v. Spais, Docket SE–6625; disposition of the respondent's appeal.

FOR MORE INFORMATION, CONTACT: Ray Smith (202) 382–6525.

Ray Smith,

Federal Register Liaison Officer.

November 3, 1986.

[FR Doc. 86–25013 Filed 10–31–86; 3:54 pm]

BILLING CODE 7533–01–M

7

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 39610 (October 29, 1986).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m. (e.s.t.), Friday, October 31, 1986.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTERS: The following items are added to the previously announced agenda:

Old Business Items

1. Supplement to personal services Contract No. TV–65375A with Bechtel North American Power Corporation, Gaithersburg, Maryland, for performance of general engineering, design, and architectural services, requested by the Office of Nuclear Power.

2. Supplement to personal services Contract No. TV–66821A with General Electric Company, Atlanta, Georgia, for engineering and related support to the Browns Ferry Nuclear Plant's Site Services Group, requested by the Office of Nuclear Power.

New Business Items

D. Personnel Items

3. Conflict of interest guidelines governing loaned employees and certain contractor advisors and TVA managers.

4. Supplement to Contract No. TV–69324A with Stone & Webster Engineering Corporation, for engineering, construction, and operation support services, requested by the Office of Nuclear Power.

5. Personal services contract with Ebasco Services, Incorporated, New York, New York, for engineering, design, quality assurance, drafting and related engineering construction, and operations support services, requested by the Office of Nuclear Power.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: October 30, 1986.

Approved.

C.H. Dean, Jr.,

Director and Chairman.

John B. Waters,

Director.

[FR Doc. 86–24990 Filed 10–31–86; 2:32 pm]

BILLING CODE 8120–01–M

federal register

Tuesday
November 4, 1986

Part II

Department of Health and Human Services

Public Health Service

42 CFR Part 36
48 CFR Part PHS 352
Indian Health; Policy for Charging Interest and Penalty on Debts; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

48 CFR Part PHS 352

Indian Health; Policy for Charging Interest and Penalty on Debts

AGENCY: Public Health Service, HHS.

ACTION: Proposed rule.

SUMMARY: This notice proposes to charge interest on amounts owed to the government by Indian tribes and tribal organizations who are contractors or grantees under the Indian Self-Determination Act. Pub. L. 93–638; and to charge interest, penalties and the administrative costs of collecting overdue amounts owed to the Government by Indian organizations which are not tribal governments or components of tribal governments.

DATE: Written comments should be received on or before December 19, 1986, in order to ensure consideration in the preparation of a final rule.

ADDRESS: Address written comments to: Richard J. McCloskey, Indian Health Service, Room 6A–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: John Bird, Health Resources and Services Administration, 5600 Fishers Lane, Room 16A–0, Rockville, Maryland 20857 Telephone (301) 443–6344.

SUPPLEMENTARY INFORMATION: This Department is proceeding as expeditiously as possible to enhance its debt collection efforts by charging interest on all debts, and penalties and administrative costs on delinquent debts. This policy will implement the Debt Collection Act of 1982 (Pub. L. 97–365), the Department of Treasury's guidelines pertaining to debt collection activities, and the joint regulations of the Attorney General and the Comptroller General. Accordingly, the Department is proposing to charge interest on amounts owed to the government by Indian tribes and tribal organizations which are contractors or grantees under Pub. L. 93–638; and to charge interest, penalties, and the administrative costs of collecting overdue amounts owed by Indian organizations which are not tribal governments or components of tribal governments.

Section 11 of the Federal Claims Collection Act of 1982 addresses the question of interest and penalty charges to government debtors. It requires agencies to charge interest and administrative costs associated with handling delinquent debts and late penalty charges on "outstanding debts on claims owed by persons." This section also permits waiver of these charges, provided it is done pursuant to government-wide standards and agency regulations. For purposes of this section, the term "person" is defined so as not to include any agency of the United States or any State or local government. Therefore, Indian tribes or components of tribal governments will not be subject to charges, other than interest, because, as local governments, they are excluded from the provisions of section 11 of the Claims Collection Act authorizing the assessment of these charges. The Department has elected to charge interest to tribes or components of tribal governments under our common law authority, which is unaffected by section 11. On the other hand, some "tribal organizations" having contracts with the IHS under the Indian Self-Determination Act, Pub. L. 93–638 are not components of tribal governments and are, therefore, covered by section 11. Such "tribal organizations" would be charged interest, penalties, and the administrative costs of collecting overdue amounts.

Paragraph (a)(1) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that the Department becomes entitled to recovery. The rate is identical to the interest rate charged under the National Research Services Awards program pursuant to 42 U.S.C. 2691–1 (c)(4)(B). The rate of interest was established to protect the interests of the government, since the "current value of funds" rate does not provide adequate protection inasmuch as the rate is substantially lower than existing commercial rates of interest. The interest rate is adjusted on a quarterly basis and the Assistant Secretary for Management and Budget will publish all adjustments in the **Federal Register** upon receipt from the Department of the Treasury.

