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Briefings on How To Use the Federal Register—
For information on briefings in Houston, TX, and Atlanta, GA, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

HOUSTON, TX

WHEN: March 10; at 9 am.
WHERE: Room 4415, Federal Building, 515 Rusk Avenue, Houston, TX.
RESERVATIONS: Call the Houston Federal Information Center on the following local numbers:

Houston	713–229–2552
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ATLANTA, GA

WHEN: March 26; at 9 am.
WHERE: L.D. Strom Auditorium, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, GA.
RESERVATIONS: Call the Atlanta Federal Information Center, 404–331–2170.

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Food Service Employees of the House of Representatives

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing regulations on the continuation of civil service retirement coverage and benefits for career civilian employees of the United States permanently assigned to the food services operations of the House of Representatives after those operations have been transferred to a private contractor.

DATES: Interim regulations effective October 18, 1986. Comments must be received on or before April 20, 1987.

ADDRESS: Send written comments to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. Elliott, (202) 632–4682.

SUPPLEMENTARY INFORMATION: These regulations are required by section 111 of Pub. L. 99–500, enacted October 18, 1986, which made it possible for food service employees of the House of Representatives to retain their civil service retirement coverage and benefits following transfer of the food service operations to a private contractor. Regulations on retaining coverage under the Federal Employees' Retirement System will be issued separately. The Congressional employees who became food service employees of the contractor (Service America Corporation) on January 3, 1987, must have elected no later than January 2 to stay under the Civil Service Retirement System. Those who made this election have the same retirement coverage as if they were still Congressional employees.

Employee Deductions

As employees of the contractor, they are covered under Social Security. Therefore, their deductions for the Civil Service Retirement and Disability Fund are reduced so that their total contribution to the OASDI portion of Social Security and the Civil Service Retirement and Disability Fund does not exceed what they were contributing as Congressional employees. For calendar year 1987, the employee deduction rate is 1.8 percent of basic pay.

OPM and Contractor Responsibilities

OPM and the contractor will operate under a written agreement that spells out their respective responsibilities. Their responsibilities are the same as exists between OPM and any employing agency with respect to the retirement system. For the contractor, this includes withholding employee deductions and making the required 7½ percent employer contributions into the Civil Service Retirement and Disability Fund.

Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Under 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these amendments effective in less than 30 days because the food service operations of the House of Representatives were transferred to a private contractor on January 3, 1987. The regulations are effective retroactive to October 18, 1986, the effective date of the amendments of section 111 of Pub. L. 99–500.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, these regulations will not have a significant economic impact on a substantial number of small entities because these regulations concern administrative practices and will affect only a small number of Federal employees and a single contractor.

List of Subjects in 5 CFR Part 831

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

U.S. Office of Personnel Management.
James E. Colvard,
Deputy Director.

Accordingly, OPM is amending Part 831 of title 5 of the Code of Federal Regulations as follows:

PART 831—RETIREMENT

1. The authority citation for Subpart C of Part 831 reads as follows:

Authority: 5 U.S.C. 8347.

2. Subpart C is amended to add a new § 831.307 to read as follows:

Subpart C—Credit for Service

* * * * *

§ 831.307 Continuation of service credit for food service employees of the House of Representatives.

(a) Congressional employees who provide food service operations for the House of Representatives can elect to continue their retirement coverage under subchapter III of Chapter 83 of Title 5, United States Code, when such food service operations are transferred to a private contractor. These regulations also apply to any successor contractors.

(b) *Eligibility requirements.* To be eligible for continuation of retirement coverage, an employee must (1) be a Congressional employee (as defined in section 2107 of Title 5, United States Code), other than an employee of the Architect of the Capitol, engaged in providing food service operations for the House of Representatives under the administrative control of the Architect of the Capitol; (2) be subject to subchapter III of Chapter 83 of Title 5, United States Code; (3) elect to remain covered under civil service retirement provisions no later than the day before the date on which the food service operations transfer from the House of Representatives to a private contractor; and (4) become employed to provide food services under contract without a break in service. A "break in service"

means a separation from employment of at least three calendar days.

(c) *Employee deductions.* An employee who elects to continue coverage under Title 5 retirement provisions is deemed to consent to deductions from his or her basic pay for the Civil Service Retirement and Disability Fund in the amount determined in accordance with 5 U.S.C. 8334(k). The employer providing the food services under contract must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund the amounts deducted from an employee's pay.

(d) *Employer contributions.* The employer providing food services under contract must, in accordance with procedures established by OPM, pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions that would be required if the individual were a Congressional employee covered by the Civil Service Retirement System.

[FR Doc. 87-3375 Filed 2-18-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1007, 1006, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098 and 1099

[Docket Nos. A0-366-A27 et al.]

Milk in the Georgia and Certain Other Marketing Areas; Order Amending Orders

7 CFR Parts	Marketing area	Docket Nos.
1007	Georgia	AO-366-A27
1006	Upper Florida	AO-356-A25
1011	Tennessee Valley	AO-251-A30
1012	Tampa Bay	AO-347-A28
1013	Southeastern Florida	AO-286-A35
1046	Louisville-Lexington-Evansville	AO-123-A56
1093	Alabama-West Florida	AO-386-A6
1094	New Orleans-Mississippi	AO-103-A48
1096	Greater Louisiana	AO-257-A35
1098	Nashville, Tennessee	AO-184-A50
1099	Paducah, Kentucky	AO-183-A42

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action modifies the plant location adjustments to prices under 11 southeastern Federal milk marketing orders. The amendments change the location adjustment provisions in the 11 orders to conform with the Class I differentials mandated by the Food Security Act of 1985. This final rule is unchanged from the interim amendments to the orders that were made effective July 1, 1986. The changes are based on the record of a public hearing held in Atlanta, Georgia, on February 25-27, 1986. More than the necessary two-thirds of the producers supplying each of eleven markets have approved the amended orders.

EFFECTIVE DATE: April 1, 1987.

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: Prior documents in this proceeding:

Notice of Hearing: Issued February 7, 1986; published February 13, 1986 (51 FR 5363).

Extension of Time for Filing Briefs: Issued March 11, 1986.

Tentative Decision: Issued May 28, 1986; published June 5, 1986 (51 FR 20446).

Interim Amendment of Rules: Issued June 26, 1986; Market Administrators of affected orders notified handlers of July 1, 1986, effective date.

Interim Amendment of Rules: Issued July 17, 1986; published July 22, 1986 (51 FR 26224).

Correction to Tentative Decision: Issued July 17, 1986; published July 22, 1986 (51 FR 26254).

Final Decision: Issued December 10, 1986; published December 15, 1986 (51 FR 44913).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-694), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas; and the minimum prices specified in the orders as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders; and

(3) The issuance of this order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

List of Subjects in 7 CFR Parts 1006, 1007, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098, and 1099

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. The authority citation for Parts 1007, 1006, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098, and 1099 continues to read as follows:

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

PART 1007—MILK IN THE GEORGIA MARKETING AREA

2. In § 1007.52, paragraphs (a) and (b) are revised to read as follows:

§ 1007.52 Plant location adjustments for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) "Northern Zone" means all the territory in the following Georgia counties:

Bartow, Cherokee, Dawson, Floyd, Forsyth, Gilmer, Gordon Habersham, Hall, Lumpkin, Pickens, Towns, Union, and White.

(2) "North Cental Zone" means all the territory in the following Georgia counties:

Banks, Barrow, Butts, Carroll, Clarke, Clayton, Cobb, Coweta, DeKalb, Douglas, Elbert, Fayette, Franklin, Fulton, Greene, Gwinnett, Harolson, Hart, Heard, Henry, Jackson, Jasper, Lamar, Lincoln, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pike, Polk, Putnam, Rockdale, Spalding, Stephens, Taliferro, Troup, Walton, and Wilkes.

(3) "South Central Zone" means all the territory in the following Georgia counties:

Baldwin, Bibb, Bleckley, Burke, Chattahoochee, Columbia, Crawford, Crisp, Dodge, Dooly, Emanuel, Glascock, Hancock, Harris, Houston, Jefferson, Jenkins, Johnson, Jones, Laurens, Macon, Marion, McDuffie, Monroe, Muscogee, Peach, Pulaski, Richmond, Schley, Stewart, Sumter, Talbot, Taylor, Treutlen, Twiggs, Upson, Warren, Washington, Webster, Wilcox, and Wilkinson.

(4) "Southern Zone" means all the territory within the marketing area not specified in paragraph (a) (1), (2), or (3) of this section.

(b) The Class I price for producer milk at a plant located outside the North Central Zone shall be adjusted as follows:

(1) For producer milk at a plant located in the "Northern Zone" the Class I price shall be reduced by 15 cents;

(2) For producer milk at a plant located in the "South Central Zone" the Class I price shall be increased by 10 cents;

(3) For producer milk at a plant located in the "Southern Zone" the Class I price shall be increased by 30 cents;

(4) For producer milk at a plant located in the State of North Carolina the Class I price shall be decreased by 11 cents;

(5) For producer milk at a plant located in the Tennessee Valley marketing area the Class I price shall be decreased by 31 cents;

(6) For producer milk at a plant located outside the marketing area and outside the Tennessee Valley marketing area and south of the southern boundary of the States of Tennessee and North Carolina the Class I price shall be the Class I price applicable at the nearer of the city halls in Augusta, Savannah, Lavonia, Waycross, Albany, Columbus, Atlanta, and Rome, Georgia; and

(7) For producer milk at a plant located ouside the areas specified in paragraphs (b) (1), (2), (3), (4), (5) or (6) of this section the Class I price shall be reduced 20 cents and an additional 2.5 cents for each 10 miles or fraction thereof in excess of 110 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the city hall in Atlanta, Georgia.

* * * * *

3. In § 1007.61, paragraph (a)(3) is revised to read as follows:

§ 1007.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) * * *

(3) Add an amount equal to the total value of the minus adjustments and subtract an amount equal to the total value of the plus adjustments computed pursuant to § 1007.75;

* * * * *

4. Section 1007.73(a)(2) introductory text is revised to read as follows:

§ 1007.73 Payments to producers and to cooperative associations.

(a) * * *

(2) On or before the 15th day of the following month at not less than the applicable uniform price(s) for the quantities of milk or base milk and excess milk received from such producer during the month adjusted by the butterfat differential computed pursuant to § 1007.74 and by the location adjustment computed pursuant to § 1007.75 subject to the following:

* * * * *

5. In § 1007.75, paragraph (a) is revised to read as follows:

§ 1007.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price and the uniform price for base milk shall be adjusted according to the location of the plant at which the milk is physically received at the rates set forth in § 1007.52(b); and

* * * * *

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.52, the table contained in paragraph (a) is revised to read as follows:

§ 1006.52 Plant location adjustments for handlers.

(a) * * *

Location of plant	Rate per cwt.
Outside the State of Florida:	
In excess of 70 but not more than 85 miles.	Subtract 15 cents.
For each additional 10 miles or fraction thereof.	Subtract 2.0 cents.
Inside the State of Florida:	
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam and St. Johns, but outside the defined marketing area of Part 1013.	Add 30 cents.
In the defined marketing area of Part 1013.	Add 60 cents.
The remaining area within the State of Florida.	No adjustment.

* * * * *

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. In § 1011.52, paragraph (a) is revised to read as follows:

§ 1011.52 Plant location adjustments for handlers.

(a) For milk received from producers or from a handler described in § 1011.9 (c) or (d) at a plant and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the Class I price shall be adjusted as follows:

(1) For such milk which is physically received at a plant located within the State of North Carolina, or a plant located outside the Georgia counties in the marketing area and south of the southern boundary of the States of North Carolina and Tennessee and east of the Mississippi River, the Class I price shall be increased by 20 cents;

(2) No adjustment shall be applicable on such milk which is physically received at a plant located within the

marketing area except the Kentucky portion of the marketing area, or in the State of Virginia;

(3) For such milk which is physically received at a plant located within the Kentucky counties of Bell, Breathitt, Clay, Harlan, Knott, Knox, Laurel, Leslie, Letcher, McCreary, Perry, Pulaski, and Whitley, the Class I price shall be decreased by 32 cents; and

(4) For such milk which is physically received at a plant located more than 90 miles by the shortest hard-surfaced highway distance as determined by the market administrator from the nearest of the city halls of Bristol, Chattanooga, and Knoxville, Tennessee, and outside the areas specified in paragraphs (a) (1), (2), or (3) of this section, the Class I price applicable at the nearer of the city halls in Bristol, Chattanooga, or Knoxville, Tennessee shall be reduced by 2.5 cents for each 10 miles or fraction thereof that such plant is from the nearest of the city halls in Bristol, Chattanooga, and Knoxville, Tennessee.

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. In § 1012.52, the table contained in paragraph (a) is revised to read as follows:

§ 1012.52 Plant location adjustments for handlers.

(a) * * *

Location of plant	Rate per cwt.
Outside the State of Florida:	
For each 10 miles or fraction thereof from the city hall in Tampa, Fla.	Subtract 2.0 cents.
Inside the State of Florida:	
In the defined marketing area of Part 1013.	Add 30 cents.
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam and St. Johns, but outside the defined marketing area of Part 1013.	No adjustment.
The remainaing area within the State of Florida.	Minus 30 cents.

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. In § 1013.52, the table contained in paragraph (a) is revised to read as follows:

§ 1013.52 Plant location adjustments for handlers.

(a) * * *

Location of plant	Rate per cwt.
Outside the State of Florida:	
For each 10 miles or fraction thereof from the U.S. Post Office in West Palm Beach, Fla.	Subtract 2.0 cents.
Inside the State of Florida:	
South of a line forming the southern boundary of the counties of Alachua, Dixie, Gilchrist, Putnam and St. Johns, but outside the defined marketing area of this order.	Subtract 30 cents.
The remaining area within the State of Florida.	Subtract 60 cents.

* * * * *

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. In § 1046.52, paragraph (a) is revised to read as follows:

§ 1046.52 Plant location adjustments for handlers.

(a) For milk received from producers or from a handler described in § 1046.9(c) at a plant and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the Class I price shall be adjusted as follows:

(1) For such milk that is physically received at plants located in the Kentucky counties of Bell, Breathitt, Caldwell, Christian, Clay, Harlan, Hopkins, Knott, Knox, Laurel, Leslie, Letcher, Logan, Lyon, McCreary, Muhlenberg, Perry, Pulaski, Todd, Trigg and Whitley, the Class I price shall be increased by a location adjustment of 15 cents;

(2) For such milk that is physically received at plants located in the Kentucky counties of Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Marshall and McCracken and the Missouri counties of Mississippi, New Madrid, Pemiscot and Scott, the Class I price shall be increased by a location adjustment of 28 cents;

(3) For such milk that is physically received at plants located east of the Mississippi River and south of the northern boundary of Tennessee or the northern boundary of North Carolina, the Class I price shall be increased by a location adjustment of 41 cents;

(4) For such milk that is physically received at plants located in the marketing area or the state of Kentucky and outside the areas specified in paragraphs (a)(1), (2), or (3) of this section, no location adjustment shall apply; and

(5) For such milk that is physically received at plants located outside the areas specified in paragraphs (a)(1), (2), (3), or (4) of this section, and 85 miles or more from the City Halls in Louisville and Lexington, Kentucky, and Evansville, Indiana, by the shortest hard-surfaced highway distance as determined by the market administrator, the Class I price shall be reduced by a location adjustment of 2.5 cents for each 10 miles or fraction thereof that such plant is from the City Hall in Louisville, Lexington, or Evansville, whichever is nearest.

* * * * *

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

1. In § 1093.52, the table contained in paragraph (a)(1) is revised to read as follows:

§ 1093.52 Plant location adjustments to handlers.

(a) * * *

(1) * * *

Zone	Adjustment per hundredweight
Zone 1	Minus 23 cents.
Zone 2	No adjustment.
Zone 3	Plus 27 cents.
Zone 4	Plus 57 cents.
Zone 4a	Plus 30 cents.

* * * * *

§ 1093.52 [Amended]

2. In § 1093.52(a)(2), the provision "20" is revised to read "31".

3. In § 1093.52(a)(3), the provision "45" is revised to read "56".

4. In § 1093.52(a)(4), the provision "20 cents. Such minus adjustment shall be increased 1.5" is revised to read "23 cents. Such minus adjustment shall be increased 2.5".

5. In § 1093.52(a)(6), the provision "55" is revised to read "50".

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. In § 1094.2, Zone 2A, ZONE 3, ZONE 3A, and ZONE 4 are revised to read as follows:

§ 1094.2 New Orleans-Mississippi marketing area.

* * * * *

Zone 2A

Mississippi Counties

Amite, Covington, Forrest, Franklin, Greene, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthal, Wayne, and Wilkinson.

Zone 3

Mississippi Counties

Adams, Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Jefferson, Kemper, Lauderdale, Leake, Madison, Neshoba,

Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo.

Zone 3A

Mississippi Counties

Attala, Holmes, Humphreys, Noxubee, Washington, and Winston.

Zone 4

Mississippi Counties

Bolivar, Carroll, Choctaw, Leflore, Lowndes, Montgomery, Oktibbeha, Sunflower, and Webster.

2. In § 1094.52(a)(1), the table is revised to read as follows:

§ 1094.52 Plant location adjustments for handlers.

(a) * * *

(1) * * *

Zone	Adjustment per cwt.
Zone 1	No adjustment.
Zone 2	Minus 20 cents.
Zone 2A	Minus 40 cents.
Zone 3	Minus 50 cents.
Zone 3A	Minus 65 cents.
Zone 4	Minus 75 cents.
Zone 5	Minus 80 cents.
Zone 6	Minus 95 cents.

§ 1094.52 [Amended]

3. In § 1094.52(a)(2)(i), the provision "No adjustment" is revised to read "Minus 7 cents";

4. In § 1094.52(a)(2)(ii), the provision "19" is revised to read "30";

5. In § 1094.52(a)(2)(iii), the provision "38" is revised to read "57";

6. In § 1094.52(a)(3), the provision "75" is revised to read "95".

7. In § 1094.52(a)(5), the provision "1.5" is revised to read "2.5".

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

1. In § 1096.52, paragraph (a) is revised to read as follows:

§ 1096.52 Plant location adjustments to handlers.

(a) For milk received at a plant from producers or a handler described in § 1096.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price computed pursuant to § 1096.50(a) shall be adjusted by an amount determined pursuant to paragraphs (a)(1) through (5) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1096.2, the adjustment shall be as follows:

	Adjustment per cwt.
Zone I	No adjustment.
Zone II	Plus 27 cents.
Zone III	Plus 50 cents.

(2) For a plant located in any of the following Louisiana parishes, the adjustment shall be as follows:

(i) Plus 57 cents.

Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, Terrebonne.

(ii) Plus 37 cents.

St. Tammany, Tangipahoa, Washington.

(3) For a plant located in any of the following Mississippi counties, the adjustment shall be as follows:

(i) Plus 37 cents.

George, Hancock, Harrison, Jackson, Pearl River, Stone.

(ii) Plus 17 cents.

Amite, Covington, Forrest, Franklin, Greene, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Walthal, Wayne and Wilkinson.

(iii) Plus 7 cents.

Adams, Claiborne, Clarke, Copiah, Hinds, Issaquena, Jasper, Jefferson, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Rankin, Scott, Sharkey, Simpson, Smith, Warren and Yazoo.

(4) For a plant located in any of the following Texas counties, the adjustment shall be as follows:

(i) Plus 54 cents.

Chambers, Hardin, Harris, Jefferson, Liberty, Orange.

(ii) Plus 37 cents.

Jasper, Newton, Polk, Tyler.

(iii) No adjustment.

Angelina, Cass, Harrison, Gregg, Marion, Nacogodoches, Panola, Rusk, Sabine, San Augustine, Shelby, Upshur.

(5) For a plant located outside of the areas described in paragraphs (a)(1) through (4) of this section and located more than 50 miles by the shortest hard-surfaced highway distance, as determined by the market administrator, from the nearer of the City Hall in Monroe or Shreveport, Louisiana, the adjustment shall be minus 2.2 cents per hundredweight for each 10 miles or fraction thereof.

PART 1098—MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

1. In § 1098.52, paragraph (a) is revised to read as follows:

§ 1098.52 Plant location adjustments for handlers.

(a) For milk received from producers or from a handler described in § 1098.9(c) at a plant and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the Class I price shall be adjusted as follows:

(1) For such milk that is physically received at plants located in the Kentucky counties of Bell, Breathitt, Caldwell, Christian, Clay, Harlan, Hopkins, Knott, Knox, Laurel, Leslie, Letcher, Logan, Lyon, McCreary, Muhlenberg, Perry, Pulaski, Todd, Trigg, and Whitley, the Class I price shall be decreased by a location adjustment of 26 cents;

(2) For such milk that is physically received at plants located in the Kentucky counties of Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingstone, Marshall and McCracken and the Missouri counties of Mississippi, New Madrid, Pemiscot and Scot, the Class I price shall be decreased by a location adjustment of 13 cents;

(3) For such milk that is physically received at plants located outside the areas specified in paragraphs (1) or (2) of this section and north of the northern boundary of Tennessee or the northern boundary of North Carolina and more than 50 miles from the State Capitol in Nashville by the shortest hard-surfaced highway distance as determined by the market administrator, the Class I price shall be reduced by 17.5 cents plus 2.5 cents for each 10 miles or fraction thereof that such plant is more than 70 miles from the State Capitol; and

(4) For such milk that is physically received at plants located east of the Mississippi River and south of the northern boundary of Tennessee or the northern boundary of North Carolina, no adjustment shall be made under this paragraph.

* * * * *

PART 1099—MILK IN THE PADUCAH, KENTUCKY, MARKETING AREA

1. In § 1099.52, paragraph (a) is revised to read as follows:

§ 1099.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located outside the State of Kentucky and north of an east-west line running through the southern boundary of the state of Kentucky and more than 40 miles by shortest highway distance as measured by the market administrator, from the nearest County Courthouse in any of the counties included in the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1099.50(a) shall be reduced by 12.5

cents, plus 2.5 cents for each 10 miles or fraction thereof that such distance exceeds 50 miles.

* * * * *

Effective date: April 1, 1987.

Signed at Washington, DC, on: February 11, 1987.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 87-3369 Filed 2-18-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-CE-04-AD; Amdt. 39-5558]

Airworthiness Directives; Piper Model PA-46-310P Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Piper Model PA-46-310P airplanes, which requires the installation of an Alternate Air Valve Modification Kit, if not already installed, to prevent a partially open alternate air door and repositioning of the control linkage on those kits already installed to prevent the linkage from going over-center and binding. There have been reports of partially open alternate air doors when the alternate air control (located inside the cockpit) is positioned in the "closed" or "primary air" position. Two reports indicate total engine power loss due to the inability to select alternate air when the primary air filter is clogged with ice. The installation of the modification kit will prevent the partial opening of the alternate air door, and the repositioning to the control linkage on those kits already installed will prevent binding and allow proper selection of alternate air, thus precluding possible total engine power loss.

DATES: Effective date: February 24, 1987.

Compliance: Required within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

ADDRESSES: Piper Service Letter 985 dated April 18, 1986, and Piper Service Bulletin No. 852, dated November 14, 1986, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. This information may be examined in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Goodall, Aerospace Engineer, Propulsion Branch, ACE-140A, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210, Atlanta, GA, 30349: Telephone (404) 991-3810.

SUPPLEMENTARY INFORMATION: Piper Service Letter 985 dated April 18, 1986, informed owners/operators of Piper Model PA-46-310P airplanes that there had been reports indicating partially open alternate air doors when the alternate air control (located inside the cockpit) is positioned in the "closed" or "primary air" position. This can result in premature turbocharger compressor impeller wear due to the possible injection of unfiltered contaminated air. This service letter further announced the availablility of an Alternate Air Valve Modification Kit which would provide a positive closure of the valve within the intake assemby. However, since the installation of those kits which were offered to the field by Piper Service Letter 985 and incorporated into production at the same time, there have been two (2) reports of total engine power loss attributed to the inability to select alternate air when the primary air filter is blocked by ice. Engineering tests and analysis indicate this subsequent condition is caused by the positioning of the alternate air door linkage 0.12 inch over-center. It has been determined that repositioning the linkage to 0.12 inch before center corrects the condition so that the door can be actuated even with the filter clogged with ice. Piper Service Bulletin 852, dated November 14, 1986, requires the repositioning of the control linkage on those airplanes that already have the alternate air intake assembly modification installed. The installation instructions provided in the kit listed in Piper Service Letter 985 have been corrected to show the proper positioning of the control linkage.

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, this AD is being issued requiring the installation of the Alternate Air Valve Modification Kit on certain Piper PA-46-310P airplanes, if not already installed, and repositioning of the control linkage in accordance with instructions contained within the AD on those control linkages already installed, unless already accomplished in accordance with Piper Service Bulletin 852. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notices 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.

2. By adding the following new AD:

Piper: Applies to Model PA-46-310P (Serial Numbers 46-8408001 through 46-8608067, 4608001 through 4608018, 4608021, 4608023 and 4608025) airplanes certificated in any category.

Compliance: Required within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished. To prevent engine power loss, accomplish the following:

(a) Remove the top and the lower left-hand engine cowl.

(b) Determine whether or not the alternate air valve linkage shown in Figure 1. has been installed on the left side of the engine air box.

(1) If the alternate air valve linkage shown in Figure 1. is not installed, install the Alternate Air Valve Modification Kit offered in Piper Service Letter 985 dated April 18, 1986, in accordance with the instructions contained within the kit, and verify proper

operation in accordance with the instructions in paragraphs (b)(2)(i) through (b)(2)(vii) below.

(2) If the alternate air valve linkage shown in Figure 1. is installed, accomplish the following unless already accomplished in accordance with Piper Service Bulletin 852 dated November 14, 1986:

(i) Position the alternate air control (located inside the cockpit) approximately mid-way between the primary and the alternate position.

(ii) Refer to Figure 1. and bend the stop tab so that the linkage is stopped 0.12 inch+0.060–0.000 inch before center. This dimension is determined by measuring the perpendicular distance between a line through the centers of the cable lever and the valve lever hinge bolts and the center point of the center hinge bolt.

(iii) Position the alternate air control (located inside the cockpit) in the primary (up position). Insure that the control is in the gate that prevents it from springing downward.

(iv) Adjust the cable housing in the cable clamp so that the cable pushes the linkage against the stop tab.

(v) Resecure the cable clamp as necessary.

(vi) Operate the alternate air control (located inside the cockpit) between the primary and the alternate air positions.

(vii) Check for normal operation and that the linkage does not go over-center when the alternate air control (located inside the cockpit) is is the "primary position."

(c) Reinstall the lower left-hand and the top engine cowl.

(d) Aircraft 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 the requirements of this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 30960; or may examine the document(s) at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on February 24, 1987.

Issued in Kansas City, Missouri, on February 9, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

BILLING CODE 4910-13-M

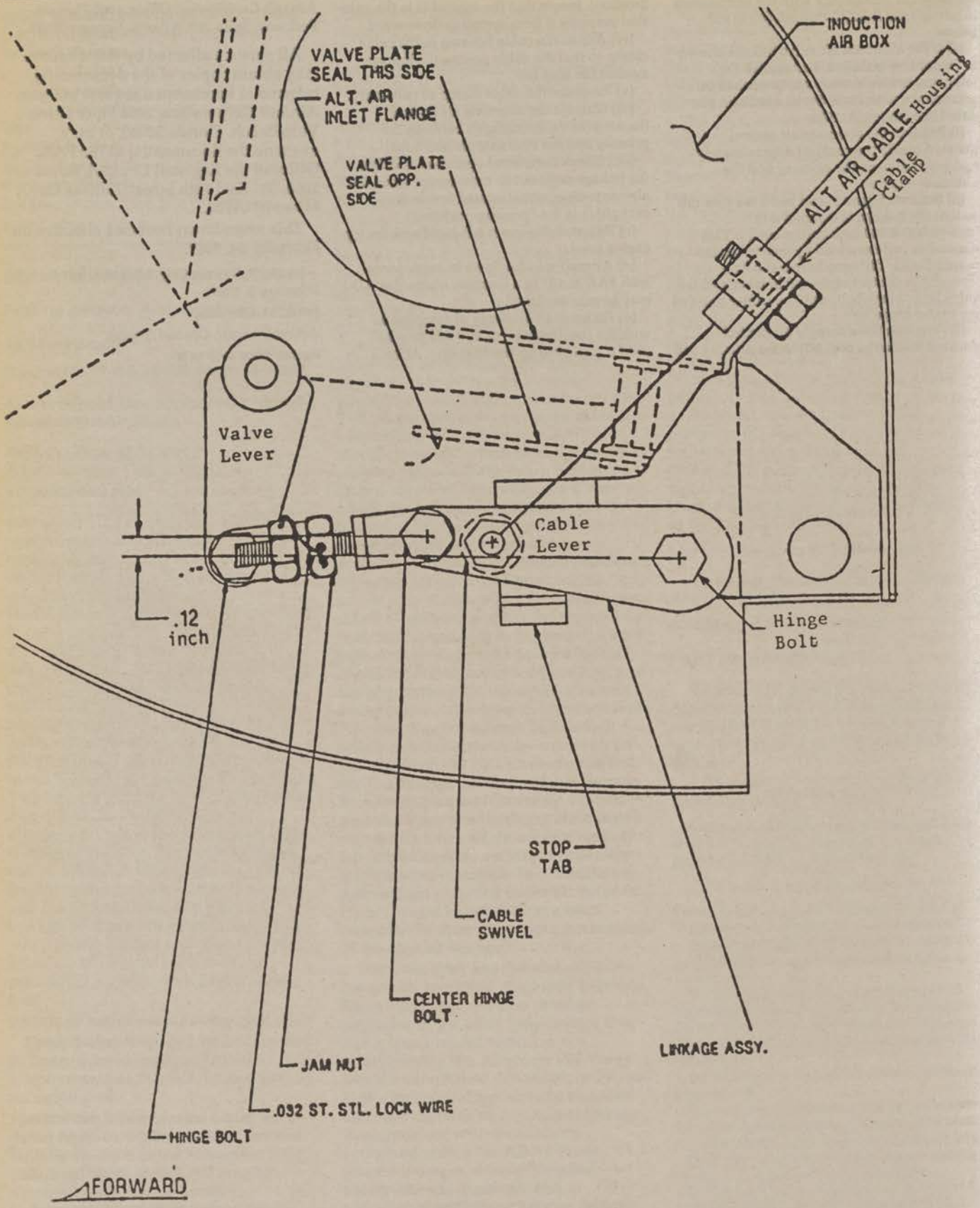


Figure 1.

[FR Doc. 87-3381 Filed 2-18-87; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Parts 71 and 73

[Airspace Docket No. 86-AGL-25]

Relocation and Subdivison of Restricted Area R-5503 Wilmington, OH, Into R-5503A and R-5503B

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action relocates Restricted Area R-5503 Wilmington, OH, approximately 10 to 15 nautical miles to the east; and raises the floor of the restricted airspace from 4,000 feet above mean sea level (MSL) to 4,500 feet MSL. The relocated area is designated R-5503A and extends from 4,500 feet MSL to Flight Level (FL) 600. An additional area, R-5503B extending from FL 240 to FL 600, is established to the west of R-5503A. In addition, the action adjusts the Continental Control Area to reflect these changes. This action provides urgently needed airspace along that segment of Federal Airway V-5 between Cincinnati and Columbus, OH. A major expansion of flight operations by Delta Air Lines and Comair, Inc. at Greater Cincinnati Airport has generated a substantial increase in air traffic along this already crowded segment of V-5. The additional airspace is essential to the safe handling of this increased traffic flow.

EFFECTIVE DATE: 0901 UTC, April 9, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9246.

SUPPLEMENTARY INFORMATION:

History

On November 24, 1986, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to amend the altitudes, relocate and subdivide Restricted Area R-5503 Wilmington, OH, and to amend the Continental Control Area (51 FR 42256). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments were received from 20 interested parties including: Aircraft Owners and Pilots Association (AOPA), CAS Aviation, Inc., Ross County Court of Common Pleas, Phillips and Street Law Offices, Commissioners of Ross County, Ross County Airport Advisory Board, Ohio State University, Brookville Air-Park, T.R.M. Aviation, Inc., Ross County Community Improvement Corp., The Budd Co., City of Chillicothe, OH, Chillicothe Packaging Corp., Ohio Department of Transportation, and Messrs. John Hartmus II, Mike Hoffner, Richard L. Smith, and Roderick M. Stewart. All but one commenter objected to the proposed action.

Discussion of Comments

Several commenters offered alternatives to the eastward relocation of the restricted area. It was suggested that, in lieu of moving the boundary of R-5503 to the east, the southern boundary of the area should be moved south to the Ohio River.

The FAA considered relocating R-5503 to the south. This option was rejected, however, based on a survey comparing en route traffic along airways V-128 to the south of the area and V-493 to the east. The survey showed a daily average of 74 flights along V-128 and 12 flights along V-493. The eastward relocation was determined to have the least en route impact.

Commenters also suggested raising the floor of the restricted area to 8,000 feet MSL to improve traffic flow in the area, and that the northeast corner of R-5503 be deleted so as to omit the Ross County Airport from the area underlying R-5503. While the floor of the relocated restricted area is being raised from 4,000 feet MSL to 4,500 feet MSL, any further reduction in the size or altitude structure of R-5503 would place severe operational constraints on the military's use of the airspace. The military indicated that the present size of the restricted area is the minimum needed to conduct the activities for which the area was designated. Therefore, it was determined to be unfeasible to further reduce the size of the area due to the altitude and lateral distance requirements of the user.

The majority of the comments objecting to this action identified three main area of concern: en route effects, terminal effects and economic impact. These areas are discussed below:

En Route Effects

Issues: In conjunction with their comments pertaining to the action, several parties voiced objections to a related, but separate action (86-AGL-20), which proposed a minor realignment of Federal Airway V-493. The commenters stated that an increased distance and longer flight times would result along that segment of V-493 between the York, KY, VORTAC and the Appleton OH, VORTAC.

Discussion: The current distance between the two facilities is 92 nautical miles. The new distance as a result of realignment utilizing the York 032° radial (magnetic) and the Appleton 185° radial (magnetic) would be 94.42 nautical miles, as a distance of 2.42 miles. This change was not considered to be significant such as to preclude realignment of the airway segment.

Terminal Effects

Issues: Several commenters expressed concern that this action would adversely affect the Ross County, Pike County and Pickaway County Memorial Airports. It was stated that the action would interfere with airport traffic patterns; place undue restrictions upon and cause delays for corporate and general aviation aircraft in the area; cutoff all instrument flight rules (IFR) traffic and high altitude jet use of Ross County and Pickaway County Memorial Airports resulting in an end to commercial use of these airports. Further, several commenters stated that the relocation would create a safety hazard for air traffic in the area and indicated that military aircraft are violating the airspace at Ross County and Pickaway County Memorial Airports.

Discussion: The FAA does not believe that relocation of R-5503 will significantly affect IFR or VFR use of these airports. Statistics on actual instrument approaches for Fiscal Year 1985 (the latest data available) showed 36 IFR approaches at Ross County Airport and 57 IFR approaches at Pickaway County Memorial Airport. (Pike County Airport does not have a standard instrument approach procedure.) Indianapolis Air Route Traffic Control Center (ARTCC) has examined the traffic structure in relation to these airports and has determined that there will be no problem in handling present and future IFR traffic loads. No changes will be required in any published IFR procedures serving these airports as a result of the R-5503 relocation. The floor of the relocated area is 4,500 feet MSL which is well above the elevations of Ross County (elevation 725 feet MSL), Pickaway County Memorial (evaluation 685 feet MSL) and Pike County (elevation 660 feet MSL) Airports. By applying a recommended turbo jet traffic pattern altitude of 1,500 feet above ground level at Ross County, the highest of the three airports, the resulting traffic pattern altitude is 2,225 feet MSL which is well below the floor of the relocated area. Traffic patterns and ingress/egress for both IFR and VFR aircraft operations will not be adversely affected at any of

the identified airports. Furthermore, Indianapolis ARTCC does not anticipate any excessive delays inherent to this action. The FAA believes that sufficient airspace exists to accommodate safe operations. The FAA is not aware of any specific instances of military aircraft violating airspace at any of these airports. The FAA believes that the 4,500-foot MSL floor of the restricted area will eliminate any inadvertent violation of the civil airport traffic patterns by military aircraft.

Economic Impact

Issues: A majority of the commenters responded that this action would have a significant economic impact on the region served by Ross County, Pickaway County Memorial and Pike County Airports. The following concerns were expressed: These airports are essential for the future growth of the region; this action will hamper access to the airports driving away current and potential future users; existing airport development plans will be reduced or curtailed; curbs on airport use and development will impose financial hardships on the region by stifling industrial and economic growth in the area.

Discussion: These economic concerns are based on the belief that relocating R–5503 will limit use of the three airports to an extent that will drive away corporate and other users. The FAA does not anticipate any significant effects upon or change in terminal operations at these airports. Therefore, the FAA does not agree that any of the potential impacts addressed in the comments will be realized. The FAA is committed to guaranteeing ingress/egress for these airports, thus the viability and utility of these facilities will be preserved.

Two final concerns were received on this action. First, a commenter was concerned that the Brush Creek Military Operations Area (MOA) would also be moved to the east causing a substantial impact on airport operations. The Brush Creek MOA is in fact not being moved or otherwise modified in any way. It will remain in the present location well clear of all three airports.

Finally, a commenter disputed the statement in the Notice of Proposed Rulemaking that this action does not constitute a "major rule" under Executive Order 12291, or a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034). Because there will be no significant impact on the operation and use of the Ross County, Pickaway County Memorial, and Pike County Airports, the FAA believes that the economic effects of this action will be minimal and certainly well below the criteria for determination as either a "major rule" or "significant rule." Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.151 and 73.55 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations relocate, subdivide and amend the floor of Restricted Area R–5503 and alter the Continental Control Area, accordingly. These actions enhance safety by providing additional airspace essential to relieving the highly congested air traffic flow along Federal Airway V–5 between Cincinnati and Columbus, OH.

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

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area and restricted areas.

Adoption of the Amendments

PARTS 71 AND 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, 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. Section 71.151 is amended as follows:

R–5503 Wilmington, OH [Remove]
R–5503A Wilmington, OH [New]
R–5503B Wilmington, OH [New]

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

4. Section 73.55 is amended as follows:

R–5503 Wilmington, OH [Remove].

R–5503A Wilmington, OH [New].

Boundaries. Beginning at lat. 39°30'00" N., long. 82°55'45" W.; to lat. 39°23'00" N., long. 82°47'30" W.; to lat. 39°18'45" N., long. 82°48'00" W.; to lat. 38°52'40" N., long. 82°54'00" W.; to lat. 38°49'00" N., long. 83°02'00" W.; to lat. 38°54'40" N., long. 83°54'45" W.; to lat. 39°11'05" N., long. 83°54'45" W.; to lat. 39°30'00" N., long. 83°19'20" W.; to the point of beginning.

Designated altitudes. 4,500 feet MSL to FL 600.

Time of designation. 0800–2200 hours, local time, Monday–Saturday; other times by NOTAM.

Controlling agency. FAA, Indianapolis ARTCC.

Using agency. U.S. Air Force, 4950 Test Wing/DO, Wright-Patterson AFB, OH.

R–5503B Wilmington, OH [New].

Boundaries. Beginning at lat. 39°30'00" N., long. 83°19'20" W.; to lat. 39°11'05" N., long. 83°54'45" W.; to lat. 38°54'40" N., long. 83°54'45" W.; to lat. 38°59'00" N., long. 84°05'00" W.; to lat. 39°16'00" N., long. 84°05'00" W.; to lat. 39°26'00" N., long. 83°48'00" W.; to lat. 39°30'00" N., long. 83°39'00" W.; to the point of beginning.

Designated altitudes. FL 240 to FL 600.

Time of designation. By NOTAM.

Controlling agency. FAA, Indianapolis ARTCC.

Using agency. U.S. Air Force, 4950 Test Wing/DO, Wright-Patterson AFB, OH.

Issued in Washington, DC, on February 9, 1987.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–3386 Filed 2–18–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 86–AWP–1]

Realignment of Jet Route J–92, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment realigns Jet Route J–92 from Tucson, AZ, to the U.S./Mexican Border. This realignment provides more efficient use of airspace by providing a direct route between the Tucson, AZ, United States and Hermosillo, Mexico, very high frequency

omni-directional radio range and tactical air navigational aid (VORTAC) facilities.

EFFECTIVE DATE: 0901 UTC, April 9, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, 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) 267–9254.

SUPPLEMENTARY INFORMATION:

History

On April 16, 1986, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route J–92 between Tucson, AZ, and Hermosillo, Mexico (51 FR 12871). The realignment provides more efficient use of airspace by providing a direct route between those areas. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns Jet Route J–92 from Tucson, AZ, to the U.S./Mexican Border. This realignment provides more efficient use of airspace by providing a direct route between the Tucson, AZ, United States and Hermosillo, Mexico, VORTAC facilities.

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

PART 75—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as amended (51 FR 9 and 6103) is further amended, as follows:

1. The authority citation for Part 75 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. Section 75.100 is amended as follows:

J–92 [Amended]

By removing "179°" and substituting "182°"

Issued in Washington, DC, on February 9, 1987.

Harold H. Downey,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–3384 Filed 2–18–87; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–3206]

Solar Age Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, an Albuquerque, N.M. manufacturer and seller of solar energy heaters from misrepresenting the efficacy and performance of its solar space heaters or any other kind of solar energy equipment, unless it can substantiate its claims. Additionally, respondent is prohibited from using the phrase "up to" in energy-related claims, unless the upper limit of potential savings indicated in the claim can be achieved by an appreciable number of consumers.