Paragraph (a)(2) provides that such rate of interest may be no lower than the current value of funds rate, as required by 31 U.S.C. 3717. Paragraph (c)(1) provides that rates of interest on installment agreements shall be no lower than the U.S. Treasury "Schedule of Certified Interest Rates with Range of Maturities." Interest rates under this schedule bear a relation to the length of time over which payment of a debts is extended. Information regarding the schedule of certified interest rates may be obtained from Mr. Gerald Murphy, Fiscal Assistant Secretary, Department of Treasury, Room 2112, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220, (202) 566–2112).

On January 14, 1983, IHS sent a letter to Indian tribes and organizations concerned with Pub. L. 93–638 regulations, notifying them that IHS regulations would be changed to conform to the extent permitted by law, to the Department's policy of charging interest and penalties on delinquent debts and notifying them that they would have another opportunity to comment when a specific proposal was published in the **Federal Register.**

In addition, as required by section 107(c) of Pub. L. 93–638, the Department notified the House and Senate Committees on Interior and Insular Affairs of the proposed changes by letters dated May 2, 1984. The language of the proposed contract clause contained in the letters to Congress differed from that contained in the earlier letter to the tribes. This was the result of more recent advice and suggested language provided by the Department's Office of the General Counsel. The language proposed in this notice is identical to that contained in the letters to Congress.

There are no new paperwork requirements subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1980.

The Department of Health and Human Services has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291. Further, these regulations will not have a significant economic impact on a substantial number of small entities, and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

List of Subjects

42 CFR Part 36

Alaska natives, Contracts, Eskimos, Grant programs, Health, Indians.

48 CFR Part PHS 352

Government procurement.

Dated: July 14, 1986.

Robert E. Windom,

Assistant Secretary for Health.

Approved: July 25, 1986.

Otis R. Bowen,

Secretary.

For the reasons set out in the preamble, the Department proposes to amend Part 36 of Title 42, Code of

Federal Regulations, Subpart H and Subpart I, as follows:

TITLE 42—PUBLIC HEALTH

PART 36—INDIAN HEALTH

1. The authority citation for Part 36, Subpart H is revised to read as follows:

Authority: Secs. 104, 107, 25 U.S.C. 450h(b), 450k; Sec. 3, Pub L. 83–568, 42 U.S.C. 2003; Sec. 11, Pub. L 97–365, 31 U.S.C. 3717.

2. The table of contents for Subpart H is amended by adding an entry for § 36.122 to read as follows:

Subpart H—Grants for Development, Construction, and Operations of Facilities and Services

Sec.

* * * * *

36.122 Interest and penalties on debts.

* * * * *

3. A new § 36.122 is added to Subpart H to read as follows:

§ 36.122 Interest and penalties on debts.

Grants made under this subpart shall incorporate the following clause:

(a) *Interest.* Amounts owed to the government by a grantee under a grant awarded under Pub. L. 93–638, section 104(b) will bear interest from the date on which the government first mails or hand delivers to the debtor written notice of the debt if the debt is not paid within 30 days from that date, at a rate established as follows:

(1) Except as provided in paragraph (a)(2) of this section, the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that the Department becomes entitled to recovery. This rate may be revised quarterly by the Secretary of the Treasury and shall be published by the HHS Assistant Secretary for Management and Budget quarterly in the **Federal Register.**

(2) The interest rate established at paragraph (a)(1) of this section shall be no lower than the current value of funds rate, as set by the Secretary of the Treasury pursuant to 31 U.S.C. 3717.

(b) *Charges.* (1) A debtor will be charged the administrative costs to the Government of processing and handling a delinquent debt; and a penalty of six percent a year on a debt, or any portion of a debt that is more than 90 days delinquent, except where the debtor is an Indian tribe or a component of a tribal government, or where the debt arose under a grant executed before, and in effect on, October 25, 1982. These charges will be assessed monthly or per payment period, throughout the continued period of delinquency.

(2) A debt is delinquent if it is not paid by the due date specified in the notice of the debt referred to in paragraph (a) of this section, and it is not the subject of a repayment agreement approved by the Secretary, or if the debtor fails to satisfy his or her obligations under a repayment agreement. (3) This paragraph does not apply to payments under an installment arrangement. See paragraph (c) of this section.

(c) *Installment payments.* The Secretary may agree to accept repayment of a debt in installments pursuant to 4 CFR 101.11 if the debtor is unable to repay in one lump sum. An installment agreement will be in writing and will provide that:

(1) The rate of interest payable on deferred amounts will be set in accordance with paragraph (a) of this section. However, the Secretary may charge interest for installment payment agreements at a rate no lower than the applicable rate determined from the U.S. Treasury "Schedule of Certified Interest Rates with Range of Maturities"; and

(2) Administrative costs of collection as provided in paragraph (b)(1) of this section, and a penalty of 6 percent a year, payable on each installment or portion of an installment which becomes delinquent, as defined in paragraph (b)(2) of this section, beginning on the date that the payment becomes delinquent.