DATE: Complaint and Order issued Jan. 28, 1987*.

FOR FURTHER INFORMATION CONTACT: FTC/A–4002, Michael Dershowitz, Washington, DC 20580. (202) 326–3158.

SUPPLEMENTARY INFORMATION: On Friday, Nov. 7, 1986, there was published in the **Federal Register**, 51 FR 40443, a proposed consent agreement with analysis In the Matter of Solar Age Industries, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: Section 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; § 13.170–43 Heating; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–45 Maintain records; § 13.533–45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Solar space heaters, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 87–3425 Filed 2–18–87; 8:45 am]

BILLING CODE 6750–01–M

CONSUMER PRODUCT SAFETY COMMISSON

16 CFR Ch. II

Rule Review Under Regulatory Flexibility Act

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of review of rules and availability of report.

SUMMARY: The Commission has completed its review of 17 rules that were issued under the Consumer Product Safety Act and were in existence on January 1, 1981. The purpose of this review was to determine whether rules issued before enactment of the Regulatory Flexibility Act, which have a significant economic impact on a substantial number of small businesses,

*Copies of the Complaint and the Decision and Order are available at the Commission's Public Reference Branch, H–130, 6th St. & Pa. Ave., NW., Washington, DC 20580.

should be continued without change, amended, or revoked.

After consideration of the rules, comments about them from the public, economic and other factors affecting firms subject to the rules, and other relevant information, the Commission has determined (1) that none of the rules reviewed has a significant economic impact on a substantial number of small businesses and (2) that no further action with respect to any of these rules is warranted under the Regulatory Flexibility Act. A report on this rule review, entitled "Regulatory Flexibility Act Review, Consumer Product Safety Act," is available on request.

ADDRESS: Requests for copies of the report should be addressed to Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Warren J. Prunella, Director, Division of Program Analysis, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492–6962.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) became effective on January 1, 1981, and generally requires Federal agencies to evaluate the economic impact of their rules on small entities, including small businesses. Under the RFA, the Commission must review all rules in existence on January 1, 1981 which have or will have a significant economic impact on a substantial number of small businesses. The purpose of this review is to determine whether the rules under consideration should be continued without change, amended, or revoked, consistent with the purposes of the statutes which they implement, to minimize any significant economic impact they may have on small businesses. The RFA specifies consideration of the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments about the rule received from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with state and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

In October 1982 the Commission began its review of existing rules by publishing a notice listing the 17 rules issued under the Consumer Product Safety Act which were in existence on January 1, 1981 and which might have an economic impact on small businesses. 47 FR 46861 (Oct. 21, 1982). The rules listed in that notice were:

16 CFR part number	Title
1109	General Statements of Policy or Interpretation.
1019	Procedures for Export of Noncomplying Products.
1115	Substantial Product Hazard Reports.
1201	Safety Standards for Architectural Glazing Materials.
1202	Safety Standards for Matchbooks.
1205	Safety Standards for Walk-Behind Power Mowers.
1207	Safety Standards for Swimming Pool Slides.
1209	Safety Standards for Cellulose Insulation.
1212	Safety Standards Requiring Oxygen Depletion Safety Shutoff Systems (ODS) for Unvented Gas-Fired Space Heaters.
1301	Ban of Unstable Refuse Bins.
1302	Ban of Extremely Flammable Contact Adhesives.
1303	Ban of Lead-Containing Paint.
1304	Ban of Consumer Patching Compounds Containing Asbestos.
1305	Ban of Artificial Emberizing Materials Containing Asbestos.
1401	Self-Pressurized Consumer Products Containing Chlorofluorocarbons.
1402	CB Base Station Antennas, TV Antennas, and Supporting Structures.
1404	Cellulose Insulation Labeling Requirement.

The notice gave a brief description of each rule, the need for the rule, and its legal basis. It also invited public comment on the rules under consideration.

In response to the October 1982 notice, the Commission received five comments. The National LP–Gas Association urged the Commission to revoke the standard for unvented gas-fired space heaters; the National Solid Waste Management Association recommended continuation of the ban of unstable refuse bins; Falcon Safety Products, Inc. requested revocation of the labeling and reporting requirements in the rule applicable to self-pressurized products containing chlorofluorocarbons; the Toy Manufacturers of America, Inc. suggested modification of the export notification procedures and the ban on lead-containing paints; and the Washington Legal Foundation urged amendment of the export notification procedures.

After considering these comments, the provisions of the rules, an analysis of economic factors and other conditions affecting firms which are subject to the rules under review, and the RFA factors specified above, the Commission has concluded that none of the 17 rules under consideration has had a significant economic impact on a substantial number of small businesses. For this reason, the Commission has determined that no further action with regard to any of these rules is warranted under the RFA.

The Commission has published a report on this RFA rule review. It describes the purpose and requirements of each rule, summarizes the public comments received in response to the October 1982 notice, and addresses issues raised by those comments. With respect to rules which establish requirements for consumer products, the report discusses economic factors and other conditions affecting firms which are subject to the rule, as well as how the RFA factors apply to each rule.

This report, entitled "Regulatory Flexibility Act Review, Consumer Product Safety Act Rules," is available without charge by writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

Dated: February 13, 1987.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 87–3509 Filed 2–18–87; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 87–25]

Customs Regulations Amendment Relating To Use of Credit Cards for Payment of Duties, Taxes, and Other Charges

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide for the payment of duties, taxes and other charges, by authorized credit or charge cards, at designated Customs-serviced locations. Payment by this manner is limited to non-commercial entries and is subject to ultimate collection from the credit card company. This amendment is being adopted to provide the public with a convenient method of making payments to Customs and to facilitate the collection of such payments by Customs.

EFFECTIVE DATE: February 19, 1987.

FOR FURTHER INFORMATION CONTACT: Charles Pollaci, Accounting Programs Division (202–566–2494).

SUPPLEMENTARY INFORMATION:

Backgound

On September 29, 1986, Customs and Discover Card Services, Inc., a member of the Sears Financial Network, entered into an agreement whereby Customs authorized the use of the Discover Card

for payment of duties, taxes, and other charges by travellers arriving at Customs-serviced airports and other designated locations. This agreement was reached after Customs contacted several major credit card companies to offer to contract with them to allow their customers to pay duties, taxes, and other Customs charges by credit card. Customs was unable to reach an agreement with most of these companies, however, because they charge the vendor (Customs) a transaction fee generally in the 5 percent range. Discover Card Services offered to provide the service at no cost to Customs.

The effective date for implementation of the program allowing the use of the Sears Discover Card by arriving travellers was November 1, 1986. A joint press release issued by Customs and Discover Card Services, which appeared in the Tuesday, September 30, 1986, issue of the *Washington Post*, announced the implementation of this program.

Section 24.1, Customs Regulations (19 CFR 24.1), sets forth the procedures for the collection of customs duties, taxes, and other charges, and the acceptable methods of payment of these charges. Currently, there is no provision for the payment of these charges by credit card.

To allow for the use of the Discover Card for payment of customs duties and other charges, § 24.1(a) is being amended. The amendment, however, will allow the use of any credit or charge cards which have been authorized by the Commissioner of Customs for use at designated Customs-serviced locations. At present, only the Discover Card has been authorized. However, it is anticipated that in the future other credit card companies will reach an agreement with Customs to provide this service.

The amendment will require that payments by credit card be limited to non-commercial entries and that the payments be subject to ultimate collection from the credit card company. Persons paying by charge or credit card will remain liable for all charges until paid.

The benefits to Customs to be derived from the amendment include a significant reduction in the operational costs that are incurred by processing cash payments and personal checks; a reduction in the number of uncollectible checks submitted for duty payments; and improved internal controls resulting from a reduction in the handling of cash.

The benefit to the public is the added convenience of using a credit card to pay duties, taxes, and other charges at designated Customs-serviced locations.

To facilitate the implementation of the credit card program at designated locations, Customs Headquarters has issued a directive to its field offices, which sets forth the procedures for processing credit card payments.

The preliminary procedures for determining the validity and acceptability of the credit card include a check of the signature on the card against the signature on the receipt; a check of the expiration date on the card; and verification of the identify of the cardholder from either a passport or another form of identification. Also, for charges exceeding $100, there will be a mandatory account verification whereby Customs will contact the credit card company for direct confirmation of the validity of the card. Other suspect charges may also be directly confirmed, at the discretion of Customs.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as this amendment neither imposes a burden or obligation on the public nor takes away any rights or privileges, pursuant to 5 U.S.C. 553(b)B), notice and public procedure thereon are unnecessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291

Because this document will not result in a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory analysis and review prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

This document is not subject to the provisions of the Regulatory Flexibility Act. The Act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 24

Customs duties and inspection, Accounting.

Amendment to the Regulations

Part 24, Customs Regulations (19 CFR Part 24), is amended as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for Part 24 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202, (Gen Hdnote 11), 1624, 31 U.S.C. 9701;
Section 24.1 also issued under 19 U.S.C. 197, 198, 1648.

2. Section 24.1 is amended by adding a new paragraph (a)(7), to read as follows:

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) * * *

(7) Credit or charge cards, which have been authorized by the Commissioner of Customs, may be used for the payment of duties, taxes and/or other charges at designated Customs-serviced locations. Payment by this manner is limited to non-commercial entries and is subject to ultimate collection from the credit card company. Persons paying by charge or credit card will remain liable for all sch charges until paid. Information as to those credit card companies authorized by Customs may be obtained from Customs officers.

* * * * *

William von Raab,
Commissioner of Customs.
Approved: February 3, 1987.
Francis A. Keating, II,
Assistant Secretary of the Treasury.
[FR Doc. 87-3497-Filed 2-18-87; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 83C-0102]

Correction of Listing of D & C Orange No. 17 for Use in Externally Applied Drugs and Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Final rule; clarification to preamble.

SUMMARY: The Food and Drug Administration (FDA) published the permanent listing of D & C Orange No. 17 as a color additive for use in externally applied drugs and cosmetics in the **Federal Register** of August 7, 1986 (51 FR 28331). FDA concluded, under the intended conditions of use by humans and the trivial carcinogenic risk posed by such use, that this color additive is safe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act and is safe within the meaning of

that statute. In the Supplementary Information published with that permanent listing explaining FDA's rationale for this conclusion, FDA stated that D & C Orange No. 17 "induces" cancer in laboratory animals when given very high amounts up to the maximum tolerated dose of this substance. This statement reflected FDA's policy, as a matter of the scientific analysis undergirding its regulatory activity as defined by law, that any chemical shown to induce cancer even in only one strain, gender, and species, at one dose in one experiment, is an animal carcinogen. This statement did not represent a conclusion that this substance induces cancer in animals within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act. Rather, FDA concludes that D & C Orange No. 17 does not induce cancer in man or animal within the meaning of the Act and is safe for external use.

EFFECTIVE DATE: February 19, 1987.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 7, 1986, FDA published the permanent listing of D & C Orange No. 17 as a color additive for use in externally applied drugs and cosmetics (51 FR 28331, August 7, 1986). In the preamble to that Final Rule, FDA reviewed a range of scientific studies and arguments presented by several parties. FDA recounted the development of new sensitive analytical methodologies allowing scientists to determine that many substances present in the food supply are carcinogens and to detect known carcinogens in extremely small quantities. Pursuant to its responsibilities under the Federal Food, Drug, and Cosmetic Act to approve food, drug and color additives as safe, FDA is obliged to assure that its regulatory judgment is informed by the most up-to- date scientific methodologies and analytical techniques. Applying such methodologies to the proposed external uses of D & C Orange No. 17, especially quantitative risk assessment, FDA concluded that this substance, for these uses, poses no genuine risk of cancer, and therefore did not induce cancer *within the meaning of section 706(b)(5)(B) of the Act*, the Delaney Clause.

After summarizing the animal toxicity studies for this color additive as part of its explanation of this conclusion, FDA observed that the "data and information regarding the safety of D & C Orange No. 17 support FDA's conclusion that the substance induces cancer when tested in laboratory animals." (51 FR 28341, August 7, 1986). This clarification of the Final Rule is being published to make clear that FDA was not, by this observation, concluding that this additive induces cancer in animals within the meaning of the Delaney Clause. As explained in the permanent listing document (51 FR 28338–41, August 7, 1986), in calculating the risk to man presented by the expected use of D & C Orange No. 17, FDA concluded that absorption of the color additive through the human skin was essentially the same as oral exposure in the rat. By virtue of this essentially one-to-one correspondence in absorption between rodent and man, a conclusion for purposes of the Delaney Clause that a substance at a given level poses a *de minimis* risk to humans implicitly includes the conclusion that a *de minimis* level of risk at a comparable level of exposure is presented to animals. Accordingly, D & C Orange No. 17 can not be said to induce cancer in animals, as well as in man, within the meaning of the Delaney Clause. When a substance causes only a *de minimis* level of risk in animals, it cannot be said to induce cancer in animals within the meaning of the Delaney Clause.

II. The Regulatory Judgment of FDA

As explained in the preamble to the Final Rule (51 FR 28341–45, August 7, 1986), the Delaney Clause, at the very least, gives to the Secretary the same ability to exercise judgment in fulfilling his responsibilities under that statute as other regulatory statutes give to other administrative decision-makers. That is, the Secretary can exercise his expert judgment to conclude that an item has such a *de minimis* impact on public health or welfare as to not trigger the regulatory structures set out by Congress.

In more explicit Delaney Clause terms, this means that FDA can conclude that a particular food or color additive poses no more than a *de minimis* risk of cancer to man or animal and that such an additive is, consequently, safe both in fact and within the meaning of the law. The words "induce cancer in man or animal" as used in the Delaney Clause are terms of art intended to convey a regulatory judgment that is something more than a scientific observation that an additive is carcinogenic in laboratory animals. To limit this judgment to such a simple observation would be to arbitrarily exclude from FDA's consideration developing sophisticated testing and analytical methodologies, leaving FDA with only the most primitive techniques for its use in this important endeavor to protect public health. Certainly the language of the Delaney Clause itself cannot be read to mandate such a counterproductive limit on FDA's discharge of its responsibilities. Moreover, nothing in the legislative history indicates that Congress intended to impose such a scientifically anachronistic meaning on the words of the statute, stopping the technological clock and relegating FDA's expert regulatory judgment to outdated analytical tools.

The need for this clarification stems from the failure of the preamble to the Final Rule to rigorously and unambiguously reserve the expression "to induce cancer" to the meaning conveyed by the statutory term of art. In several places, notably the discussion of the carcinogenic effects of this additive in animals, the preamble says that FDA concluded that this additive "induces" cancer, meaning that it has been observed to cause cancer in test animals when subjected to enormous doses up to the maximum tolerated dose in the laboratory. The use of high doses is, however, the currently accepted method of amplifying exceedingly rare events. Thus, in the laboratory, whether a substance in any way causes cancer may in the first instance be unrelated to the real-world uses of that substance. It is a conclusion reached even if carcinogenic effects are observed "in only one strain, gender, and species, at one dose in one experiment." However, FDA concluded that this additive was safe for external use, that is, did not "induce" cancer within the meaning of the Delaney Clause, by using quantitative risk assessment to inform its judgment concerning the impact of this additive in real or every day use. This judgment was based on "(1) the amount of color additive applied to the skin and the frequency of application, (2) the concentration of carcinogenic agents in the color additive, (3) the potency of the carcinogenic agents, and (4) the fraction of the applied agents that penetrates the skin." (51 FR 28337, August 7, 1986).

The authority of FDA to approve additives having only a *de minimis* risk of harm is not only a function of the law, but of common, and scientific, sense. As described in the preamble to the Final Rule, "[w]ith the advent of sensitive chemical analytical methodologies,

scientists have been able to find carcinogens throughout the food supply in extremely small quantities." (51 FR 28343, August 7, 1986). Consequently, even some human nutrients—such as selenium, chromium, and nickel—when isolated and administered to laboratory animals in the enormous quantities represented by the maximum tolerated dose, have been found to be carcinogenic. In short, without interposing an evaluation of genuine risk of causing cancer, a regulatory assumption that any chemical that has a carcinogenic effect of any kind is unsafe could require that a significant portion of the food supply be banned.

III. Effects of D & C Orange No. 17 on Animals

In the preamble to the Final Rule, FDA explained that D & C Orange No. 17, when used externally, poses a risk to human beings of 1 in 19 billion. At comparable levels of exposure in the rat, D & C Orange No. 17 poses the same level of risk. This level of risk is so remote that it cannot even be said to be a genuine risk at all. This conclusion was a result of a quantitative risk assessment based, in large part, on a number of animal toxicity studies involving the ingestion of, or exposure to, the additive in quantities so large that the test animals were severely "challenged" but not killed by the high doses (the maximum tolerated dose) of the substance. Such toxicity studies are used to establish whether a substance in fact has any carcinogenic effects, and, if so, the relative strength of the substance's carcinogenicity. Quantitative risk assessment builds on this determination of carcinogenic potency by evaluating the actual danger posed by the substance in the way a human being or animal would be exposed at actual use levels.

Clearly, though D & C Orange No. 17 is carcinogenic when administered in very high doses up to the maximum tolerated dose in animal toxicity studies, those same studies indicate that this additive is not a highly potent carcinogen. Moreover, when real life use is examined, the increased risk of cancer posed by this substance is so trivial as to be nearly meaningless. Similarly, it cannot be said that D & C Orange No. 17 poses anything more than a *de minimis* risk of cancer to animals. Accordingly, FDA has concluded, and clarifies the preamble to the amendments of 21 CFR 74.1267, 81.1, 81.27 and 82.1267 published at 51 FR 28346 on August 7, 1986 to explicitly state, that D & C Orange No. 17 does not induce cancer in man or animal within the meaning of the Delaney Clause.

Public Citizen's objections to the permanent listing document of August 7, 1986 are hereby deemed to be applicable to that decision as clarified by this document.

Dated: February 12, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-3377 Filed 2-18-87; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 74, 81, and 82

[Docket No. 83C-0129]

Correction of Listing of D & C Red No. 19 for Use in Externally Applied Drugs and Cosmetics

AGENCY: Food and Drug Administration.

ACTION: Final rule; clarification to preamble.

SUMMARY: The Food and Drug Administration (FDA) published the permanent listing of D & C Red No. 19 as a color additive for use in externally applied drugs and cosmetics in the **Federal Register** of August 7, 1986 (51 FR 28346). FDA concluded, under the intended conditions of use by humans and the trivial carcinogenic risk posed by such use, that this color additive is safe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act and is safe within the meaning of that statute. In the Supplementary Information published with that permanent listing explaining FDA's rationale for this conclusion, FDA stated that D & C Red No. 19 "induces" cancer in laboratory animals when given very high amounts up to the maximum tolerated dose of this substance. This statement reflected FDA's policy, as a matter of the scientific analysis undergirding its regulatory activity as defined by law, that any chemical shown to induce cancer even in only one strain, gender, and species, at one dose in one experiment, is an animal carcinogen. This statement did not represent a conclusion that this substance induces cancer in animals within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act. Rather, FDA concludes that D & C Red No. 19 does not induce cancer in man or animal within the meaning of the Act and is safe for external use.

EFFECTIVE DATE: February 19, 1987.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Adminstration, 200 C Street, SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 7, 1986, FDA published the permanent listing of D & C Red No. 19 as a color additive for use in externally applied drugs and cosmetics (51 FR 28346, August 7, 1986). In the preamble to that Final Rule, FDA reviewed a range of scientific studies and arguments presented by several parties. FDA recounted the development of new sensitive analytical methodologies allowing scientists to determine that many substances present in the food supply are carcinogens and to detect known carcinogens in extremely small quantities. Pursuant to its responsibilities under the Federal Food, Drug, and Cosmetic Act to approve food, drug and color additives as safe, FDA is obliged to assure that its regulatory judgment is informed by the most up-to-date scientific methodologies and analytical techniques. Applying such methodologies to the proposed external uses of D & C Red No. 19, especially quantitative risk assessment, FDA concluded that this substance, for these uses, poses no genuine risk of cancer, and therefore did not induce cancer *within the meaning of section 706(b)(5)(B) of the Act*, the Delaney Clause.

After summarizing the animal toxicity studies for this color additive as part of its explanation of this conclusion, FDA observed that the "data and information regarding the safety of D & C Red No. 19 support FDA's conclusion that the substance as a whole induces cancer when tested in laboratory animals." (51 FR 28357, August 7, 1986). This clarification is being published to make clear that FDA was not, by this observation, concluding that this additive induces cancer in animals within the meaning of the Delaney Clause. As explained in the permanent listing document (51 FR 28354-57, August 7, 1986), in calculating the risk to man presented by the expected use of D & C Red No. 19, FDA concluded that absorption of the color additive through the human skin was essentially the same as oral exposure in the rat. By virtue of this essentially one-to-one correspondence in absorption between rodent and man, a conclusion for purposes of the Delaney Clause that a substance at a given level poses a *de minimis* risk to humans implicitly includes the conclusion that a *de minimis* level of risk at a comparable level of exposure is presented to animals. Accordingly, D & C Red No. 19 cannot be said to induce cancer in animals, as well as in man, within the

meaning of the Delaney Clause. When a substance causes only a *de minimis* level of risk in animals, it cannot be said to induce cancer in animals within the meaning of the Delaney Clause.

II. The Regulatory Judgment of FDA

As explained in the preamble to the Final Rule (51 FR 28359–62, August 7, 1986), the Delaney Clause, at the very least, gives to the Secretary the same ability to exercise judgment in fulfilling his responsibilities under that statute as other regulatory statutes give to other administrative decision-makers. That is, the Secretary can exercise his expert judgment to conclude that an item has such a *de minimis* impact on public health or welfare as to not trigger the regulatory strictures set out by Congress.

In more explicit Delaney Clause terms, this means that FDA can conclude that a particular food or color additive poses no more than a *de minimis* risk of cancer to man or animal and that such an additive is, consequently, safe both in fact and within the meaning of the law. The words "induce cancer in man or animal" as used in the Delaney Clause are terms of art intended to convey a regulatory judgment that is something different than a scientific observation that an additive is carcinogenic in laboratory animals. To limit this judgment to such a simple observation would be to arbitrarily exclude from FDA's consideration developing sophisticated testing and analytical methodologies, leaving FDA with only the most primitive techniques for its use in this important endeavor to protect public health. Certainly the language of the Delaney Clause itself cannot be read to mandate such a counterproductive limit on FDA's discharge of its responsibilities. Moreover, nothing in the legislative history indicates that Congress intended to impose such a scientifically anachronistic meaning on the words of the statute, stopping the technological clock and relegating FDA's expert regulatory judgment to outdated analytical tools.

The need for this clarification stems from the failure of the preamble to the Final Rule to rigorously and unambiguously reserve the expression "to induce cancer" to the meaning conveyed by the statutory term of art. In several places, notably the discussion of the carcinogenic effects of this additive in animals, the preamble says that FDA concluded that this additive "induces" cancer, meaning that it has been observed to cause cancer in test animals when subjected to enormous doses up to the maximum tolerated dose in the laboratory. The use of high doses is, however, the currently accepted method of amplifying excedingly rare events. Thus, in the laboratory, whether a substance in any way causes cancer may in the first instance be unrelated to the real-world uses of that substance. It is a conclusion reached even if carcinogenic effects are observed "in only one strain, gender, and species, at one dose in one experiment." However, FDA concluded that this additive was safe for external use, that is, did not "induce" cancer within the meaning of the Delaney Clause, by using quantitative risk assessment to inform its judgment concerning the impact of this additive in real or everyday use. This judgment was based on "(1) the amount of color additive applied to the skin and the frequency of application, (2) the concentration of carcinogenic agents in the color additive, (3) the potency of the carcinogenic agents, and (4) the fraction of the applied agents that penetrates the skin." (51 FR 28352, August 7, 1986).

The authority of FDA to approve additives having only a *de minimis* risk of harm is not only a function of the law, but of common, and scientific, sense. As described in the preamble to the Final Rule, "[w]ith the advent of sensitive chemical analytical methodologies, scientists have been able to find carcinogens throughout the food supply in extremely small quantities." (51 FR 28360, August 7, 1986).

Consequently, even some human nutrients—such as selenium, chromium, and nickel—when isolated and administered to laboratory animals in the enormous quantities represented by the maximum tolerated dose, have been found to be carcinogenic. In short, without interposing an evaluation of genuine risk of causing cancer, a regulatory assumption that any chemical that has a carcinogenic effect of any kind is unsafe could require that a significant portion of the food supply be banned.

III. Effects of D & C Red No. 19 on Animals

In the preamble to the Final Rule, FDA explained that D & C Red No. 19, when used externally, poses a risk to human beings of 1 in 9 million. At comparable levels of exposure in the rat, D & C Red No. 19 poses the same level of risk. This level of risk is so remote that it cannot even be said to be a genuine risk at all. This conclusion was a result of a quantitative risk assessment based, in large part, on a number of animal toxicity studies involving the ingestion of, or exposure to, the additive in quantities so large that the test animals were severely "challenged" but not killed by the high doses (the maximum tolerated dose) of the substance. Such toxicity studies are used to establish whether a substance in fact has any carcinogenic effects, and, if so, the relative strength of the substance's carcinogenicity. Quantitative risk assessment builds on this determination of carcinogenic potency by evaluating the actual danger posed by the substance in the way a human being or animal would be exposed at actual use levels.

Clearly, though D & C Red No. 19 is carcinogenic when administered in very high doses up to the maximum tolerated dose in animal toxicity studies, those same studies indicate that this additive is not a potent carcinogen. Moreover, when real life use is examined, the increased risk of cancer posed by this substance is so trivial as to be nearly meaningless. Similarly, it cannot be said that D & C Red No. 19 poses anything more than a *de minimis* risk of cancer to animals. Accordingly, FDA has concluded, and clarifies the preamble to the amendments of 21 CFR 74.1267, 74.2267, 81.1, 81.27 and 82.1267 published at 51 FR 28346 on August 7, 1986 to explicitly state, that D & C Red No. 19 does not induce cancer in man or animal within the meaning of the Delaney Clause. Public Citizen's objections to the permanent listing document of August 7, 1986 are hereby deemed to be applicable to that decision as clarified by this document.

Dated: February 12, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–3378 Filed 2–18–87; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8125]

Income Tax; Foreign Management and Foreign Economic Processes Requirements of a Foreign Sales Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to foreign management and foreign economic processes requirements of a foreign sales corporation (FSC). These final regulations provide guidance to FSCs,

their shareholders, and Internal Revenue Service personnel with respect to qualifications for benefits under Title VIII of the Tax Reform Act of 1984 (Foreign Sales Corporations).

DATES: The regulations generally apply to taxable years beginning after December 31, 1984, and are effective after December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Carol P. Tello of the Office of Associate Chief Counsel (International), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:INTL–45–86). Telephone 202–566–3289, not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1984, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 924, 925, and 927 of the Internal Revenue Code of 1954 (49 FR 48321) by cross-reference to Temporary Income Tax Regulations (26 CFR Part 1) published on the same day (49 FR 48273). The amendments provide rules for determining whether a FSC will be treated as having foreign trading gross receipts through satisfaction of the requirements of section 924. In addition, the amendments provide rules for grouping transactions for purposes of the foreign economic processes tests.

Numerous written comments were received with respect to the proposed regulations. A public hearing was held on May 13, 1985. The significant points raised by the comments and changes made are discussed in the remainder of the preamble. After consideration of all comments regarding the proposed amendments, these amendments are adopted as modified by this Treasury decision.

Discussion of Major Comments and Revised Amendments

Section 1.924(c)–1 Requirement that a FSC be managed outside the United States

Paragraph (b) of § 1.924(c)–1 has been revised to clarify that the board of directors or shareholders may act, in accordance with the local law of the foreign country or possession of the United States in which the FSC was created or organized, by written consent without a meeting and that such action may be taken by the board of directors or shareholders while in the United States without violating the requirements of section 924(c)(1).

Many commentators criticized the linking together of the requirements of sections 924(c)(2) and 924(c)(3) to define the account that is to be regarded as the principal bank account of the FSC as the account from which the disbursements of dividends, legal and accounting fees, and salaries of officers and directors are made. This rule is derived from the legislative history in the Senate Finance Committee Report which is the most complete explanation of the FSC provisions.

Commentators also criticized the rule in paragraph (c)(1) of § 1.924(c)–1 which requires the account that is to be treated as the principal bank account of the FSC to be maintained in an eligible possession or country which meets the exchange of information requirements of section 927(e)(3). The requirement that the principal bank account and the account from which section 924(c)(3) disbursements are made be in a country qualified to host a FSC is necessary to ensure that such an account is in a country from which the Commissioner may obtain information regarding the account. Therefore, this rule is retained in the final regulations.

The proposed regulations did not address the question of whether a FSC may have more than one principal bank account. The final regulations permit a FSC to have more than one principal bank account. Such accounts must be designated on the annual return of the FSC.

Paragraph (d)(1) of § 1.924(c)–1 is revised. The rule requiring that all dividends, legal fees, accounting fees, salaries of officers of the FSC, and salaries or fees paid to members of the board of directors of the FSC that are disbursed during the taxable year be disbursed out of the principal bank account of the FSC is expanded to provide the circumstances under which the occasional inadvertent payment of such amounts out of another bank account will be disregarded. With respect to dividends, if an actual disbursement of dividends is made, such disbursement must be made from the principal bank account. Dividends, however, may be declared by establishing a payable to the Parent company acting as a related supplier. This payable may be netted against amounts owed to the FSC by the Parent company acting as a related supplier.

Many commentators suggested that a rule be provided stating the time by which reimbursements by the FSC must be made to a related person who pays legal or accounting fees, salaries of officers, and salaries or fees of directors, wholly or partially on behalf of the FSC. The final regulations provide that the related person must be reimbursed no later than the last date prescribed for filing the FSC's tax return (including extensions) for the taxable year to which the reimbursement relates.

A safe harbor rule is added which allows a FSC to rely upon a written statement or invoice furnished to it by a related person to determine the amounts paid on its behalf by the related person.

One commentator suggested that a rule be provided for the situation in which a determination is made by the Commissioner that all or a part of the legal or accounting fees, salaries of officers, and salaries or fees of directors of the FSC were paid by the related person without receiving reimbursement. The final regulations provide that the FSC may satisfy the requirements of section 924(c)(3) if the fees and salaries were paid by the related person in good faith, and the FSC reimburses the related person for the fees and salaries within 90 days after the determination.

Section 1.924(d)–1 Requirement that economic processes take place outside the United States.

A suggestion that the final regulations explicitly provide that the FSC is not required to identify itself to the customer as a separate entity in the performance of any of the activities comprising the economic processes is adopted.

A sentence is added to paragraph (c)(1) of § 1.924(d)–1 to provide that once the FSC has participated outside the United States in an activity that constitutes the solicitation, negotiation, or the making of the contract with respect to a transaction, any prior or subsequent activity by the FSC with respect to the transaction that would otherwise constitute the same sales activity will be disregarded for purposes of determining whether the FSC has met the requirements of section 924(d)(1)(A). This rule allows the FSC which has participated outside the United States in an activity that constitutes a sales activity to also participate within the United States in activities that constitute the same sales activity.

A suggestion that the regulations describe the amount of activity necessary to constitute solicitation by mail has been adopted. Accordingly, a sentence is added to paragraph (c)(2) of § 1.924(d)–1 to provide that communication by mail means depositing the communication in a mailbox.

Commentators suggested that the final regulations adopt a mutually exclusive election for solicitation and sales promotion similar to that proposed for solicitation and advertising. Since promotional meetings with a customer

can constitute both solicitation and sales promotion, this suggestion has been adopted. To insure that the FSC performs distinct and separate activities with respect to solicitation and advertising or sales promotion where the same customer is involved, a sentence is added to paragraph (c)(2) of § 1.924(d)–1 to provide that the same or similar activities cannot be considered to be both solicitation and advertising, or both solicitation and sales promotion, with respect to the same customer.

A sentence is added at the end of paragraphs (c)(2), (c)(3), and (c)(4) of § 1.924(d)–1 to clarify that the sales activities tests may be met with respect to sales to related entities.

A new paragraph (c)(5) is added to § 1.924(d)–1 to clarify the application of the grouping rules to the sales activities since grouping by product or product line is permitted. The proposed rules in paragraph (c)(1) of § 1.924(d)–1 which addressed the grouping of sales transactions by customer and by contract are incorporated into paragraph (c)(5). With respect to the application of the product or product line grouping rules to sales activities for taxable years beginning after February 19, 1987, a quantitative standard based on the amount of gross receipts is adopted by the final regulations. Under this rule, the requirements of section 924(d)(1)(A) are met with respect to all transactions included in the product or product line grouping if the sales activities are performed outside the United States with respect to customers with sales representing at least 20 percent of foreign trading gross receipts included in the same product or product line grouping during the current year or to customers with sales representing 50 percent of the foreign trading gross receipts included in the same product or product line grouping in the prior year. Transitional rules for former DISCs, interest charge-DISCs and affiliated groups which have not had a FSC, DISC or interest charge-DISC as a member in the prior year are provided. For taxable years prior to the adoption of the final regulations, the sales activities tests with respect to product or product line grouping will be satisfied if one sales transaction is performed with respect to any member of the product or product line grouping.

Additionally, rules for contract grouping are revised. For long-term contracts between unrelated parties, the sales activities tests need be satisfied only once during the life of the contract. For requirements contracts and sales between related parties, the sales activities tests must be satisfied annually.

Examples are added in paragraph (c)(6) of § 1.924(d)–1 to illustrate the application of the rules governing the participation of the FSC outside the United States in the sales portion of the transaction.

Many commentators criticized the proposed rule in paragraph (d)(5) of § 1.924(d)–1 which limited the application of the 50-percent foreign direct cost test to instances in which the FSC incurred direct costs that were attributable to the activities described in each of at least three of the five paragraphs of section 924(e). Commentators were concerned that the rule created an artificial need to incur direct costs in a category or categories in order to use the 50-percent foreign direct cost test and was unsupported by the language of the Code or the legislative history. After further consideration, the rule is deleted in the final regulations.

A sentence has been added to paragraph (d)(6) of § 1.924(d)–1 to clarify that in the event that the Commissioner determines that the foreign direct costs attributable to activities described in one or both of the two paragraphs of section 924(e) specified on the FSC's return do not equal or exceed 85 percent of the total direct costs attributable to such activities, the 85-percent foreign direct cost test may, nonetheless, be satisfied by the FSC if the foreign direct costs attributable to each of two activities described in any other paragraphs of section 924(e) equal or exceed 85 percent of the total direct costs attributable to those two activities.

One commentator noted that the laws and regulations which govern foreign military sales do not specifically require that the sellers undertake any activity with respect to those sales within the United States, but only preclude sellers from contracting with foreign governments. Thus, only by implication must these activities take place within the United States. Therefore, the language in the proposed regulations with respect to statutory or regulatory requirements for foreign military sales is eliminated. The final regulations under paragraph (f)(1) of § 1.924(d)–1 provide a new rule which applies to all foreign military sales. Under the rule, the requirements of section 924(d)(1)(A) are deemed to be satisfied. The FSC, however, will nonetheless be required to satisfy either the 50-percent or the 85-percent foreign direct cost test with respect to the activities described in section 924(e).

Section 1.924(e)–1 Activities relating to the disposition of export property.

Advertising and sales promotion

Many commentators expressed concern that the term "customers" in paragraph (a)(1)(i) of proposed § 1.924(e)–1 would exclude from the definition of "advertising" advertising that is directed at parties other than the FSC's customers (or the related supplier's customers in the case of a commission FSC). Thus, advertising under a cooperative advertising arrangement would not be counted. Under these arrangements, exporters selling to distributors for resale agree to absorb all or a portion of either the distributor's cost of advertising directed at its potential foreign customers or the costs of end-market advertising directed at the ultimate foreign users. Many exporters advertise solely through such arrangements. For this reason, the final regulations add a new paragraph (a)(1)(i)(B) to § 1.924(e)–1 to allow end market advertising related to products sold to distributors to qualify as a direct cost if either the total cost of an advertisement is paid by the FSC, either directly or indirectly, or if 20 percent of the advertising costs are paid directly or indirectly by the FSC. No distinction will be made between related and unrelated parties. A definition of a distributor as other than a final consumer or end user is provided.

A suggestion that all direct costs of advertising be considered foreign direct costs of advertising if a specific threshold percentage of the advertising is conveyed outside the United States is adopted with respect to mass communications other than mass mailings. A sentence is added to paragraph (a)(1)(iii) of § 1.924(e)–1 to provide that if the distribution statistics show that 85 percent or more of the readership, radio listeners, or viewership are outside the United States, all direct costs of advertising are considered to be foreign direct costs of advertising.

An additional rule provides that advertising in foreign English editions of U.S. publications is a foreign expense and gives rise only to foreign direct costs. Furthermore, a presumption is made that costs related to U.S. editions of the same publication are not direct costs because they relate to U.S. sales. Costs related to foreign language editions are treated as foreign direct costs.

A new subsection is added which provides guidance with respect to the interrelationship between solicitation and advertising. The general rule

prohibits an activity from qualifying as both advertising and solicitation. An exception, however, for second mailings is provided. If, during one taxable year, two generically different items such as a price list and a description of the product itself are mailed, one mailing may be treated as solicitation and the other mailing may be treated as advertising for purposes of section 924. The exception would not apply to items that are not generically different such as an original price list and an amended price list.

Examples are added in paragraph (a)(1)(v) of § 1.924(e)–1 to illustrate the rules with respect to advertising activities.

Commentators suggested that the term "customer meeting" in paragraph (a)(2)(i) of § 1.924(e)–1 be defined. Some expressed concern that the term could be interpreted to mean that a meeting with a single customer in the United States would constitute domestic sales promotion. The final regulations provide that a customer meeting means a periodic meeting (*e.g.*, quarterly, semi-annual, or annual) in which 10 or more customers or potential customers are reasonably expected to attend. For prior taxable years, however, a customer meeting, at the option of the FSC, may mean any meeting with a customer or potential customer regardless of the frequency of the meetings or the number of customers or potential customers in attendance, thereby, permitting FSCs who had one or more meetings with fewer than 10 customers or potential customers to treat those meetings as customer meetings if it is to their benefit to do so.

The proposed regulations did not address the direct costs of sales promotion in the case of a customer meeting. A sentence is added to paragraph (a)(2)(ii) of § 1.924(e)–1 to provide that such direct costs include the costs of materials printed specifically for the meeting and the costs of travel, food, and lodging for both the direct sales personnel and customers or potential customers attending the meeting.

Examples are added in paragraph (a)(2)(iv) of § 1.924(e)–1 to illustrate the rules for the sales promotion activity.

Processing of customer orders and arranging for delivery of the export property

One commentator noted that while neither the Code nor the regulations limit the use of a FSC to situations in which there is a related supplier, proposed paragraph (b)(1)(i) of § 1.924(e)–1 defined the processing of customer orders only in the context of a related supplier. A sentence is added to the paragraph to address this oversight by providing that if the FSC does not have a related supplier, the processing of customer orders means communication with the customer by any method such as telephone, telegram, or mail to acknowledge receipt of the order and requirements for delivery.

The proposed regulations did not address the direct cost of processing of customer orders. A new paragraph (b)(1)(ii) is added to provide that direct costs of processing of customer orders include salaries of clerical personnel and costs of telephone, telegram, mail, or other communication media (including the costs of operating transmission equipment).

Examples are added in paragraph (b)(1)(iv) of § 1.924(e)–1 to illustrate the principles with respect to the processing of customer orders activity.

Paragraph (b)(2)(i) of § 1.924(e)–1 is modified to make the arranging for delivery activity test easier to satisfy, thus minimizing the potential disruption of established relationships between a related supplier's shipping department and its carrier or freight forwarder. Arranging for delivery includes communication by the FSC with the carrier or freight forwarder and also with the customer. The final regulations, however, provide that the carrier or freight forwarder may already have knowledge of the information communicated. In addition, only one communication with the carrier or freight forwarder and one communication with the customer will be taken into account in determining whether this test has been satisfied. Subsequent or prior communications will not be counted. A FSC, however, will not be able to qualify a product or product line grouping with numerous transactions by simply processing a customer's order and arranging for delivery with respect to one transaction in the grouping. For taxable years beginning after February 19, 1987, a quantitative standard is adopted as set forth in paragraph (b) of § 1.924(e)–1. Thus, a FSC may qualify a grouping of transactions only if it performs the activities of processing of customer orders and arranging for delivery of export property with respect to customers generating at least 20 percent of foreign trading gross receipts of the grouping elected by the FSC under § 1.924(d)–1(e) during the current year.

Examples are added in paragraph (b)(2)(iv) of § 1.924(e)–1 to illustrate the meaning of arranging for delivery.

Transportation

A number of commentators criticized the definition of transportation provided in the proposed regulations because it excluded ocean and sea transportation under such widely used arrangements as C.I.F. (Cost, Insurance, Freight) and C. & F. (Cost and Freight). To reflect the economic realities, the final regulations relax the definition of transportation by providing in paragraph (c)(1) of § 1.924(e)–1 that the FSC or, in the case of a commission FSC, the related supplier is treated as responsible for the property when it has title, bears the risk of loss, or insures the property during shipment. This permits C.I.F. contracts, but not C. & F. contracts, to qualify as transportation.

The rule for international carriers is extended to include freight forwarders if (i) the freight forwarder bears the risk of loss or is an insurer of the goods, and (ii) the property is shipped on a single bill of lading issued to the FSC or its agent as shipper.