(d) *Waiver.* Interest, penalties or administrative cost charges assessed under this section may be waived in whole or in part if:

(1) The debt or the charges resulted from the agency's error, action or inaction (other than normal processing delays), and without fault on the part of the debtor;

(2) Collection in any manner authorized under this regulation and the Department's Claim's Collection Regulations at 45 CFR Part 30 would defeat the overall objectives of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638).

4. The authority citation for Part 36, Subpart I is revised to read as follows:

Authority: Secs. 103, 107, 25 U.S.C. 450, 450k; Sec. 3, Pub.L. 83–568, 42 U.S.C. 2003; sec. 11, Pub.L. 97–365; 31 U.S.C. 3717.

5. The table of contents for Subpart I is amended by adding an entry for § 36.238 to Subpart I to read as follows:

Subpart I—Contracts Under the Indian Self-Determination Act.

* * * * *

36.238 Interest and penalties on debts.

* * * * *

6. A new § 36.238 is added to subpart I to read as follows:

§ 36.238 Interest and penalties on debts.

Contracts awarded under authority of the Act shall incorporate the following clause, which is also set forth in 48 CFR PHS 352.280–4 (a) and (b).

(a) *Interest.* Amounts owed to the Government by a contractor under a contract awarded under Pub. L. 93–638, section 103(a) will bear interest from the date on which the Government first mails or hand delivers to the debtor written notice of the debt if the debt is not paid within 30 days from that date, at a rate established as follows:

(1) Except as provided in paragraph (a)(2) of this section, the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that the Department becomes entitled to recovery. This rate may be revised quarterly by the Secretary of the Treasury and shall be published by the HHS Assistant Secretary for Management and Budget quarterly in the **Federal Register.**

(2) The interest rate established at paragraph (a)(1) shall be no lower than the current value of funds rate, as set by the Secretary of the Treasury pursuant to 31 U.S.C. 3717.

(b) *Charges.* (1) A debtor will be charged the administrative costs to the Government of processing and handling a delinquent debt; and a penalty of six percent a year on a debt, or any portion of a debt that is more than 90 days delinquent, except where the debtor is an Indian tribe or a component of a tribal government, or where the debt arose under a contract executed before, and in effect on, October 25, 1982. These charges will be assessed monthly or per payment period, throughout the continued period of delinquency.

(2) A debt is delinquent if it is not paid by the due date specified in the notice of the debt referred to in paragraph (a) of this section, and it is not the subject of a repayment agreement approved by the Secretary, or if the debtor fails to satisfy his or her obligations under a repayment agreement.

(3) This subsection does not apply to payments under an installment arrangement. See paragraph (c) of this section.

(c) *Installment payments.* The Secretary may agree to accept repayment of a debt in installments pursuant to 4 CFR 101.11 if the debtor is unable to reply in one lump sum. An installment agreement will be in writing and will provide that:

(1) The rate of interest payable on deferred amounts will be set in accordance with paragraph (a) of this section. However, the Secretary may charge interest for installment payment agreements at a rate no lower than the applicable rate determined from the U.S. Treasury "Schedule of Certified Interest Rates with Range of Maturities"; and

(2) Administrative costs of collection as provided in paragraph (b)(1) of this section, and a penalty of 6 percent a year, payable on each installment or portion of an installment which becomes delinquent, as defined in paragraph (b)(2) of this section, beginning on the date that the payment becomes delinquent.

(d) *Waiver.* Interest, penalties or administrative cost charges assessed under this section may be waived in whole or part if:

(1) The debt or the charges resulted from the agency's error, action or inaction (other than normal processing delays), and without fault on the part of the debtor;

(2) Collection in any manner authorized under this regulation and the Department's Claims Collection Regulations at 45 CFR Part 30 would defeat the overall objectives of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638).

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

PART PHS 352 [AMENDED]

The Department proposes to amend Part PHS 352 of Title 48, Code of Federal Regulations as follows:

1. The authority citation for Part PHS 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

2. A new clause number 43 is added in numerical sequence to section PHS 352.280–4(a), to read as follows:

PHS 352.280–4 Contracts Awarded Under the Indian Self-Determination Act

(a) * * *

Clause No. 43—Interest and Penalties on Debts

(a) *Interest.* Amounts owed to the Government by a contractor under a contract awarded under Pub. L. 93–638, section 103(a) will bear interest from the date on which the Government first mails or hand delivers to the debtor written notice of the debt if the debt is not paid within 30 days from that date, at a rate established as follows:

(1) Except as provided in paragraph (a)(2) of this clause, the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that the Department becomes entitled to recovery. This rate may be revised quarterly by the Secretary of the Treasury and shall be published by the HHS Assistant Secretary for Management and Budget quarterly in the **Federal Register.**

(2) The interest rate established in paragraph (a)(1) of this clause shall be no lower than the current value of funds rate, as set by the Secretary of the Treasury pursuant to 31 U.S.C. 3717.

(b) *Charges.* (1) A debtor will be charged the administrative costs to the Government of processing and handling a delinquent debt; and a penalty of six percent a year on a debt, or any portion of a debt that is more than 90 days delinquent, except where the debtor is an Indian tribe or a component of a tribal government, or where the debt arose under a contract executed before, and in effect on, October 25, 1982. These charges will be assessed monthly or per payment period, throughout the continued period of delinquency.

(2) A debt is delinquent if it is not paid by the due date specified in the notice of the debt referred to in paragraph (a) of this clause; and it is not the subject of a repayment agreement approved by the Secretary, or if the debtor fails to satisfy his or her obligations under a repayment agreement.

(3) This subsection does not apply to payment under an installment arrangement. *See* paragraph (c) of this clause.

(c) *Installment payments.* The Secretary may agree to accept repayment of a debt in installments pursuant to 4 CFR 101.11 if the debtor is unable to repay in one lump sum. An installment agreement will be in writing and will provide that:

(1) The rate of interest payable on deferred amounts will be set in accordance with paragraph (a) of this clause. However, the Secretary may charge interest for installment payment agreements at a rate no lower than the applicable rate determined from the U.S. Treasury "Schedule of Certified Interest Rates with Range of Maturities"; and

(2) Administrative costs of collection as provided in paragraph (b)(1) of this clause, and a penalty of 6 percent a year, payable on each installment or portion of an installment which becomes delinquent, as defined in paragraph (b)(2) of this clause, beginning on the date that the payment becomes delinquent.

(d) *Waiver.* Interest, penalties, or administrative cost charges assessed under this clause may be waived in whole or in part if:

(1) The debt or the charges resulted from the agency's error, action, or inaction (other than normal processing delays), and without fault on the part of the debtor;

(2) Collection in any manner authorized under this regulation and the Department's Claims Collection Regulations at 45 CFR Part 30 would defeat the overall objectives of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638).

3. A new clause number 35 is added in numerical sequence to Part PHS 352.280–4(b), to read as follows:

PHS 352.280–4 Contracts Awarded Under the Indian Self-Determination Act

* * * * *

(b) * * *

Clause No. 35—Interest and Penalties on Debts

(a) *Interest.* Amounts owed to the Government by the contractor under a contractor under a contract awarded under Pub. L. 93–638 Sec. 103(a) will bear interest from the date on which the Government first mails or hand delivers to the debtor written notice of the debt if the debt is not paid within 30 days from that date, at a rate established as follows:

(1) Except as provided in paragraph (a)(2) of this clause, the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that the Department becomes entitled to recovery. This rate may be revised quarterly by the Secretary of the Treasury and shall be published by the HHS Assistant Secretary for Management and Budget quarterly in the **Federal Register.**

(2) The interest rate established in paragraph (a)(1) of this clause shall be no lower than the current value of funds rate, as set by the Secretary of the Treasury pursuant to 31 U.S.C. 3717.

(b) *Charges.* (1) A debtor will be charged the administrative costs to the Government of processing and handling a delinquent debt; and a penalty of six percent a year on a debt, or any portion of a debt that is more than 90 days delinquent, except where the debtor is an Indian tribe or a component of a tribal government, or where the debt arose under a contract executed before, and in effect on, October 25, 1982. These charges will be assessed monthly or per payment period, throughout the continued period of delinquency.

(2) A debt is delinquent if it is not paid by the due date specified in the notice of the debt referred to in paragraph (a) of this clause; and it is not the subject of a repayment agreement approved by the Secretary, or if the debtor fails to satisfy his or her obligations under a repayment agreement.

(3) This paragraph does not apply to payments under an installment arrangement. *See* paragraph (c) of this clause.

(c) *Installment payments.* The Secretary may agree to accept repayment of a debt in installments pursuant to 4 CFR 101.11 if the debtor is unable to repay in one lump sum. An installment agreement will be in writing and will provide that:

(1) The rate of interest payable on deferred amounts will be set in accordance with paragraph (a) of this clause. However, the Secretary may charge of interest for installment payment agreements at a rate no lower than the applicable rate determined from the U.S. Treasury "Schedule of Certified Interest Rates with Range of Maturities"; and

(2) Administrative costs of collection as provided in paragraph (b)(1) of this section, and a penalty of 6 percent a year, payable on each installment or portion of an installment which becomes delinquent, as defined in paragraph (b)(2) of this clause, beginning on the date that the payment becomes delinquent.

(d) *Waiver.* Interest, penalties or administrative cost charges assessed under this clause may be waived in whole or in part if:

(1) The debt or the charges resulted form the Agency's error, action or inaction (other than normal processing delays), and without fault on the part of the debtor;

(2) Collection in any manner authorized under this regulation and the Department's Claims Collection Regulations at 45 CFR Part 30 would defeat the overall objectives of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638).