Commentators suggested that the regulations provide a rule for buy-sell FSCs similar to the one proposed for commission FSCs in order that a buy-sell FSC and its related supplier can define by agreement the point at which the FSC assumes ownership or responsibility for the property. This suggestion was not adopted because while the legislative history supports the rule with respect to commission FSCs, no similar legislative history exists with respect to buy-sell FSCs.

Examples are added in paragraph (c)(4) of § 1.924(e)–1 to illustrate the rules with respect to the transportation activity.

Determination and Transmittal of a Final Invoice or Statement of Account and Receipt of Payment

A sentence and an example are added to paragraph (d)(1)(i) of § 1.924(e)–1 to clarify that a FSC need only assemble and forward either a final invoice or a statement of account and that the costs of assembling and forwarding the document not chosen for purposes of meeting the direct cost test are disregarded. For taxable years beginning after February 19, 1987, the final regulations provide that if a FSC assembles and forwards from outside the United States either a final invoice or a statement of account at least once during the taxable year to customers with sales representing 50 percent of the current year foreign trading gross receipts within a product or product line grouping or 50 percent of the foreign trading gross receipts of the prior year

within the same product or product line grouping, all domestic costs of sending invoices or statements of account (whichever is selected for purposes of the costs test) are disregarded. If the invoice or statement of account is not sent to customers representing 50 percent of the foreign trading gross receipts derived from current or prior year export sales, all costs related to the assembly and forwarding of invoices or statements of account (whichever is selected for purposes of the costs test) must be included in the determination of the direct cost test. Suggestions to provide a rule stating what information must be reflected on a final invoice or a statement of account are incorporated into the final regulations.

Numerous commentators addressed the need to provide a definition for the term "assembly." Thus, the final regulations provide that assembly means folding the documents, filling envelopes, and addressing envelopes (if window envelopes are not used).

The location of the determination and transmittal of a final invoice or statement of account is clarified in paragraph (d)(1)(iii) of § 1.924(e)–1 to provide that the location of this activity is the place where the final invoice or statement of account is both assembled and forwarded to the customer. Because the proposed rule refers to assembled "or" forwarded, the final regulations retain that rule for taxable years beginning before February 19, 1987.

Examples are added in paragraph (d)(1)(iv) of § 1.924(e)–1 to illustrate the principles of determination and transmittal of a final invoice or statement of account.

Commentators criticized the 5-day rule in proposed paragraph (d)(2)(iii). That rule provided that the FSC is considered to have received payment outside the United States if payment is made by the purchaser directly to the related supplier in the United States, and the related supplier transfers the funds to a bank account of the FSC outside the United States within 5 business days after receipt of good funds by the related supplier's bank. An example showing the operation of this rule in the context of a commission FSC appeared in proposed § 1.925(b)–1. It provided that the commission FSC may satisfy the receipt of payment requirement by receiving the commission from the related supplier in its bank account within 5 business days after the related supplier's bank receives good funds. The proposed regulations adopted the 5-day rule to conform to the language in the legislative history which states that initial payment may be received in the United States provided that the proceeds are transferred immediately to a bank account of the FSC outside the United States.

Commentators stated that the determination of a FSC's commission with respect to proceeds received from export sales is impossible to accomplish in 5 business days after receipt of good funds by the related supplier's bank. In addition, the rule provided by the proposed regulations did not apply to buy-sell FSCs. Finally, in order for the FSC to receive the benefit of the 5-day rule, the related supplier could not receive the payment under contract with or on behalf of the FSC.

To overcome the problems raised, the final regulations increase the number of days from 5 business days to 35 calendar days and extend the rule to situations in which either the FSC or the related supplier (without regard to whether it receives payment on behalf of the FSC) receives proceeds from the export sales in the United States and, within the period beginning with the receipt of payment and ending 35 days after the receipt of good funds, transfers at least 1.83 percent of the gross receipts (the "gross receipts amount") to the foreign bank account of the FSC.

Examples are added in paragraph (d)(2)(iv) of § 1.924(e)–1 to illustrate the rules with respect to the receipt of payment activity.

Assumption of Credit Risk

Paragraph (e) of § 1.924(e)–1, which addresses the assumption of credit risk, is revised. Paragraph (e)(1) of § 1.924(e)–1 is expanded to clarify that the FSC may elect to bear the economic risk of nonpayment with respect to its transactions in a taxable year by incurring costs in any one of five categories of costs. Once a category is elected, costs (or lack of them) in any other category are irrelevant for purposes of section 924(d).

In addition, paragraph (e)(4)(i) is clarified to provide that if the FSC bears the economic risk of nonpayment for a particular year by assuming the risk of a bad debt with respect to a transaction or grouping of transactions, the FSC must incur at least one bad debt with respect to any transaction within the grouping during a consecutive three year period. A rule is provided in the event that no actual loss is incurred in any of the three consecutive years.

For taxable years beginning after February 19, 1987, paragraph (e)(4)(ii) provides new grouping rules for credit risk activities other than assuming the risk of a bad debt. The grouping rules for factoring receivables require that at least 20 percent of the face amount of the receivables attributable to the foreign trading gross receipts of the grouping elected by the FSC under paragraph (e)(1) of § 1.924(d)–1 be factored to qualify all transactions within that grouping. For letters of credit or banker's acceptances, a fee must be incurred with respect to 20 percent of the foreign trading gross receipts attributable to sales in the grouping elected by the FSC to qualify all transactions within the grouping. For obtaining insurance from an unrelated party, 20 percent of face amount of receivables generated by foreign trading gross receipts within the grouping elected by the FSC must be insured to qualify all transactions. Finally, for investigation of credit by a foreign credit agency, 20 percent of customers or potential customers must be investigated to qualify all transactions within the group elected by the FSC. The term potential customer is defined as an unrelated person on whom an investigation is performed, but with whom no export sales contract is executed.

Regulatory Flexibility Act and Executive Order 12291

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities because few small entities will be affected. Accordingly, these final regulations are not subject to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. Chapter 6).

The Commissioner of Internal Revenue has determined that this regulation is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is therefore not required.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these regulations is Carol P. Tello of the Office of Associate Chief Counsel (International), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, FSC, Sources of income, United States investment abroad.

26 CFR Part 602

Reporting and Recordkeeping Requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 and 26 CFR Part 602 are amended as follows:

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Sections 1.924(c)–1, 1.924(d)–1, and 1.924(e)–1, also issued under 26 U.S.C. 924(d).

Par. 2. Sections 1.924(c)–1, 1.924(d)–1, and 924(e)–1 are added in the appropriate places to read as follows:

§ 1.924(c)–1 Requirement that a FSC be managed outside the United States.

(a) *In general.* Section 924(b)(1)(A) provides that a FSC shall be treated as having foreign trading gross receipts for the taxable year only if the management of the FSC during the year takes place outside the United States, as provided in section 924(c). Section 924(c) and this section set forth the management activities that must take place outside the United States in order to satisfy the requirement of section 924(b)(1)(A). Paragraph (b) of this section provides rules for determining whether the requirements of section 924(c)(1) have been met. Section 924(c)(1) requires that all meetings of the board of directors of the FSC during the taxable year and all meetings of the shareholders of the FSC during the taxable year take place outside the United States. Paragraph (c) of this section provides rules for maintaining the FSC's principal bank account outside the United States as provided in section 924(c)(2). Paragraph (d) of this section provides rules for disbursements required by section 924(c)(3) to be made from bank accounts of the FSC maintained outside the United States.

(b) *Meetings of board of directors and meetings of shareholders must be outside the United States.* All meetings of the board of directors of the FSC and all meetings of the shareholders of the FSC that take place during a taxable year must take place outside the United States to meet the requirements of section 924(c)(1). Only meetings that are formally convened as meetings of the board of directors or as shareholder meetings will be taken into account in determining whether those requirements have been met. In addition, all such meetings must comply with the local laws of the foreign country or possession of the United States in which the FSC was created or organized. The local laws determine whether a meeting must be held, when and where it must be held (if it is held at all), who must be present, quorum requirements, use of proxies, and so on. Where the local law permits action by the board of directors or shareholders to be taken by written consent without a meeting, use of such procedure will not constitute a meeting for purposes of section 924(c)(1). Section 924(c)(1) and this section impose no other requirements except the requirement that meetings that are actually held take place outside the United States. If the participants in a meeting are not all physically present in the same location, the location of the meeting is determined by the location of the persons exercising a majority of the voting power (including proxies) participating in the meeting. For example, a FSC has five directors, and is organized in country A. Country A's law requires that a majority of the directors of a corporation must participate in a meeting to constitute a quorum (and, thus, a meeting), but there is no requirement that the meeting be held in country A or that the directors must be physically present to participate. One director is in country A, another director is in country B, and a third director is in the United States.

These three directors convene a meeting by telephone that constitutes a meeting under the law of country A. The meeting occurs outside the United States because the persons exercising a majority of the voting power participating in the meeting are located outside the United States.

(c) *Maintenance of the principal bank account outside the United States*—(1) *In general.* For purposes of section 924(c), the bank account that shall be regarded as the principal bank account of a FSC is the bank account from which the disbursements described in paragraph (d) of this section are made. A FSC may have more than one principal bank account. The bank account that is regarded as the principal bank account must be maintained in a foreign country which meets the requirements of section 927(e)(3), or in any possession of the United States (as defined in section 927(d)(5)), and it must be so maintained at all times during the taxable year. For taxable years beginning on or after February 19, 1987, a principal bank account or accounts must be designated on the annual return of the FSC by providing the bank name(s) and account number(s).

(2) *Maintenance of the account in a bank.* The bank account that is regarded as the principal bank account must be maintained in an institution that is engaged in the conduct of a banking, financing, or similar business, as defined in § 1.954–2(d)(2)(ii) (without regard to whether it is a controlled foreign corporation). The institution may be a U.S. bank, provided that the account is maintained in a branch outside the United States.

(3) *Maintenance of an account outside the United States.* Maintenance of the principal bank account outside the United States means that the account regarded as the principal bank account must be an account maintained on the books of the banking institution at an office outside the United States, but does not require that access to the account may be made only outside the United States. Instructions providing for deposits into or disbursements from the account may originate in the United States without affecting the status of maintenance of the account outside the United States.

(4) *Maintenance of the account at all times during the taxable year.* The term "at all times during the taxable year" generally means for each day of the taxable year. In the case of a newly created or organized corporation, thirty days may elapse between the effective date of the corporation's election to be treated as a FSC and the date a bank account is opened without causing the FSC to fail the requirement that it maintain its principal bank account outside the United States at all times during the taxable year. For example, if a corporation is created or organized prior to January 1, 1985 and makes an election to be treated as a FSC within the first 90 days of 1985, the election is effective as of January 1, 1985. Thus, the FSC must open a bank account within 30 days of January 1, or as of January 31, 1985, to satisfy this requirement. Also, a FSC shall be treated as satisfying this requirement if the account that is regarded as its principal bank account is terminated during the taxable year, provided that (i) such termination is the result of circumstances beyond the FSC's control, and (ii) the FSC establishes a new principal bank account within thirty days after such termination. A FSC may close its principal bank account and replace it with another account that qualifies under this paragraph (c) as a principal

bank account at any time provided that no lapse of time occurs between the closing of the principal bank account and the opening of the replacement account.

(5) *Other accounts.* The FSC may maintain other bank accounts in addition to its principal bank account. Such other accounts may be located anywhere, without limitation. The mere existence of such other accounts will not cause the FSC to fail to satisfy the requirements of section 924(c).

(d) *Disbursement of dividends, legal and accounting fees, and salaries of officers and directors out of the principal bank account of the FSC*—(1) *In general.* All dividends, legal fees, accounting fees, salaries of officers of the FSC, and salaries or fees paid to members of the board of directors of the FSC that are disbursed during the taxable year must be disbursed out of bank account(s) of the FSC maintained outside the United States. Such an account is treated as the principal bank account of the FSC for purposes of section 924(c). Dividends, however, may be netted against amounts owed to the FSC (*e.g.*, commissions) by a related supplier through book entries. If the FSC regularly disburses its legal or accounting fees, salaries of officers, and salaries or fees of directors out of its principal bank account, the occasional, inadvertent payment by mistake of fact or law of such amounts out of another bank account will not be considered a disbursement by the FSC if, upon determination that such payment was made from another account, reimbursement to such other account is made from the principal bank account of the FSC within a reasonable period from the date of the determination. Disbursement out of the principal bank account of the FSC may be made by transferring funds from the principal bank account to a U.S. account of the FSC provided that (i) the payment of the dividends, salaries or fees to the recipients is made within 12 months of the transfer, (ii) the purpose of the expenditures is designated and, (iii) the payment of the dividends, salaries or fees is actually made out of the same U.S. account that received the disbursement from the principal bank account.

(2) *Reimbursement.* Legal or accounting fees, salaries of officers, and salaries or fees of directors that are paid by a related person wholly or partially on behalf of a FSC must be reimbursed by the FSC. The amounts paid by the related person are not considered disbursed by the FSC until the related person is reimbursed by the FSC. The related person must be reimbursed no later than the last date prescribed for filing the FSC's tax return (including extensions) for the taxable year to which the reimbursement relates. Any reimbursement for amounts paid on behalf of the FSC must be disbursed out of the FSC's principal bank account (and not netted against any obligation owed by the related person to the FSC), as set forth in paragraph (c) of this section. To determine the amounts paid on behalf of the FSC, the FSC may rely upon a written statement or invoice furnished to it by the related person which shows the following:

(i) The actual fees charged for performing the legal or accounting services for the FSC or, if such fees cannot be ascertained by the related person, a good faith estimate thereof, and the actual salaries or fees paid for services as officers and directors of the FSC, and

(ii) The person who performed or provided the services.

(3) *Good Faith Exception.* If, after the FSC has filed its tax return, a determination is made by the Commissioner that all or a part of the legal or accounting fees, salaries of officers, and salaries or fees of directors of the FSC were paid by a related person without receiving reimbursement, the FSC may, nonetheless, satisfy the requirements of section 924(c)(3) if the fees and salaries were paid by the related person in good faith, and the FSC reimburses the related person for the fees and salaries paid within 90 days after the determination. The reimbursement shall be treated as made as of the end of the taxable year of the FSC for which the reimbursement is made.

(4) *Dividends*—(i) *Definition.* For purposes of section 924(c) and this section only, the term "dividends" refers solely to cash dividends (including a dividend paid in a foreign functional currency) actually paid pursuant to a declaration or authorization by the FSC. Accordingly, a "dividend" will not include a constructive dividend that is deemed to be paid (regardless of the source of such constructive dividend) or a distribution of property that is a dividend under section 316 other than a distribution of U.S. dollars or a foreign functional currency.

(ii) *Offset accounting entries.* Payment of dividends by the FSC to its related supplier may be in the form of an accounting entry offsetting an amount payable to the related supplier for the dividend against an existing debt owed to the FSC. The offset accounting entries must be clearly identified in the books of account of both the related supplier and the FSC.

(5) *Legal and accounting fees.* For purposes of this section, legal and accounting fees do not include salaries paid to legal and accounting employees of the FSC (or a related person). Legal and accounting fees are limited to fees paid to independent persons performing legal or accounting services for or with respect to the FSC.

(6) *Salaries of officers and directors.* For purposes of this section, salaries of officers and salaries or fees of directors are only those salaries or fees paid for services as officers or directors of the FSC. Salaries do not include reimbursed travel and entertainment expenses. If an individual officer, director, or employee of a related person is also an officer or director of a FSC and receives additional compensation for services performed for the FSC, the portion of the compensation paid to the individual which is for services performed for the FSC is required to be disbursed out of the FSC's principal bank account. For purposes of this section, the term "compensation" is defined as set forth in paragraphs (d) (1) and (2) of § 1.415-2.

§ 1.924(d)-1 Requirement that economic processes take place outside the United States.

(a) *In general.* Section 924(b)(1)(B) provides that a FSC has foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as provided in section 924(d). Section 924(d) and this section set forth the rules for determining whether a sufficient amount of the economic processes of a transaction take place outside the United States. Generally, a transaction will qualify if the FSC satisfies two different requirements: Participation outside the United States in the sales portion of the transaction, and satisfaction of either the 50-percent or the 85-percent foreign direct cost test. The activities comprising these economic processes may be performed by the FSC or by any other person acting under contract with the FSC. (All references to "FSC" in §§ 1.924(d)-1 and 1.924(e)-1 shall mean the FSC or, if applicable, the person performing the relevant activity under contract on behalf of the FSC). The FSC may act upon standing instructions from another person in the performance of any activity, whether a sales activity under paragraph (c) of this section or an activity relating to the disposition of export property under paragraph (d) of this section and § 1.924(e)-1. The identity of the FSC as a separate entity

is not required to be disclosed in the performance of any of the activities comprising the economic processes. Except as otherwise provided, the location of any activity is determined by the place where the activity is initiated by the FSC, and not by the location of any person transmitting instructions to the FSC.

(b) *Activities performed by another person*—(1) *In general.* Any person, whether domestic or foreign, and whether related or unrelated to the FSC, may perform any activity required to satisfy this section, provided that the activity is performed pursuant to a contract for the performance of that activity on behalf of the FSC. Such a contract may be any oral or written agreement which constitutes a contract at law. The person performing the activity is not required to enter into a contract directly with the FSC and, thus, may be a direct or indirect subcontractor of a person under contract with the FSC. For example, assume that a buy-sell FSC enters into an agreement with its related supplier in which the related supplier agrees to perform on behalf of the FSC all sales activities with respect to the FSC's transactions with its foreign customers. Through its existing agreements with a domestic unrelated person, the related supplier subcontracts the performance of these activities to the domestic unrelated person, who, in turn, subcontracts the performance of the sales activities to foreign sales agents. The sales activities performed by the foreign sales agents are considered to be performed on behalf of the FSC for purposes of meeting the requirements of section 924(d)(1)(A).

(2) *Proof of Compliance.* If the FSC does not perform the activity itself, it must maintain records adequate to establish, with respect to each transaction or group of transactions, that the activity was performed and that the performance of such activity took place outside the United States. If the person who performed the activity on behalf of the FSC is an independent contractor, the FSC may rely upon a written declaration from that person stating that the activities were performed by that person on behalf of the FSC, and were performed outside the United States. An invoice or a receipt for payment will be considered to be such a written declaration if it specifies that the activities were performed outside the United States or specifies a particular place outside the United States where the activities were performed. If the person performing the activities on behalf of the FSC is a related person, the FSC must maintain records adequate to establish that the activities were actually performed and where the activities were performed. Such records may be stored with the related person provided that the FSC makes such records available to the Commissioner upon request.

(c) *Participation outside the United States in the sales portion of the transaction*—(1) *In general.* The requirement of section 924(d)(1)(A) is met with respect to the gross receipts of a FSC derived from any transaction if the FSC has participated outside the United States in the solicitation, the negotiation, or the making of the contract relating to such transaction (hereinafter described as "sales activities"), as provided in this paragraph (c). A sale need not occur in order that the solicitation or negotiation tests be satisfied. Once the FSC has participated outside the United States in an activity that constitutes the solicitation, negotiation, or the making of the contract with respect to a transaction, any prior or subsequent activity by the FSC with respect to such transaction that would otherwise constitute the sales activity will be disregarded for purposes of determining whether the FSC has met the requirements of section 924(d)(1)(A). For example, if a FSC sells a product to a foreign customer by first meeting with the customer in New York to discuss the product and then by mailing to it from outside the United States a brochure describing the product, the prior meeting is disregarded and only the mailing is considered in determining whether there was solicitation outside the United States by the FSC with respect to the transaction which has occurred.

(2) *Solicitation (other than advertising).* For purposes of this paragraph (c), "solicitation" refers to any communication (by any method, including, but not limited to, telephone, telegraph, mail, or in person) by the FSC, at any time during the 12 month period (measured from the date the communication is mailed or transmitted) immediately preceding the execution of a contract relating to the transaction to a specific, targeted customer or potential customer, that specifically addresses the customer's attention to the product or service which is the subject of the transaction. For purposes of paragraph (c)(2) of this section, communication by mail means depositing the communication in a mailbox. Except as provided in § 1.924(e)–1(a)(1) with respect to second mailings, activities that would otherwise constitute advertising (such as sending sales literature to a customer or potential customer) will be considered solicitation if the activities are directed at a specific, targeted customer or potential customer, and the costs of the activity are not taken into account as advertising under the foreign direct cost tests. Activities that would otherwise constitute sales promotion (such as a promotional meeting in person with a customer) will be considered to be solicitation if the activities are directed at a specific, targeted customer or potential customer, and the costs of the activity are not taken into account as sales promotion under the foreign direct cost tests. Except as provided in § 1.924(e)–1(a)(1) with respect to second mailings, the same or similar activities cannot be considered both solicitation and advertising, or both solicitation and sales promotion, with respect to the same customer. Solicitation, however, may take place at the same time as, and in conjunction with, another sales activity. Additionally, it may take place with respect to any person, whether domestic or foreign, and whether or not related to the FSC.