[FR Doc. 86–24672 Filed 11–3–86; 8:45 am]

BILLING CODE 4160–15–M

federal register

Tuesday
November 4, 1986

Part III

Department of the Interior

Minerals Management Service

North Atlantic OCS Lease Sale 96; Call for Information and Nominations; Intent To Prepare Environmental Impact Statement; Notice

4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
North Atlantic
OCS Lease Sale 96
Call for Information and Nominations
and
Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONS

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf Lands Act (OCSLA) (43 U.S.C. 1331-1343) as amended, and regulations appearing at 30 CFR 256.23, with regard to proposed OCS Lease Sale 96 in the North Atlantic Planning Area tentatively scheduled for October 1988. We have determined that a Request for Interest, a prelease step included in the Proposed 5-Year Program, is not necessary for Sale 96 as several companies have already advised the Minerals Management Service (MMS) of their general interest in this sale. However, the designation of specific areas of company interest is being solicited in this Call.

The Call is the initial information-gathering step in the prelease process and is important for ensuring that all interests and concerns are communicated to the Department of the Interior (DOI) early in the leasing process. This Notice does not indicate a preliminary decision to lease in the areas described below.

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and use conflicts will be used in the analysis of environmental conditions in and near the Call area. Together these two considerations will allow a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. Thus, it may be possible to make key decisions in connection with the next step in the planning process--Area Identification--to further resolve conflicts by deferring blocks where there is sufficient information to justify that action. However, the Area Identification represents only a preliminary step to select the area to be analyzed in the environmental impact statement (EIS). The Area Identification is scheduled for January 1987.

A third purpose for this Notice is to use the comments collected to initiate scoping of the EIS, which will include public meetings, and to identify and analyze alternatives to the proposed action. A Notice of Intent to Prepare an EIS which also describes the scoping process for this proposed sale, is included below. Fourth, comments may be used in developing lease terms and conditions to assure safe offshore operations. Fifth, comments may be used in understanding and considering ways to avoid or mitigate potential conflicts between offshore oil and gas activities and the Coastal Management Plans (CMP's) of affected States.

The Call area includes blocks in several military operating areas, submarine transit lanes, and shipping traffic lanes. Presale consultation with the Department of Defense and the U.S. Coast Guard will occur during the comment period for this Call. Blocks presenting defense or navigation-related multiple use conflicts, which cannot be otherwise mitigated, will be deleted at the Area Identification stage.

Consideration of Bidding Changes

For Sale 96, the MMS anticipates a return to the minimum bid level of $25 per acre used before 1983 and is considering the use of alternative bidding systems to encourage leasing and exploration in the North Atlantic planning area. These changes are being evaluated to determine effective and proper ways to encourage exploration, which, in turn, will provide more accurate assessment of the hydrocarbon potential of the planning area. Present economic conditions affecting the oil and gas industry and the negative results of previous exploration in this area indicate the need for a reevaluation of oil and gas leasing practices in order to encourage an assessment of hydrocarbon resources in this high cost, high risk frontier area.

The only sale held to date in the North Atlantic (Sale 42) employed a minimum bid of $25 per acre. At that sale, 359,000 of the more than 50 million acres in the planning area were leased. High bids on the leased acreage totaled $817 million. Of the eight wells drilled, none resulted in commercial quantities of hydrocarbons nor were there measurable environmental effects from exploratory drilling. There is some indication that the use of the $150 per acre minimum bid in proposed Sale 82 in conjunction with the economic conditions of the time and the high risk of the area may have effectively discouraged industry interest in that sale.

The results of drilling, whether a dry hole or a commercial find, contribute considerably to the Nation's understanding of potential resources (and resource areas) available to meet future energy needs. Thus, the drilling results on the Sale 42 leases, while disappointing due to the absence of commercial hydrocarbons, did provide vital information concerning the resource potential in specific areas.

The knowledge that an area does or does not contain hydrocarbons is of greater benefit to the Nation than to an individual operator who only has rights to a limited portion of a planning area. This would be

determined by a first discovery in an area, but such a discovery depends on exploratory activity which, in turn, requires active leases. It is also in the national interest to create a situation where the private sector is able to be responsive to changing economic conditions and international crises. Further, it is in the national interest to maintain some level of domestic exploration so the private sector can, over the longer term, make up a portion of the deficit caused by ongoing depletion of known fields and be able to respond to future energy needs. Incentives such as the $25 per acre minimum bid and alternative bidding systems may be necessary to provide the proper climate for exploration in high risk areas such as the North Atlantic. The need for these incentives is compounded by the lengthy and complex prelease process and the current instability of the oil and gas industry.

Description of Area

The area of this Call is offshore Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey. The area lies approximately 50 to 265 statute miles offshore in water depths ranging from 60 to 4,400 meters. The area is shown in detail on the Call map available free from the Regional Supervisor, Office of Leasing and Environment, 1951 Kidwell Drive, Suite 601, Vienna, VA 22180, telephone (703) 285-2165. The following list identifies the Official Protraction Diagrams and full and partial blocks comprising this Call area. The Diagrams may be purchased for $2.00 each from the Regional Supervisor, Office of Leasing and Environment, Atlantic Region, at the address given above (checks or drafts payable to the United States Department of the Interior--MMS).