(3) *Negotiation.* For purposes of this paragraph (c), "negotiation" refers to any communication by the FSC to a customer or potential customer aimed at an agreement on one or more of the terms of a transaction, including, but not limited to, price, credit terms, quantity, or time or manner of delivery. For purposes of this paragraph (c)(3), communication by mail has the same meaning as provided in paragraph (c)(2) of this section. Negotiation does not include the mere receipt of a communication from a customer (such as an order) that includes terms of a sale. Negotiation may take place at the same time as, and in conjunction with, another sales activity. Additionally, it may take place with respect to any person, whether domestic or foreign, and whether or not related to the FSC.

(4) *Making of a contract.* For purposes of this paragraph (c), "making of a contract" refers to performance by the FSC of any of the elements necessary to complete a sale, such as making an offer or accepting an offer. A requirements contract is considered an open offer to be accepted from time to time when the customer submits an order for a specified quantity. Thus, the acceptance of such an order will be considered the making of a contract. The written confirmation by the FSC to the customer of the acceptance of the open order will also be considered the making of a contract. Acceptance of an unsolicited bid or order is considered the "making of a contract" even if no solicitation or

negotiation occurred with respect to the transaction. The written confirmation by the FSC to the customer of an oral or written agreement which confirms variable contract terms, such as price, credit terms, quantity, or time or manner of delivery, or specifies (directly or by cross-reference) additional contract terms will be considered the making of a contract. A written confirmation is any confirmation expressed in writing, including a telegram, telex, or other similar written communication. The making of a contract may take place at the same time as, and in conjunction with, another sales activity. Additionally, it may take place with respect to any person, whether domestic or foreign, and whether or not related to the FSC.

(5) *Grouping transactions.* Generally, the sales activities under this paragraph (c) are to be applied on a transaction-by-transaction basis. By annual election of the FSC, however, any of the sales activities may be applied on the basis of a group as set forth in this paragraph (c)(5). Any groupings used must be supported by adequate documentation of performance of activities relating to the groupings used. An election by the FSC to group transactions must be made on its annual income tax return. The FSC, however, may amend its tax return to group in a manner different from that elected on its original return before the expiration of the statute of limitations.

(i) *Standards of groups.* A determination by a FSC as to a grouping will be accepted by a district director if such determination conforms to any of the following standards:

(A) *Product or product line groupings.* A product or product line grouping may be based upon either a recognized trade or industry usage, or upon a two digit major group (or on any inferior classification or combination of inferior classifications within a major group) of the Standard Industrial Classification as prepared by the Statistical Policy Division of the Office of Management and Budget, Executive Office of the President. For taxable years beginning on or before February 19, 1987, any sales activity that is performed outside the United States with respect to any transaction covered by the product or product line grouping during the FSC's taxable year shall apply to all transactions covered by the product or product line. However, for taxable years beginning after February 19, 1987, the requirement of section 924(d)(1)(A) is met with respect to all transactions covered by the product or product line grouping only if the sales activities are performed outside the United States with respect to customers with sales representing either: (i) 20 percent or more of the foreign trading gross receipts of the product or product line grouping during the current year or (ii) 50 percent or more of the foreign trading gross receipts of the product or product line grouping for the prior year irrespective of whether any sales occurred within the current year to the prior year customers. If during the prior taxable year, the controlled group of which the FSC is a member had a DISC or interest charge DISC, the FSC may use the 50 percent rule with respect to the preceding DISC or interest charge DISC year, substituting qualified export receipts for foreign trading gross receipts. A corporation which has not been treated in the prior year as a FSC, interest charge DISC, or DISC does not have to meet either the 20 percent test or the 50 percent test for the first year in which it is treated as a FSC.

(B) *Customer groupings.* A customer grouping includes all transactions of the FSC with a particular customer during the FSC's taxable year. Thus, any sales activity that is performed outside the United States with respect to any transaction with the customer during the taxable year shall apply to all transactions within the customer grouping.

(C) *Contract groupings.* A contract grouping includes all transactions of the FSC under a particular contract for a taxable year. Thus, any sales activity that is performed outside the United States with respect to any transaction under the contract will apply to all transactions under the contract for such taxable year. For long-term contracts between unrelated parties, the sales activities tests need be satisfied only once for the life of the contract. With respect to requirements contracts and long-term contracts between related parties, the sales activities test must be satisfied annually.

(D) *Product or product line groupings within customer or contract groupings.* Groupings may be based upon product or product line groupings within customer or contract groupings. If, however, the primary grouping is a customer or contract grouping, the 20 percent test set forth in subdivision (A) of this paragraph relating to product or product line grouping will not be applicable.

(ii) *Transactions included in a grouping.* A choice by a FSC to group transactions shall generally apply to all transactions within the scope of that grouping. The choice of a grouping, however, applies only to transactions covered by the grouping and, for transactions not encompassed by the grouping, the determinations may be made on a transaction-by-transaction basis or other grouping basis. For example, a FSC may choose a product grouping with respect to one product and use the transaction-by-transaction method for another product within the same taxable year. In addition, if a FSC applies sales activity rules on the basis of other types of groupings, such as all sales to a particular customer, transactions included in those other groupings shall be excluded from product groupings.

(iii) Different groupings allowed for different purposes. A choice by the FSC to group transactions may be made separately for each of the sales activities under section 924(d)(1)(A). Groupings used for purposes of section 924(d)(1)(A) will have no relationship to groupings used for other purposes, such as satisfying the foreign direct cost tests. This paragraph (c)(5) does not apply for purposes of section 925.

(6) *Examples.* The provisions of this paragraph (c) may be illustrated by the following examples:

Example (1). In November, a calendar year FSC mailed from its foreign office its catalog to a potential foreign customer. The catalog displayed numerous products along with a brief description and the price of each. In February of the following year, the FSC sold to the customer a product displayed in the catalog. Since the FSC communicated with the customer during the 12-month period prior to the sale, although during the previous taxable year, the FSC participated outside the United States in the solicitation relating to the transaction.

Example (2). A FSC with a taxable year ending April 30, 1986, solicits customer X during that taxable year with respect to Product A. In the previous taxable year, the FSC sold product A to customers V, W, X, Y, Z, none of whom were customers in the taxable year ending April 30, 1986. The sales proceeds from sales to customer X represented 50 percent of the foreign trading gross receipts for the previous FSC year. The FSC meets the 50 percent test for product or product line grouping for the taxable year ending April 30, 1986. If the facts were changed so that there was not a FSC, DISC or interest charge DISC in the same controlled group in the previous taxable year, the single solicitation directed to any customer would qualify all transactions within the product group as meeting the solicitation requirement for that taxable year. For subsequent taxable years, the 50 percent test or the 20 percent test would be applicable.

Example (3). A FSC earns commissions on the sale of export property by its domestic related supplier to United States wholesalers for final sale to foreign customers. The related supplier receives an order from one of its United States wholesalers. The related supplier telephones the United States wholesaler to inform it of the new price and

the probability of another price increase soon. The United States wholesaler orally agrees to the new price and the related supplier instructs the FSC to telex the wholesaler from its foreign office a confirmation that the product will be sold at the current new price. The written confirmation by the FSC of an oral agreement on a variable contract term constitutes the making of a contract. Thus, the requirements of section 924(d)(1)(A) are met with respect to the transaction relating to the product.

(d) *Satisfaction of either the 50-percent or the 85-percent foreign direct cost test*—(1) *In general.* Section 924(d)(1)(B) requires, in order for the gross receipts of a transaction to qualify as foreign trading gross receipts, that the foreign direct costs incurred by the FSC attributable to the transaction equal or exceed 50 percent of the total direct costs incurred by the FSC attributable to the transaction. The direct costs are those costs attributable to activities described in the five categories of section 924(e). Section 924(d)(2) provides that, instead of satisfying the 50-percent foreign direct cost test of section 924(d)(1)(B), the FSC may incur foreign direct costs attributable to activities described in each of two of those categories that equal or exceed 85 percent of the total direct costs incurred by the FSC attributable to the activity described in each of the two categories. If no direct costs are incurred by the FSC in a particular category, that category shall not be taken into account for purposes of determining satisfaction of either the 50-percent or the 85-percent foreign direct cost test. If any amount of direct costs is incurred in a particular category, that category shall be taken into account for purposes of the foreign direct costs tests.

(2) *Direct costs*—(i) *Definition of direct costs.* For purposes of section 924 (d), direct costs are those costs which are incident to and necessary for the performance of any activity described in section 924(e). Direct costs include the cost of materials which are consumed in the performance of the activity, and the cost of labor which can be identified or associated directly with the performance of the activity (but only to the extent of wages, salaries, fees for professional services, and other amounts paid for personal services actually rendered, such as bonuses or compensation paid for services on the basis of a percentage of profits). Direct costs also include the allowable depreciation deduction for equipment or facilities (or the rental cost for use thereof) that can be specifically identified or associated with the activity, as well as the contract price of an activity performed on behalf of the FSC by a contractor. If costs of services or the use of facilities are only incidentally related to the performance of an activity described in section 924(e), only the incremental cost is considered to be identified directly with the activity. For example, supervisory, administrative, and general overhead expenses, such as telephone service, normally are not identified directly with particular activities described in section 924(e). The cost of a long distance telephone call made to arrange for delivery of export property, however, is identified directly with the activities described in section 924(e)(2). Direct costs for purposes of section 924(d) do not necessarily include all of the expenses taken into account for purposes of determining the taxable income of the FSC or the combined taxable income of the FSC and its related supplier.

(ii) *Allocation of direct costs.* For purposes of this section only, if costs are identified with more than one activity (whether or not all of the activities are described in section 924(e)), the portion of the costs attributable to each activity shall be determined by allocating the costs among the activities in any manner that is consistently applied and, if applicable, that reasonably reflects relative costs that would be incurred by performing each activity independently. If costs of an activity are attributable to more than one transaction or grouping of transactions, the portion of the costs attributable to each transaction or grouping shall be determined by allocating the costs among the transactions or groupings in any manner that is consistently applied and, if applicable, that reasonably reflects relative costs that would be incurred by performing the activity independently with respect to each transaction or grouping.

(3) *Total direct costs.* The term "total direct costs" means all of the direct costs of any transaction attributable to activities described in any paragraph of section 924(e). For purposes of the 50-percent foreign direct cost test of section 924(d)(1)(B), total direct costs are determined based on the direct costs of all activities described in all of the paragraphs of section 924(e). For purposes of the 85-percent foreign direct cost test of section 924(d)(2), however, the total direct costs are determined separately for each paragraph of section 924(e). If more than one activity is included within a paragraph of section 924(e), direct costs must be incurred with respect to at least one activity listed in the paragraph. If costs are incurred with respect to more than one activity, all direct costs must be considered for purposes of satisfying the direct costs test.

(4) *Foreign direct costs.* The term "foreign direct costs" means the portion of the total direct costs of any transaction which is attributable to activities performed outside the United States. For purposes of the 50-percent foreign direct cost test, foreign direct costs are determined based on the direct costs of all activities described in all of the paragraphs of section 924(e). For purposes of the 85-percent foreign direct cost test, however, foreign direct costs are determined separately for each paragraph of section 924(e).

(5) *Fifty percent foreign direct cost test.* To satisfy the requirement of section 924(d)(1)(B), the foreign direct costs incurred by the FSC attributable to the transaction must equal or exceed 50 percent of the total direct costs attributable to the transaction. This test looks to the cost of the activities described in section 924(e) on an aggregate basis; therefore, it is not necessary that the foreign direct costs of each activity, or of each paragraph of section 924(e), equal or exceed 50 percent of the total direct costs of that activity or paragraph.

(6) *Eighty-five percent foreign direct cost test*—(i) *General rule.* To satisfy the requirement of section 924(d)(2), the foreign direct costs of a transaction incurred by the FSC attributable to activities described in each of at least two paragraphs of section 924(e) must equal or exceed 85 percent of the total direct costs attributable to activities described in that paragraph. This test looks to costs of the activities on a paragraph-by-paragraph basis (but not on an activity-by-activity basis). As an example, the foreign direct costs of advertising and sales promotion are aggregated with each other for this purpose, but they are not aggregated with the foreign direct costs of transportation.

(ii) *Satisfaction of the 85-percent test.* If, after the FSC files its tax return indicating that it has satisfied the 85-percent foreign direct cost test with respect to each of at least two paragraphs of subsection 924(e) and a determination is made by the Commissioner that the foreign direct costs attributable to one or both of the two paragraphs of section 924(e) specified on the return did not equal or exceed 85 percent of the total direct costs attributable to such activities, the FSC may, nonetheless, satisfy the 85-percent foreign direct cost test if the foreign direct costs attributable to any two paragraphs of section 924 (e) equal or exceed 85 percent of the total direct

costs attributable to those other paragraphs.

(e) *Grouping transactions.* Generally, the foreign direct cost tests under paragraph (d) of this section are to be applied on a transaction-by-transaction basis. By annual election of the FSC, however, the foreign direct cost tests may be applied on a customer, contract or product or product line grouping basis. Any groupings used must be supported by adequate documentation of performance of activities and costs of activities relating to the groupings used. An election by the FSC to group transactions must be made on its annual income tax return. The FSC may, however, amend its tax return before the expiration of the statute of limitations under section 6501 of the Code to group in a manner different from that elected on its original return.

(1) *Standards for groupings.* A determination by a FSC as to a grouping will be accepted by the district director if such determination conforms to any of the following standards:

(i) *Product or product line groupings.* A product or product line grouping may be based either on a recognized trade or industry usage, or on a two digit major grouping (or on any inferior classification or combination of inferior classifications within a major grouping) of the Standard Industrial Classification as prepared by the Statistical Policy Division of the Office of Management and Budget, Executive Office of the President.

(ii) *Customer groupings.* A customer grouping includes all transactions of the FSC with a particular customer during the FSC's taxable year.

(iii) *Contract groupings.* A contract grouping includes all transactions of the FSC under a particular contract, including a requirements contract. The tests will be applied to all transactions within a contract grouping during each taxable year of the FSC; however, by election of the FSC, all transactions under a contract that occur in the first or the last year of the contract may be included with, respectively, the next succeeding or the immediately preceding taxable year in applying these tests. For example, if with respect to transactions during the first calendar year of a 5-year contract, a calendar year FSC incurs direct costs attributable to the transactions of $100X for advertising, all of which are foreign direct costs, and $10X for processing of customers orders and for arranging for delivery, $9X (or 90 percent of the total direct costs) of which are foreign direct costs, the FSC has satisfied the 85-percent foreign direct cost test with respect to those transactions for the taxable year. If with respect to transactions during the second year of the contract, the FSC only incurs $18X of direct costs for processing of customer orders and arranging for delivery, $15X (83.3 percent of the total direct costs) of which are foreign direct costs, the FSC may include the transactions from the first year of the contract to meet the 85-percent foreign direct cost test in the second taxable year. Thus, with respect to the transactions in the second year, the FSC satisfies the foreign direct costs test for advertising (because the entire $100X of direct costs are foreign direct costs) and for processing of customer orders and arranging for delivery (because of the $28X of direct costs, $24X or 85.7 percent of the total direct costs are foreign direct costs). If, however, with respect to transactions in the third year, the FSC satisfies the foreign direct costs test, those transactions cannot be included with the transactions in the fourth year. The FSC may aggregate the direct costs in the fourth and fifth years in the same manner as for the first and second years as described above in order to satisfy the 85 percent foreign direct costs test.

(iv) *Product or product line groupings within customer or contract groupings.* Groupings may be based on product or product line groupings within customer or contract groupings.

(2) *Transactions included in a grouping.* An election by the FSC to group transactions shall generally apply to all transactions within the scope of that grouping. The election of a grouping, however, applies only to transactions covered by the grouping and, as to transactions not encompassed by the grouping, the determinations may be made on a transaction-by-transaction basis or other grouping basis. For example, the FSC may elect a product grouping with respect to one product and elect the transaction-by-transaction method for another product within the same taxable year. In addition, if a FSC is permitted to apply either the 50-percent or the 85-percent foreign direct cost test on the basis of other types of groupings, such as all transactions with respect to a particular customer, transactions included in those other groupings shall be excluded from product groupings.

(3) *Different groupings allowed for different purposes.* An election by the FSC to group transactions may be made separately for each of the activities relating to disposition of export property under section 924(d)(1)(B) or section 924(d)(2). Groupings used for purposes of section 924 will have no bearing on groupings for other purposes. This paragraph (e) does not apply for purposes of section 925.

(f) *Exception for foreign military property*—(1) *General rule.* The requirements of this section do not apply to any activities performed in connection with foreign military sales except those activities described in section 924(e). The FSC is deemed to have satisfied the requirements of section 924(d)(1)(A).

(2) *Example.* The principles of paragraph (f)(1) of this section may be illustrated by the following example:

Example. A FSC earns commissions on foreign military sales by its related supplier. All solicitation, negotiation, and contract making activities occur in the United States solely between the related supplier and the United States government. The property is delivered, title passes, and payment is made in the United States in accordance with standard United States government practices. The FSC incurs direct costs in the amount of $155X to process the government's orders and arrange for delivery of the goods, all of which are foreign direct costs. In addition, it incurs foreign direct costs in the amount of $250X for assembling and transmitting its final invoice to the government from outside the U.S. and foreign direct costs of $200X associated with receiving payment from the related supplier in accordance with the rules of § 1.924(e)–1(d)(2)(iii). No other activities occur with respect to the foreign military sales. The FSC has satisfied the 85-percent foreign direct cost test and thus has foreign trading gross receipts with respect to the foreign military sales. The fact that the FSC did not participate outside the United States in any of the sales activities has no bearing on the qualification of the receipts since the FSC is deemed to have met the requirements of § 924(d)(1)(A).

§ 1.924(e)–1 Activities relating to the disposition of export property.

(a) *Advertising and sales promotion.* For purposes of section 924(e), advertising and sales promotion are defined as follows.

(1) *Advertising*—(i) *Advertising defined*—(A) *General rule.* Advertising means the announcement or description of property or services described in section 924(a), in some medium of mass communication (such as radio, television, newspaper, trade journals, mass mailings, or billboards), in order to induce multiple customers or potential customers to buy or rent the property or services from the FSC or related supplier. Advertising is not required to be directed to the general public, but may be focused toward any group of export customers or potential export customers. Advertising except for the advertising described in § 1.924(e)–1(a)(1)(B) must describe one or more specific products or product lines (or services) and identify the product as a

product offered by the FSC or related supplier. Advertising intended solely to build a favorable image of a company or group of companies is not included in this definition of advertising. Additionally, advertising primarily directed at customers or potential customers in the United States is not included in this definition of advertising, nor is advertising related to property or services not described in section 924(a).

(B) *Special rules for sales to distributors.* If the customer is a distributor (whether domestic or foreign, related or unrelated to the FSC), an expense that is incurred by the distributor and charged to the FSC or related supplier as a reduction in the purchase price or as a separate charge for an announcement or description described in paragraph (a)(1)(A) of this section to induce the distributor's customers, potential customers, or the ultimate users to buy or rent the property or services is advertising for these purposes (i) if the FSC incurs 20 percent or more of the total advertising costs of the distributor or (ii) if the FSC pays the total charge of an advertisement either directly or indirectly. For these purposes, a distributor is anyone other than an end user or a final consumer. A FSC may incur direct advertising costs to a foreign end consumer even though the FSC sells to a U.S. distributor.

(ii) *Direct costs of advertising.* Direct costs of advertising include costs of transmitting, displaying, or distributing the advertising to customers or potential customers and the costs of printing in the case of sales literature, but do not include fees paid to an independent advertising agency to develop the announcement or description, translation costs, or costs of preparing the announcement or description for potential use as advertising. Direct costs of sending sales literature to customers or potential customers may be taken into account as advertising costs as long as the activity is not taken into account for purposes of the sales activity requirements of § 1.924(d)–1(c).

(iii) *Location of advertising.*

(A) *General Rule.* The location of advertising activity is the place to which the advertising is transmitted, displayed, distributed, mailed, or otherwise conveyed to the customers or potential customers (or in the case of advertising described in paragraph (a)(i)(B) of this section, the distributor's customers, or the ultimate users). For example, a television advertisement that is broadcast to a foreign country constitutes advertising activity outside the United States even though the broadcast signal originates in the United States. Therefore, the cost of that advertising activity is a foreign cost. The FSC may rely upon the distribution statistics of the publisher of print media or the broadcaster of broadcast media through which the advertising is distributed. If the distribution statistics show that 85 percent or more of the readership, radio listeners, or viewership are outside the United States, all direct costs of advertising are considered foreign direct costs of advertising.

(B) *Foreign editions of journals, magazines, etc.* Costs related to advertising in foreign English editions of U.S. publications as well as advertising in any publication in a foreign language are foreign direct costs.

(C) *United States editions.* Costs related to advertising in United States publications are not treated as direct costs even if the publication also has a foreign edition in English.

(iv) *Second mailings.* In general, direct costs of sending sales literature to customers may be treated as solicitation or advertising, but not both. A distinction may be made, however, between a first and second mailing so that one may be treated as advertising and the other may be treated as solicitation. To qualify under this second mailing rule, the two mailings must be generically different items such as a price list and a description of the product itself. An amended price list would not be distinguishable from an original price list and would, therefore, not constitute a second mailing.

(v) *Examples.* The principles of paragraph (a)(1) of this section may be illustrated by the following examples:

Example (1). The related supplier, under contract with a buy-sell FSC to advertise export product D on the "FSC's" behalf to its foreign unrelated customers, engaged a French advertising agency to develop an advertising campaign to induce French customers to buy the product. As a part of the advertising campaign, the agency places a one-page advertisement in a relevant French trade journal. The advertisement constitutes advertising within the meaning of paragraph (a)(1) of this section.

Example (2). A United States weekly magazine publishes, in addition to its United States edition, a Canadian edition in English and a Mexican edition in Spanish. A FSC incurs costs of $200 X for a one-page display in each of the three editions for a total advertising cost of $600 X. The $200 X cost relating to the advertising in the United States edition is not a direct cost because it relates to United States sales. The total costs of $400 X relating to advertising in the English language Canadian edition and the Spanish language Mexican edition are foreign direct costs.

Example (3). A FSC earns commissions on the sale of export product E by its domestic related supplier to United States distributors for resale to Canadian retail customers. The related supplier, under contract with the FSC to advertise product E, pays an amount equal to 1 percent of its annual gross receipts with respect to product E under a cooperative advertising arrangement with the distributor. The amount, which represents 20 percent of the total advertising costs for product E, is reimbursed by the FSC. The 20-percent amount represents a significant portion of the total advertising costs and thus constitutes advertising within the meaning of paragraph (a)(1)(i) of this section.

Example (4). A FSC mails two items to each customer on its customer list within one taxable year. The first mailing consists of a price list which merely lists the various products by name and provides a price next to each product name. The second mailing consists of a brochure which fully describes and illustrates each product. The two mailings are generically different. Therefore, one mailing may be counted as advertising while the other mailing may be counted as solicitation.

(2) *Sales promotion*—(i) *Sales promotion defined.* Sales promotion means an appeal made in person to an export customer or potential export customer for the sale or rental of property or services described in section 924(a), made in the context of a trade show or customer meeting. A customer meeting means a periodic meeting (*e.g.*, quarterly, semi-annual, or annual) in which 10 or more customers or potential customers are reasonably expected to attend. However, for taxable years beginning before February 19, 1987, a customer meeting may, at the option of the taxpayer, mean any meeting with a customer or potential customer regardless of the frequency of the meetings or the number of customers or potential customers in attendance. A meeting, show or event in the United States that is primarily aimed at the export of goods or services described in section 924(a) constitutes sales promotion. Sales promotion does not include an appeal made in the context of any meeting, show or event primarily aimed at U.S. customers or an appeal for the sale or rental of property or services not described in section 924(a). Whether any meeting, show or event is primarily aimed at U.S. customers or at the export of goods or services described in section 924(a) shall be determined by all of the facts and circumstances including the announced objective of the meeting, show or event; the attendees; the location of the meeting, show or event; and the product or special feature of the product.

(ii) *Direct costs of sales promotion.* Direct costs of sales promotion include costs such as rental of space at trade shows, payments to organizers or other

persons hired for the event, rental of display equipment and decorations for the event, and costs of maintaining a showroom. Direct costs of sales promotion also include costs for travel, meals, and lodging for direct sales people attending the event if these costs are paid by the FSC or related supplier. In the case of a customer meeting, direct costs of sales promotion include the costs of materials printed specifically for the meeting and the costs of travel, lodging, and food for both the direct sales people and customers or potential customers attending the meeting. Direct costs of sales promotion do not include the cost of salaries and commissions of direct sales people or the cost of discount coupons, samples of the product, or printed advertising materials that are used for general advertising as well as sales promotion.

(iii) *Location of sales promotion.* The location of sales promotion activity is the place where the trade show or customer meeting is held.

(iv) *Examples.* The principles of paragraph (a)(2)(i) of this section may be illustrated by the following examples:

Example (1). The related supplier sells various export products described in section 924(a) to its foreign customers. As a commission agent for the related supplier with respect to such sales, the FSC performs sales promotion. It contracts with the related supplier to serve as its agent for such purposes. To stimulate the sale of its export products, the related supplier conducts semi-annual meetings with the purchasing agents of its customers at its Kansas City headquarters. Ten or more purchasing agents are reasonably expected to attend each meeting. At such meetings, the purchasing agents see the related supplier's manufacturing facilities, visit with its executives, attend technical updates, and see new export products. These semi-annual customer meetings constitute sales promotion within the meaning of paragraph (a)(2)(i) of this section. Direct costs incurred with respect to the customer meetings are U.S. direct costs because the sales promotion activities occur within the United States.

Example (2). Assume the same facts as in *Example (1)*, except that the related supplier exhibits products that only operate on 220 volts at a trade show in the United States. According to the trade show sponsors, the purpose of the show is to increase sales abroad of United States-manufactured products. Since the products exhibited are designed for operation in foreign countries and the purpose of the trade show is to boost sales in those countries, the trade show held in the United States is primarily aimed at the export products described in section 924(a) and not at United States customers. Thus, the trade show constitutes sales promotion within the meaning of paragraph (a)(2)(i) of this section and the direct costs incurred in connection with the trade show are treated as United States direct costs.

(b) *Processing of customer orders and arranging for delivery of the export property.* For purposes of section 924(e), the processing of customer orders and the arranging for delivery of the export property are defined in paragraph (b)(1) and paragraph (b)(2), respectively, of this section. For taxable years beginning after February 19, 1987, if the FSC performs the activities of processing of customer orders and arranging for delivery of the export property and elects to group its transactions, it is considered to have performed the activities with respect to all transactions in the grouping elected by the FSC under § 1.924(d)–1(e) during the taxable year if it performs the activities of processing of customer orders and arranging for delivery of the export property with respect to customers generating 20 percent or more of foreign trading gross receipts within the elected grouping.

(1) *Processing of customer orders*—(i) *Processing of customer orders defined.* The processing of customer orders means notification by the FSC to the related supplier of the order and of the requirements for delivery. The related supplier may have independent knowledge of the order and requirements for delivery. If the FSC does not have a related supplier, the processing of customer orders means communication with the customer by any method such as telephone, telegram, or mail to acknowledge receipt of the order and requirements for delivery. Once the related supplier has been notified by the FSC, or the customer has received an acknowledgement from the FSC, of the order and requirements for delivery, subsequent or prior communications with respect to an order (such as changes in quantity or prospective delivery date) are not included in the definition of processing of customer orders.

(ii) *Direct costs of processing customer orders.* Direct costs of processing of customer orders include salaries of clerical personnel and costs of telephone, telegram, mail, or other communication media (including the costs of operating transmission equipment).

(iii) *Location of processing of customer orders.* The location of this activity is the place where the communication is initiated by the FSC.

(iv) *Examples.* The principles of paragraph (b)(1) of this section may be illustrated by the following examples:

Example (1). A domestic related supplier, using a FSC as its commission agent on the sale of export property to foreign customers, receives an order from one of its foreign customers. Information concerning the receipt of such order and its requirements for delivery are transmitted to the FSC. The FSC from its office outside the United States notifies the related supplier of the order and the requirements for delivery by telex. This notification by the FSC to the related supplier constitutes the processing of the customer's order within the meaning of paragraph (b)(1)(i) of this section. In addition, its direct costs of processing the customer's order are foreign direct costs because the communication is initiated by the FSC from outside the United States.

Example (2). A domestic unrelated supplier manufactures a product which it sells to a buy-sell FSC located in Germany for resale to the FSC's German customers. Upon receiving an order from one of its customers, the FSC telephones the customer from its German office to acknowledge receipt of the order and the requirements for delivery. The acknowledgement constitutes the processing of the customer's order within the meaning of paragraph (b)(1)(i) of this section and the direct costs attributable thereto are foreign direct costs.

(2) *Arranging for delivery*—(i) *Arranging for delivery defined.* The arranging for delivery of export property means the taking of necessary steps to have the export property delivered to the customer in accordance with the requirements of the order. Arranging for delivery does not include preparation of shipping documents (*e.g.*, bill of lading) or the property for shipment (*i.e.*, packaging or crating), or shipment of property (*i.e.*, transportation). Arranging for delivery does include communications with a carrier or freight forwarder to provide transportation (as defined in § 1.924(e)–1(c)(1), but without regard to when the commission relationship for purposes of transportation begins) for the export property from the FSC or related supplier to the place where the customer takes possession of the property. Arranging for delivery also includes communications with the customer to notify the customer of the time and place of delivery. The carrier or freight forwarder and the customer may already have knowledge of the information communicated. If the FSC has communicated with the carrier or freight forwarder, where applicable, and the customer to notify it of the time and place of delivery, prior or subsequent communications to either about delivery are not included in the definition of arranging for delivery.

(ii) *Direct costs of arranging for delivery.* The direct costs of arranging for delivery include salaries of clerical personnel and costs of telephone, telegraph, mail, and other communications media, but do not include any actual shipping costs.

(iii) *Location of arranging for delivery.* The location of arranging for delivery

activity is the place where the activity is initiated by the FSC.

(iv) *Examples.* The principles of paragraph (b)(2)(i) of this section may be illustrated by the following examples:

Example (1). A FSC earns commissions on the sale of export property by its domestic related supplier to foreign customers. The shipment term of all of the related supplier's sales is F.O.B. (Free on Board) its manufacturing plant in Gary, Indiana. Thus, there is no transportation as defined in § 1.924(e)–1(c)(1) with respect to its sales. From its shipping department at the plant, the related supplier telephones carriers to arrange for delivery. It also notifies the FSC by mail of the time and place of delivery of the customer's orders. The FSC from its office outside the United States transmits the received information to the customers. Because there is no transportation to be arranged, this communication alone by the FSC to the customers to notify them of the time and place of delivery constitutes arranging for delivery within the meaning of paragraph (b)(2)(i) of this section.

Example (2). Assume the same facts as in *Example (1),* except that the shipment term of all of the related supplier's sales is C.I.F. (Cost, Insurance, Freight) and that the commission relationship for transportation begins after the export property leaves the United States customs territory. The related supplier telephones a trucking firm and an overseas carrier from its plant in Gary, Indiana to ascertain information on transporting its property by truck to the docks, and by overseas carrier from the docks to the place where the customer takes possession. Upon receiving the necessary information, the related supplier electronically transmits to the FSC the shipping information and the time and place of delivery to the customer. In addition, it instructs the FSC to communicate the necessary shipping information to the carriers to ensure shipment and to notify the customer of the time and place of delivery. The FSC does both from its office located outside of the United States. The communications by the FSC to the carriers and the customer constitute arranging for delivery within the meaning of paragraph (b)(2)(i) of this section.

(c) *Transportation*—(1) *Transportation defined.* For purposes of section 924(e), transportation means moving or shipping the export property during the period when the FSC owns or is responsible for the property, or, if the FSC is acting as a commission agent, during the period when the related supplier owns or is responsible for the property but after the commission relationship for purposes of transportation begins (even if the relationship begins after the property leaves the U.S. customs territory). The FSC or related supplier is treated as responsible for the property when it either has title, bears the risk of loss, or insures the property during shipment. Since a commission FSC will not generally have title or bear the risk of loss, it will, nevertheless, satisfy the transportation test if the related supplier has either title, bears the risk of loss, or insures the property during shipment. Examples of methods of shipping which would qualify as transportation include F.O.B. (Free on Board) destination, C.I.F. (Cost, Insurance, Freight), Ex Ship, and Ex Quay, but do not include C. & F. (Cost and Freight) or F.O.B. shipping point.

(2) *Direct costs of transportation.* The direct costs of transportation include the expenses of shipping, such as fees paid to carriers and freight forwarders, costs of freight insurance, and documentation fees. With respect to fungible commodities, direct costs include only those costs incurred after the goods have been identified to a contract. Transportation costs do not include any of the costs of arranging for delivery. The FSC is considered to engage in transportation activity whenever it pays the costs of shipping the export property and the property is shipped during the period when the FSC owns or is responsible for the property as provided in paragraph (c)(1) of this section. If the customer pays the shipping costs directly, the FSC is not considered to engage in transportation activity. If, however, the FSC pays the shipping costs, the ultimate transfer of those costs to the customer will not disqualify the FSC from engaging in transportation for purposes of section 924(e) regardless of whether the costs are included in the sale price of the export property or separately stated.

(3) *Location of transportation.* The location of transportation activity is the area over which the property is transported. Thus, the portion of total direct costs of transportation treated as foreign direct costs is the portion attributable to transportation outside the United States, determined on the basis of the ratio of mileage outside the U.S. customs territory to total mileage. For purposes of determining mileage outside U.S. customs territory, goods are treated as leaving U.S. customs territory when they have been tendered to an international carrier for shipment to a foreign location, as long as they are not removed from the custody of the carrier before they reach a point outside U.S. customs territory. The same rule for determining mileage outside the U.S. customs territory will apply to freight forwarders if (i) the forwarder has the risk of loss or is an insurer of the goods, and (ii) the property is shipped on a single bill of lading issued to the FSC or its agent as the shipper.

(4) *Examples.* The principles of paragraph (c) of this section may be illustrated by the following examples:

Example (1). A buy-sell FSC sells export property to a customer located in Canada. The contract between the FSC and the customer requires that the property be shipped F.O.B. its Canadian destination. Under this shipment term, the FSC holds title and bears the risk of loss until the property is tendered at its Canadian destination. Thus, it is responsible for the property during shipment. The FSC instructs its related supplier to ship the property from its manufacturing facilities in St. Louis. The related supplier negotiates two contracts, one for domestic transportation and the second for foreign transportation. A domestic trucking firm transports the property to the Canadian border where a Canadian trucking company is used to transport the property to its Canadian destination. The documentation fees and the fees for the two trucking firms are paid by the FSC. Because the FSC paid the costs of shipping and the property was shipped during the period when the FSC was responsible for the property, the FSC has engaged in transportation activity, the direct costs of which are the fees paid by the FSC. If 70 percent of the mileage from St. Louis to the Canadian destination is associated with the transportation from the Canadian border to the Canadian destination, 70 percent of the FSC's direct transportation costs are foreign direct costs. If, instead of using two trucking firms, the FSC had tendered the goods to a freight forwarder for shipment to a foreign location and the freight forwarder assumed the risk of loss for the goods and issued a single bill of lading, all of the fees paid by the FSC to the freight forwarder would be foreign direct costs.

Example (2). A related supplier sells export property to its foreign customer in Liverpool, England. The contract between the related supplier and the customer requires that the property be shipped C.I.F. Liverpool. The related supplier engages the FSC as its commission agent with respect to its sales to the customer, requiring the FSC to provide transportation to the customer. The FSC contracts with the related supplier to provide the transportation on behalf of the FSC. The commission agreement between the related supplier and the FSC provides that the FSC's responsibilities with respect to transportation of the export property begins after the property leaves the U.S. customs territory. The related supplier hires a domestic trucking firm to transport the shipment to a New York City port where it is loaded on a cargo ship destined for Liverpool at a total cost of $3,000X, $2,750X of which is allocable to mileage from the U.S. customs territory to Liverpool, England. Because the related supplier insures the property during shipment under C.I.F., the property is shipped during the period when the related supplier is treated as responsible for the property. Thus, the FSC, as the related supplier's commission agent, has satisfied the transportation test. In addition, because the FSC's responsibilities with respect to transportation begins when the property leaves U.S. customs territory, the FSC's payment of $2,750X is a foreign direct

cost of transportation. The remaining $250X is not a direct cost of transportation to the FSC because the amount was expended before the commission relationship between the FSC and related supplier began.

Example (3). A FSC earns commissions on sales by the related supplier of export property, all of which falls within a single two-digit SIC group. The related supplier is under contract to the FSC to perform on the FSC's behalf all of the section 924(e) activities attributable to the sales. Of all of the sales made during the year, the FSC has no transportation costs with respect to the sales to customer R because the shipment term is F.O.B. the related supplier's Chicago plant. With respect to the sales to customer S, the FSC ships the property F.O.B. its destination and pays 100 percent of the transportation costs, all of which are foreign direct costs because the commission relationship for transportation begins outside the U.S. customs territory. For purposes of determining whether the FSC has satisfied the 85-percent foreign direct cost test for transportation, the FSC groups the sales by product. Because the transportation costs for sales to customer S are 100-percent foreign direct costs and because there are no transportation costs on sales to customer R, the FSC is considered to have met the 85-percent foreign direct cost test for transportation for all the sales in the single two-digit SIC group.

(d) *Determination and transmittal of a final invoice or statement of account and receipt of payment.* For purposes of section 924(e), the determination and transmittal of a final invoice or statement of account and the receipt of payment are defined as follows.

(1) *Determination and transmittal of a final invoice or statement of account*—(i) *Definitions*—(A) *In general.* The determination and transmittal of a final invoice or statement of account means the assembly of either a final invoice or statement of account and the forwarding of that document to the customer. A FSC may elect to send either final invoices or statements of account and disregard any costs of the alternative not elected. For taxable years beginning after February 19, 1987, a special grouping rule is provided. If the FSC assembles and forwards either a statement of account or a final invoice from outside the United States to customers with sales representing 50 percent of the current year foreign trading gross receipts within a product or product line grouping or to customers with sales representing 50 percent of the prior year foreign trading gross receipts within a product or product line grouping utilized for the current year, all other U.S. costs will be disregarded and the FSC will be deemed to have no U.S. costs with respect to the determination and transmittal of a final invoice or statement of account. If, during the prior taxable year, the controlled group of which the FSC is a member had a DISC or interest charge DISC, the FSC may apply the 50 percent rule by taking into account the customers and sales of the DISC or interest charge DISC for the preceding taxable year. If no foreign trading gross receipts (or qualified export receipts for DISC purposes) were received in the prior year either by the FSC or by a DISC or interest charge DISC within the controlled group of which the FSC is a member, the FSC must apply the 50 percent rule taking into account customers and foreign trading gross receipts for the current year. In the event that the 50 percent rule is not satisfied, all costs associated with assembly and forwarding of the selected documents (invoices or statements of account) must be included in the costs attributable to activities described in section 924(e)(4).

(B) *Final invoice defined.* A final invoice is an invoice upon which payment is made by the customer. A final invoice must contain the customer's name or identifying number and, with respect to the transaction or transactions, the date, product or service, quantity, price, and amount due. In the alternative, a document will be acceptable as a final invoice even though it does not include all of the above listed information if the FSC establishes that the document is considered to be a final invoice under normal commercial practices. An invoice forwarded to the customer after payment has been tendered or received pursuant to a letter of credit as a receipt for payment satisfies this definition.

(C) *Statement of account defined.* A statement of account is any summary statement forwarded to a customer to inform of, or confirm, the status of transactions occurring within an accounting period during a taxable year that is not less than one month. A statement of account must contain, at a minimum, the customer's name or identifying number, date of the statement of account as of the last day of the accounting period covered by the statement of account and the balance due (even if the balance due is zero). A single final invoice or statement of account can cover more than one transaction with one customer. In the alternative, a document will be accepted as a statement of account even though it does not include all of the above listed information if the FSC establishes that the document is considered a statement of account under normal commercial practice. For these purposes, a document will be considered to be a statement of account under normal commercial practices if it is sent to domestic as well as to export customers in order to inform the customers of the status of transactions during an accounting period. Additional information may be sent separately, such as summary statements forwarded to a related party for purposes of reconciling intercompany accounts for financial reporting requirements. If the information is sent separately, the direct costs associated with the assembly and forwarding of that information are not considered for purposes of section 924(d).

(D) *Assembly and forwarding defined.* Assembly means folding the documents (where applicable), filling envelopes, and addressing envelopes (if window envelopes are not used). Forwarding means mailing or delivery.

(ii) *Direct costs of determination and transmittal of final invoice or statement of account.* Direct costs of this activity include costs of office supplies, office equipment, clerical salaries and costs of mailing or other delivery services, if the costs can be identified or associated directly with the assembly and transmittal of a final invoice or statement of account. Costs of establishing a price, or of communicating prices or other billing information between the FSC and a related supplier are not direct costs of this activity. In addition, the costs of preparing and mailing the final invoices or statements of account to the FSC and the costs of accumulating and formatting data for invoicing or statements of account on computer discs, tapes, or some other storage media along with the costs of transmitting or transporting this data to the FSC are not direct costs of this activity.

(iii) *Location of determination and transmittal of a final invoice or statement of account.* For taxable years beginning before February 19, 1987, the location of this activity is the place where the final invoice or statement of account is assembled for forwarding to the customer or the place from which it is forwarded to the customer. Thus, the forwarding of the final invoice or statement of account from outside the United States is sufficient to source this activity outside the United States. For all other taxable years, the location of this activity is the place where the final invoice or statement of account is both assembled and forwarded to the customer.