NK 19-5, Cashes Ledge

700	743-744	786-788	829-832	1005-1008

NK 19-6

489-494	574-583	661-673	749-762	969-971
532-539	617-628	705-717	793-807	

NK 19-8, Chatham

37-40	80-84	124-127	168-169

NK 19-9

108	329-331	502-510	677-688	851-867
152	372-376	546-554	721-733	892-912
196-197	414-420	590-599	764-778	951-957
241-242	458-465	634-644	808-823	995-1001
285-286				

NK 19-10, Block Island Shelf

474-478	643-660	775-792	907-924	995-1003
516-524	687-704	819-836	951-959	1005-1008
560-568	731-748	863-880	961-968	1010-1012
604-612				

NK 19-11, Hydrographer Canyon

608-609	692-697	768-778	832	929-945
611-612	700	780-786	841-852	947-955
621-632	709-720	788	854-867	957-964
652-653	730-741	797-808	869-876	973-989
655-656	744	812-823	885-911	991-1008
665-676	753-764	825-830	913-920	

NK 19-12, Lydonia Canyon

24-34	326-343	533	661-662	756-784
68-79	365-369	535-564	664-665	793-794
110-123	372-387	573	667-696	796-798
154-167	406-413	575-577	705-706	800-828
193-211	417-431	579-608	708-710	837-872
237-255	450-475	617-621	712-740	881-916
279-299	489	623-626	749-750	925-960
323-324	491-520	628-652	752-754	969-1004

NJ 19-1 Block Canyon

28-36	131-132	336-352	600-616	820-836
38-44	160-168	380-396	644-660	864-880
72-80	170-176	424-440	688-704	908-924
82-88	204-220	468-484	732-748	952-968
116-124	248-264	512-528	776-792	996-1012
126-129	292-308	556-572		

NJ 19-2, Veatch Canyon

All Federal blocks except blocks 53 and 97

NJ 19-3

All Federal blocks

NOTE

The above block list contains 106 blocks in the vicinity of submarine canyon areas. The following aliquot portions of these 106 blocks are included within this Call:

NK 19-10, Block Island Shelf

916 - N1/2NE1/4; NW1/4; W1/2SW1/4.
917 - NE1/4; N1/2NW1/4; E1/2SE1/4.

NK 19-10, Block Island Shelf (cont)

921 - N1/2; N1/2SW1/4; SW1/4SW1/4.
922 - N1/2; SE1/4.
961 - NE1/4NE1/4; S1/2NE1/4; SE1/4SW1/4; SE1/4.
965 - W1/2W1/2.
966 - E1/2E1/2.
1003 - W1/2E1/2; W1/2.
1005 - E1/2; E1/2NW1/4; SW1/4.
1010 - E1/2E1/2.

NK 19-11, Hydrographer Canyon

609 - N1/2NW1/4; SW1/4NW1/4; W1/2SW1/4.
653 - W1/2W1/2.
655 - E1/2; NE1/4NW1/4.
697 - SW1/4SW1/4.
700 - E1/2; NE1/4NW1/4.
734 - N1/2; SW1/4; N1/2SE1/4.
735 - N1/2; N1/2S1/2.
741 - W1/2W1/2; SE1/4SW1/4.
744 - E1/2; E1/2W1/2.
769 - N1/2N1/2; SW1/4NW1/4.
778 - W1/2.
780 - N1/2NE1/4; SE1/4NE1/4.
781 - N1/2; SE1/4.
785 - W1/2NE1/4; W1/2; SE1/4.
786 - SW1/4SW1/4.
788 - E1/2; E1/2NW1/4.
813 - W1/2SW1/4; SE1/4SW1/4.
814 - E1/2; N1/2NW1/4; SE1/4NW1/4; NE1/4SW1/4.
822 - SW1/4NE1/4; W1/2; W1/2SE1/4; SE1/4SE1/4.
823 - SW1/4SW1/4.
825 - E1/2; E1/2SW1/4.
830 - SW1/4NE1/4; W1/2; W1/2SE1/4; SE1/4SE1/4.
857 - W1/2.
858 - E1/2E1/2.
867 - NE1/4NW1/4; W1/2W1/2.
869 - E1/2; E1/2W1/2.
875 - SW1/4NW1/4; W1/2SW1/4; SE1/4SW1/4.
901 - W1/2.
902 - E1/2NE1/4.
911 - W1/2; SW1/4SE1/4.
913 - E1/2; E1/2W1/2.
945 - W1/2.
947 - E1/2; NW1/4; N1/2SW1/4; SE1/4SW1/4.
955 - NW1/4NE1/4; S1/2NE1/4; W1/2; SE1/4.
979 - W1/2NE1/4; W1/2.
980 - E1/2E1/2.
989 - SW1/4NE1/4; W1/2; SE1/4.
991 - E1/2E1/2; NW1/4NE1/4.

NK 19-12, Lydonia Canyon

155 - NE1/4; N1/2NW1/4.
156 - N1/2; N1/2SW1/4; SE1/2SW1/4; SE1/4.
199 - SW1/4SW1/4.
280 - N1/2N1/2; SW1/4NW1/4; W1/2SW1/4.
281 - N1/2.
282 - N1/2; N1/2SW1/4; SE1/4SW1/4; SE1/4.
324 - SW1/4NE1/4; W1/2; W1/2SE1/4.
326 - N1/2NE1/4; SE1/4NE1/4.
369 - SW1/4SW1/4.
413 - NW1/4NW1/4; S1/2NW1/4; SW1/4; W1/2SE1/4; SE1/4SE1/4
450 - N1/2NW1/4; SW1/4NW1/4; W1/2SW1/4.
451 - NE1/4; N1/2NW1/4; SE1/4NW1/4; SE1/4.
489 - W1/2NW1/4; SW1/4.
494 - W1/2NW1/4; SE1/4NW1/4; SW1/4.
495 - E1/2E1/2.
533 - W1/2NE1/4; SE1/4NE1/4; W1/2; N1/2SE1/4.
535 - E1/2; SE1/4SW1/4.
538 - NW1/4; W1/2SW1/4.
539 - E1/2E1/2.
575 - E1/2E1/2.
577 - W1/2.
579 - E1/2; E1/2W1/2.
582 - W1/2NW1/4; SW1/4.
583 - NE1/4NE1/4.
618 - SW1/4SW1/4.
619 - NE1/4NE1/4.
621 - W1/2.
623 - E1/2;E1/2W1/2.
626 - W1/2NE1/4; W1/2; W1/2SE1/4; SE1/4SE1/4.
662 - W1/2W1/2; SE1/4NW1/4.
665 - W1/2NE1/4; W1/2; W1/2SE1/4; SE1/4SE1/4.
667 - N1/2NE1/4; SE1/4NE1/4; E1/2SE1/4.
671 - W1/2NW1/4; NW1/4SW1/4.
706 - SW1/4NW1/4; W1/2SW1/4.
710 - SW1/4SW1/4.
750 - SW1/4NE1/4; W1/2NW1/4; SE1/4NW1/4; SW1/4; W1/2SE1/4.
754 - W1/2NW1/4; SW1/4; S1/2SE1/4.
794 - S1/2NE1/4; NW1/4NE1/4; NW1/4; S1/2.

NJ 19-1, Block Canyon

36 - W1/2.
42 - SE1/4SE1/4.
43 - E1/2; NE1/4SW1/4; S1/2SW1/4.
80 - NW1/4; W1/2SW1/4.
82 - N1/2; N1/2SW1/4; SE1/4SW1/4; SE1/4.
86 - E1/2NE1/4.
124 - W1/2NW1/4; SE1/4NW1/4; SW1/4.
131 - E1/2; E1/2NW1/4; SW1/4.
168 - W1/2.

NJ 19-1, Block Canyon (cont)

174 - E1/2E1/2.
212 - W1/2.
213 - E1/2E1/2.

NJ 19-2, Veatch Canyon

8 - NE1/4NW1/4; W1/2W1/2.
9 - NE1/4NE1/4.
19 - SE1/4NW1/4; W1/2NW1/4; SW1/4.
52 - W1/2NW1/4; SW1/4.
54 - E1/2; E1/2W1/2.
63 - W1/2NE1/4; W1/2; SE1/4.
96 - W1/2E1/2; W1/2.
98 - E1/2; E1/2NW1/4; NE1/4SW1/4.

Instructions on Call

The Call map delineates the Call area. Respondents are requested to nominate any or all of the Federal blocks within the Call area that they wish to have included in Sale 96. Although the identities of those submitting nominations become a matter of public record, the individual indications of interest are considered proprietary.

Those indicating such interest are required to do so on the Call map, available free from the Regional Supervisor, Office of Leasing and Environment at the address stated under "Description of Area." Interest should be shown by outlining the area(s) of interest along block lines. A detailed list of whole and partial blocks nominated (by OCS Official Protraction Diagram designations) should be submitted to ensure correct interpretation of nominations.

Respondents should rank areas in which they have expressed interest according to priority of their interest (e.g., priority 1 (high), 2, or 3). If there are areas within the Call area in which respondents have no interest, no priority should be assigned to them. Areas where interest has been indicated but on which respondents have not indicated any priorities will be considered priority 3. The telephone number and name of a person to contact in the respondent's organization for additional information should be included. Again, information concerning both location and priority of interest submitted by individual companies will be held proprietary and will help determine the areas to be analyzed in the EIS. In addition to the indications of interest by respondents, further considerations of areas for analysis in the EIS will be based on hydrocarbon potential and environmental, economic, and multiple-use conditions.

Comments or suggestions are requested on the following:

- technology that is presently available or anticipated for exploration and development operations in deepwater areas.
- minimum bid levels and alternative bidding systems.
- procedures which may lead to enhanced understanding of the oil and gas resources of the North Atlantic OCS.
- particular geologic, environmental, biological, archeological, or socio-economic conditions or conflicts, or other information which might bear upon potential leasing and development in particular areas.
- potential conflicts that may result from future oil and gas activities resulting from this sale and approved State and local CMP's. If possible, these comments should identify specific CMP policies, the nature of the conflicts foreseen, and steps that MMS can take to avoid or mitigate potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks. Those submitting comments are requested to outline the subject area on the standard Call map.

Indications of interest and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Proposed Lease Sale 96 in the Atlantic OCS Region" or "Comments on the Call for Information and Nominations for Proposed Lease Sale 96 in the Atlantic OCS Region." The standard Call map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Atlantic OCS Region, at the address stated under "Description of Area."

Tentative Schedule

Final delineation of the area for possible leasing will be made at a later date and in accordance with established departmental procedures and applicable laws, including all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and regulations (40 CFR 1501.7), and the OCSLA as amended. If a decision to offer blocks is made, a final Notice of Sale will be published in the Federal

Register detailing areas to be offered for competitive bidding, stating the terms and conditions for leasing, and announcing the location, date, and time bids will be received and opened.

The following is a list of tentative milestones which will precede the sale, proposed for 1988:

Milestones	Date
Comments due on the Call and the Notice of Intent to Prepare an EIS	December 1986
Area Identification	January 1987
Draft EIS published	October 1987
Hearings held on draft EIS	November 1987
Final EIS published	April 1988
Proposed Notice of Sale published	June 1988
Governor's comments due on proposed Notice	August 1988
Final Notice of Sale published	September 1988
Sale	October 1988

Existing Information

Information already available for the Call area includes the results of studies and environmental impact statement analyses conducted in conjunction with previously scheduled Sales 42, 52, and 82 and the results of past exploration activities in this planning area. Also available is information gathered during the EIS and decision processes for the 1980, 1982, and currently Proposed 5-Year Oil and Gas Leasing Program. In addition, comments previously received by the DOI from State and local governments, other Federal Agencies, environmental groups, and the oil and gas industry concerning past OCS actions will be used.

An extensive environmental studies program has been underway in this area since 1973 (See Environmental Studies Program Information in the Atlantic OCS Region, below). The following is a list of other information which will be available to the DOI for consideration regarding the proposed 1988 OCS Lease Sale in the Atlantic OCS Region.

Atlantic OCS Indices and Summary Reports

1. Atlantic Index, January 1975 through November 1980.

2. Atlantic Index, December 1980 through June 1981.
3. Atlantic Index, June 1981 through May 1983.
4. Atlantic Index, June 1983 through May 1984.
5. Atlantic Index, June 1984 through January 1985.
6. North Atlantic Planning Area Summary Report, July 1981, Initial.
7. North Atlantic Planning Area Summary Report, April 1982, Update.
8. North Atlantic Planning Area Summary Report, February 1983, Update.
9. North Atlantic Planning Area Summary Report, June 1983, Update.
10. Atlantic Region Summary Report, December 1984, Initial.
11. Atlantic Region Summary Report/Index, January 1985-June 1986.
12. Geology Report, Proposed North Atlantic OCS oil and gas Lease Sale #96 (MMS 84-0062, 1985)

Environmental Studies Program Information in the Atlantic OCS Region

The DOI initiated the Environmental Studies Program in 1973. The emphasis, has been on geological mapping, environmental characterization of biologically sensitive habitats, physical oceanography, ocean circulation modeling, and ecological effects of oil and gas activities. These studies provide useful information for a number of environmental issues, including topographic features, deepwater biological communities on the continental slope, and coastal wetland habitats.

A complete listing of available study reports and information for ordering copies can be obtained from the Atlantic OCS Region at the address stated under "Description of Area," or by telephone at (703) 285-2728. The reports may also be ordered for a fee directly from the National Technical Information Service. The mailing address is U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

In addition, a program status report for continuing studies in this area can be obtained from the Chief, Environmental Studies and Leasing Section, Atlantic OCS Region at the address stated under "Description of Area" or by telephone at (703) 285-2728.

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

Purpose of Notice of Intent

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), the MMS is announcing its intent to prepare an EIS regarding the oil and gas leasing proposal known as North Atlantic lease Sale 96. The Notice of Intent also serves to announce the scoping process which will be followed for this EIS. Throughout the scoping process, Federal, State, and local governments and other interested parties aid the MMS in determining the significant issues and alternatives to be analyzed in the EIS. The public may present comments and recommendations at scoping meetings which will be held in appropriate locations for the purpose of obtaining additional comments and information regarding the scope of the EIS following a decision on Area Identification. In addition, comments and recommendations may be submitted in writing. The times and locations of these scoping meetings and the date scoping comments are due will be announced in a future Federal Register Notice and by press release.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the area defined in the Area Identification procedure as the proposed area of the Federal action. Alternatives to the proposal which would modify or cancel the sale, will be rigorously evaluated in the EIS.

For further information concerning the proposal and the EIS, contact the Regional Supervisor, Office of Leasing and Environment, Atlantic Region, 1951 Kidwell Drive, Suite 601, Vienna, VA 22180, telephone (703) 285-2165.

Wm D Bettenberg

Director, Minerals Management Service

William D. Bettenberg

Approved:

Steven J. Griles

Assistant Secretary - Land and Minerals Management
J. Steven Griles

OCT 23 1986

Date

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[FR Doc. 86-24863 Filed 11-3-86; 8:45 am]

BILLING CODE 4310-MR-C

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