(iv) *Examples.* The principles of paragraph (d)(1) of this section may be illustrated by the following examples, all of which apply to taxable years beginning on or after February 19, 1987.

Example (1). A related supplier sells export property to its foreign customers. The related

supplier engages the FSC as its commission agent with respect to the sales, requiring the FSC to determine and transmit final invoices or statements of account to the customers with respect to the sales. Annually, the FSC assembles and forwards statements of account to customers representing 40 percent of current year export sales and 35 percent of prior year sales. The statements are sent from its office outside of the United States. The remaining statements of account are sent from the Albany, New York office of the related supplier. The statements are recognized in its industry as a statement of account. Although the statement does not contain all of the information described in § 1.924(e)–1(d)(1)(i), it is sent to both domestic and foreign customers of the related supplier to inform the customer of the status of its transactions with the related supplier. The document qualifies as a statement of account under § 1.924(e)–1(d)(1)(i); however, the 50 percent test set forth in § 1.924(e)–1(d)–1(d)(1)(i)(A) is not satisfied. Therefore, the FSC must take into account all domestic direct costs attributable to assembly and forwarding of statements of account from its domestic office in determining whether the FSC has satisfied the direct costs test with respect to section 924(e)(4) and § 924 (e)–1(d).

Example (2). Employees of a FSC, in the FSC's foreign office, fold and place in envelopes the sheet or sheets that constitute the final invoices provided by the related supplier. In addition, the employees address, affix postage to, and mail the envelopes. These activities constitute the determination and transmittal of the final invoices within the meaning of paragraph (d)(1)(i) of this section and, because the final invoices are assembled and forwarded to the customers from outside the United States, all the direct costs of the activities are foreign direct costs.

Example (3). The related supplier sends to the FSC s foreign office a computer tape to be used to prepare a statement of account. A management company, working under contract with the FSC, transcribes the data to a piece of paper which is a statement of account for purposes of § 1.924(d)(1)(i), folds the document, and fills, affixes postage to, and mails the envelopes. Only the costs performed by the management company under contract with the FSC that constitute the assembly and forwarding of a statement of account under § 1.924(e)–1(d)(1)(i)(D) are direct costs. Therefore, the costs attributable to transcribing the data to a piece of paper are not direct costs for purposes of section 924(e)(4).

(2) *Receipt of payment*—(i) *Receipt of payment defined.* Receipt of payment means the crediting of the FSC's bank account by an amount which is not less than 1.83 percent of the gross receipts ("gross receipts amount") associated with the transaction. The FSC's bank account is not credited unless the FSC has the authority to withdraw the amount deposited. Where sales proceeds are factored or where payments from related foreign subsidiaries are netted against amounts owed to these foreign subsidiaries in an intercompany account, crediting of the FSC's bank account with no less than the gross receipts amount of the factoring proceeds or the proceeds, net of offsets, respectively, qualifies as receipt of payment. In addition, where a FSC is precluded from receiving a portion of the proceeds of the export transaction, the FSC may satisfy receipt of payment by receiving no less than the gross receipts amount of the remaining portion of the proceeds in its bank account. In the case of advance or progress payments, each payment constitutes a payment for receipt of payment purposes.

(ii) *Direct costs of receipt of payment.* Direct costs of receiving payment include the expenses of maintaining a bank account of the FSC in which payment is deposited, any fees or service charges incurred for converting the payment into U.S. currency, and any transfer fees incurred with respect to the transfer of funds into and out of the FSC's bank account in accordance with the 35 calendar day rule in paragraph (d)(2)(iii) of this section. The transfer fees and the fees or service charges incurred for currency conversion are considered to be foreign direct costs of receiving payment; however, exchange losses are not costs of receiving payment.

(iii) *Location of receipt of payment.* The location of this activity is the office of the banking institution at which the account is maintained. If payment is made by the purchaser directly to the FSC or the related supplier in the United States, and the FSC or related supplier transfers the gross receipts amount associated with the transaction to a bank account of the FSC outside the United States after receipt of payment (i.e., cash, check, wire transfer, etc.), but no later than 35 calendar days after receipt of good funds (i.e., the clearance of the check) the FSC is considered to have received payment outside the United States. Therefore, all transfer fees and the costs of the foreign bank account are treated as foreign direct costs. The United States bank costs are disregarded. If, however, the related supplier does not transfer the gross receipts amount within 35 calendar days, United States bank costs are not disregarded and are domestic direct costs. In either case, the transfer costs, currency conversion charges, and foreign bank costs remain foreign direct costs. The preceding rules apply both to commission FSCs and buy-sell FSCs.

(iv) *Examples.* The principles of paragraph (d)(2) of this section may be illustrated by the following examples:

Example (1). A FSC earns commissions on sales of export property by its related supplier. The related supplier manufactures and sells its export property to its foreign subsidiaries for resale in their respective countries. From time to time, the foreign subsidiaries will return products to the related supplier for credit and, from time to time, the foreign subsidiaries purchase products in their respective countries and sell such products to the related supplier. These transactions result in various amounts being owed to the foreign subsidiaries. Each month the various inter-company obligations are reviewed. The result of such review of inter-company indebtedness is a netting out of the various intercompany liabilities on the books, to the extent possible, and a flow of funds for the net obligation. Due to the nature of these transactions, the amounts owed by the foreign subsidiaries exceed the amounts which the related supplier owes to the foreign subsidiaries. The gross receipts amount (*i.e.*, 1.83 percent of this net amount) is credited to the FSC's bank account. This constitutes receipt of payment for purposes of paragraph (d)(2)(i) of this section.

Example (2). In a leveraged lease transaction, a FSC-lessor obtains purchase financing from a lending institution. The lending institution retains a security interest in the proceeds and requires that a portion of each rental payment be paid by the lessee directly to the lending institution. Since the FSC is precluded from receiving a portion of the proceeds of the export transaction, the FSC may satisfy the receipt of payment requirement by receiving the gross receipts amount with respect to the remaining proceeds.

Example (3). A buy-sell FSC sells its export property to a foreign customer and is paid by means of a "draw-down" letter of credit. Over a substantial period of time prior to delivery of the export property, amounts are advanced to the FSC under the letter of credit. At delivery, the remaining amount available is paid. Each payment made to the FSC constitutes a payment for receipt of payment purposes and thus the gross receipts amount related to each payment must be credited to the FSC's bank account.

Example (4). An FSC earns commissions on sales of export property by its related supplier. The related supplier regularly collects payments from its foreign customers in a San Francisco bank account and, after the San Francisco bank has collected on the checks, transfers, within 35 calendar days, the gross receipts amounts from its New York bank account to the FSC's bank account located outside the United States. The FSC incurred transfer fees of $160X in addition to a fee of $35X for the maintenance of the FSC's bank account outside the United States during the 35 calendar day period. The maintenance fee relating to the United States bank account for the 35 calendar day period is $45X. The receipt of payment test is met because the gross receipts amounts are transferred after payment but within 35 calendar days to the FSC's bank account located outside the United States. The transfer fees of $160X and the maintenance fee of $35X relating to the FSC's foreign bank

account are foreign direct costs. The $45X maintenance fee related to the United States bank account is not a direct cost. If the gross receipts amounts had not been transferred to the FSC's foreign bank account within 35 calendar days, the $45X maintenance fee related to the United States bank account would be considered a United States direct cost. The transfer fee of $160X and the maintenance fee of $35X relating to the FSC's foreign bank account, however, would, nonetheless, be considered as foreign direct costs. The same funds received in San Francisco need not be transferred to the FSC's foreign bank account because money is fungible. For the same reason, the gross receipts amounts need not be transferred from the same bank account in which the payments are received.

(e) *Assumption of credit risk*—(1) *Assumption of credit risk defined.* For purposes of section 924(e), the assumption of credit risk means bearing the economic risk of nonpayment with respect to a transaction. If the FSC is acting as a commission agent for the related supplier, this risk is borne by the FSC if the commission contract transfers the costs of the economic risk of nonpayment with respect to the transaction from the related supplier to the FSC. The FSC may elect on its annual return to bear the economic risk of nonpayment with respect to its transactions during a taxable year by either—

(i) Assuming the risk of a bad debt in accordance with the rules of paragraph (e)(4)(i) of this section,

(ii) Obtaining insurance to cover nonpayment,

(iii) Investigating credit of a customer or a potential customer,

(iv) Factoring trade receivables, or

(v) Selling by means of letters of credit or banker's acceptances.

Only the alternative elected to be performed by the FSC during a taxable year is relevant for purposes of section 924(d). For example, if a buy-sell FSC elects to bear the economic risk of nonpayment with respect to its transaction during a taxable year by assuming the risk of a bad debt in accordance with the rules of paragraph (e)(4)(i) of this section, and also factors the transaction's trade receivables, only the direct costs of assuming the risk of a bad debt are relevant for purposes of section 924(d). For purposes of this paragraph, a potential customer is an unrelated person who is engaged in the purchase or sale of export property on whom an investigation is performed, but with whom no export sales contract is executed.

(2) *Direct costs of assumption of credit risk.* (i) With respect to assuming the risk of a bad debt, the direct costs of the assumption of credit risk in the case of a buy-sell FSC include debts that become uncollectible and charges taken into account in determining additions to bad debt reserves of the FSC. In the case of a commission FSC, the direct costs of the assumption of credit risk include the assumption of the debts and charges of the related supplier attributable to export sales that are allowed as deductions under section 166.

(ii) With respect to insurance, the direct costs of the assumption of credit risk are the costs of obtaining insurance against the risk of nonpayment. Qualifying insurance must be obtained from an unrelated insurer and must cover the risk of nonpayment due to default and bankruptcy by the purchaser. Insurance obtained from a related insurer, or insurance that covers default and bankruptcy due to risks of war or political unrest without covering ordinary default or bankruptcy is not sufficient.

(iii) With respect to investigating credit, the direct costs of assumption of credit risk are the external costs of investigating credit for customers or potential customers, including costs of membership in a credit agency or association for that purpose (but not the costs of approving credit by an internal credit agency).

(iv) With respect to factoring trade receivables, the direct costs of assumption of credit risk are the costs of factoring trade receivables of related and unrelated customers (*e.g.* the amount of the discount and the fees relating to factoring).

(v) With respect to letters of credit or banker's acceptances, the direct costs of assumption of credit risk are the costs of letters of credit or banker's acceptances and the documentary collection costs.

(3) *Location of assumption of credit risk.* The location of the activity of assumption of credit risk is the location of the customer or obligor whose payment is at risk, except that the location of investigating credit is the location of the credit agency or association performing the investigation. A foreign branch of a United States corporation and a foreign office of the United States government are not foreign obligors for purposes of this test. A foreign branch of a United States credit investigation agency or association, however, is treated as located outside the United States.

(4) *Special rules*—(i) *Assuming the risk of a bad debt.* (A) *In general.* If a FSC chooses to bear the economic risk of nonpayment by assuming the risk of a bad debt with respect to a transaction or grouping of transactions and an actual bad debt loss on a foreign trading gross receipt is not incurred in any three consecutive years, the FSC will be deemed to have performed this activity during the first two years of the three year period. For the third year, the FSC will not be deemed to have performed this activity and must satisfy the 85 percent foreign direct costs test by satisfying any two paragraphs included within section 924(e) other than assumption of credit risk activity under section 924(e)(5). An actual bad debt loss will only satisfy the activity test with respect to a single three consecutive year period.

(B) *Example.* The principles of this paragraph may be illustrated by the following example:

Example. In year 1, a related supplier of a commission FSC incurs a bad debt with respect to foreign trading gross receipts owed by a foreign obligor. This expense is the only bad debt incurred with respect to foreign trading gross receipts in year 1. Therefore, the direct costs for the bearing of the economic risk of nonpayment for year 1 are all foreign direct costs and the 85-percent test is satisfied. In year 2, the FSC incurs a bad debt with respect to a U.S. broker/consolidator. The direct costs for year 2 are U.S. direct costs and, therefore, the 85-percent test is not satisfied. No bad debt is incurred in year 3. Because a bad debt with respect to a foreign obligor is incurred in year 1, the FSC is deemed to have satisfied the economic risk of nonpayment for each of years 1, 2 and 3.

(ii) *Grouping with respect to other risk activities.* For taxable years beginning after February 19, 1987, if a FSC elects to bear the economic risk of nonpayment by performing one of the activities described in paragraph (e) of this section and elects to group transactions, it is considered to have performed the elected activity with respect to all transactions within the group during the taxable year if it performs the activity in accordance with the following rules. If a FSC elects to factor trade receivables, at least 20 percent of the face amount of a group's receivables must be factored. If a FSC elects to sell by means of letters of credit or banker's acceptances, a fee must be incurred with respect to 20 percent of the foreign trading gross receipts attributable to sales within the group. If the FSC elects to obtain insurance to cover nonpayment, 20 percent of the face amount of receivables attributable to sales included in the § 1.924(d)–1(e) grouping elected by the FSC must be insured. If a FSC elects to investigate credit of customers or potential customers, 20 percent of new or potential customers for which a credit investigation is performed must be investigated.

Internal Revenue Practice Regulations

PART 602—[AMENDED]

Par. 3. The authority citation for Part 602 continues to read:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "1.924 .... 1545–0904".

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved:

J. Roger Mentz,

Assistant Secretary of the Treasury.

January 9, 1987.

[FR Doc. 87–3379 Filed 2–13–87; 10:39 am]

BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2616, 2617, and 2623

Terminating Single-Employer Plans Subject to Transition Rules in the Single-Employer Pension Plan Amendments Act of 1986; Distribution of Plan Assets

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final deadline for distribution.

SUMMARY: This notice advises plan administrators of plans covered by the transition rules in the Single-Employer Pension Plan Amendments Act of 1986 of the final deadline for distributing plan assets and filing a post-distribution certification with the Pension Benefit Guaranty Corporation ("PBGC"). The previous deadline for distributing plan assets was suspended by the PBGC in late December 1986, primarily because a significant number of plan administrators had advised the PBGC that they were unwilling to make the final distribution of plan assets since they had not yet received rulings from the Internal Revenue Service ("IRS") on their proposed terminations. After consulting with the IRS, the PBGC has ascertained that determination letter requests for most of the transition rule plans have been processed. Accordingly, the effect of this notice is to advise plan administrators of transition rule plans that the final deadline for distribution of plan assets is April 7, 1987 (or, if later, 90 days after PBGC's issuance of the Notice of Sufficiency) and the deadline for filing the post-distribution certification is 30 days thereafter.

FOR FURTHER INFORMATION CONTACT: Pension Benefit Guaranty Corporation, Case Operations and Assistance Division, Coverage and Inquiries Branch, IOD (Code 25420), 2020 K Street, N.W., Washington, DC 20006; or call 202–778–8800 or 202–778–8859 for TTY and TDD (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: Section 11019(b) of the Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") provides transition rules for completing the termination of single-employer plans for which a notice of intent to terminate was filed with the Pension Benefit Guaranty Corporation ("PBGC") on or after January 1, 1986 and before April 7, 1986. Among other things, the transition rules establish deadlines for completing the distribution of a terminating plan's assets: the deadline for plans that received a Notice of Sufficiency prior to SEPPAA's date of enactment (April 7, 1986) is 90 days after the date of enactment; the deadline for other transition rule plans is 90 days after issuance by the PBGC of a sufficiency notice. In addition, all terminating plans are required to file a post-distribution certification with the PBGC within 30 days after distribution. Failure to comply with the transition rules nullifies a proposed plan termination, and the plan is an ongoing plan for all purposes.

On December 9, 1986, the PBGC published a notice in the **Federal Register** (51 FR 44288) extending the distribution deadline for transition rule plans to the later of January 8, 1987 or the 135th day after issuance by the PBGC of a plan's Notice of Sufficiency. Subsequently, a number of plan administrators contacted the PBGC to say that they had not yet received determination letters from the Internal Revenue Service ("IRS") on their proposed terminations and were therefore unwilling to distribute plan assets. Concerned that this might be a problem for a significant number of plans, the PBGC decided in late December to suspend the distribution deadlines set forth in the December 9th notice and began so advising the public of this decision.

On the basis of several discussions with IRS staff concerning this matter, the PBGC understands that, at this time, there are a relatively small number of transition rule plans that have not received IRS determination letters despite filing timely requests for them. (Title IV's requirements for final distribution of plan assets upon termination are not conditioned on the receipt of a favorable IRS determination letter. Moreover, given SEPPAA's deadline for the distribution of assets by transition rule plans, which was explained in the PBGC's April 10, 1986 notice on the transition rules (51 FR 12489), the PBGC is of the view that administrators of transition rule plans who requested an IRS determination letter in late 1986 could not reasonably have expected to receive the letter before the deadline for complying with the transition rules.) Therefore, the PBGC hereby advises plan administrators of transition rule plans that the final deadline for distributing all plan assets is April 7, 1987 or, if later, the 90th day after issuance of the plan's Notice of Sufficiency. Post-distribution certifications must be filed with the PBGC no later than 30 days after the distribution deadline (*i.e.*, by May 7, 1987 or, if later, 30 days after the distribution). The PBGC emphasizes that these are the final deadlines; they will not be extended.

The PBGC is sending letters to all plan administrators of transition rule plans for which the PBGC has not received a post-distribution certification advising them of these deadlines. However, the PBGC stresses that non-receipt or late receipt of this letter does not relieve a plan administrator of the obligation to comply with these deadlines.

If a plan administrator fails to distribute all plan assets by the deadline set forth above, the plan will be an ongoing plan for all purposes. This means, among other things, that the crediting of service for all purposes under the plan continues from the proposed termination date forward, the plan continues to owe premiums to the PBGC, and the sponsoring employer's contribution obligation continues. In order to terminate the plan, the termination process would have to be started again, in accordance with ERISA section 4041, as amended by SEPPAA. Plans that distribute assets by the deadline but fail to file post-distribution certifications will be subject to audit by the PBGC.

For any plans covered by this notice that have applied for but not yet received an IRS determination letter, the PBGC recommends that the plan administrator advise the PBGC immediately of this fact, either by telephoning the number or writing to the address set forth under the heading "For Further Information Contact", at the beginning of this notice. Such notification to the PBGC must include the plan name, employer identification number, the IRS District to which the request was submitted and the date of the request. The PBGC will forward this information to the IRS, but, of course, neither the PBGC nor the IRS can

guarantee that a determination letter will be issued before the distribution deadline.

Issued in Washington, D.C. this 12th day of February, 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-3410 Filed 2-18-87; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS BRONSTEIN

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS BRONSTEIN (FF-1037) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval frigate. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February, 6, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone No.: (202) 352-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS BRONSTEIN (FF-1037) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 2(a)(i), regarding the height above the hull of the forward masthead light, without interfering with its special function as a naval frigate. The Secretary of the Navy has also certified that the aforementioned light is located in closets possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS BRONSTEIN (FF-1037) is a member of the FF-1037 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in existing tables of § 706.3, are equally applicable to this vessel.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's abilities to perform its military functions.

Lists of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following Navy Ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Meters [1]
USS BRONSTEIN	FF-1037	2.92

[1] Distance in meters of forward masthead light below minimum required height. Sec. 2(a)(i), Annex I.

Dated and Approved: February 6, 1987.

John Lehman,

Secretary of the Navy.

[FR Doc. 87-3520 Filed 2-18-87; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS REEVES

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS REEVES (CG-24) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February, 6, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone No.: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS REEVES (CG-24) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the abovementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publicaton of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

Lists of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following the Navy ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i).	Aft masthead light less than 4.5 meters above forward masthead light, Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a).	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS REEVES	CG-24						×	×	27

Dated and Approved: February 6, 1987.
John Lehman,
Secretary of the Navy.
[FR Doc. 87-3518 Filed 2-18-87; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS STUMP

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS STUMP (DD-978) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 6, 1987.
FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone No. (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS STUMP (DD-978) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a Navy vessel. The Secretary of the Navy has also certified that the abovementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following Navy ship to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, Sec 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. 3(a)	Percentage horizontal separation attained.
USS STUMP	D-978						×	×	46

Dated and Approved: February 6, 1987.
John Lehman,
Secretary of the Navy.
[FR Doc. 87-3517 Filed 2-18-87; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea; USS TOWERS et al.

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS TOWERS (DDG-9) and USS COCHRANE (DDG-21) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain

provisions of the 72 COLREGS without interfering with their special functions as naval guided missile destroyers. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 6, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone No. (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS TOWERS (DDG–9) and USS COCHRANE (DDG–21) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 2(a)(i), pertaining to the placement of the forward masthead light, without interfering with their special functions as naval guided missile destroyers. The Secretary of the Navy has also certified that the aforementioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS TOWERS (DDG–9) and USS COCHRANE (DDG–21) are members of the DDG–2 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to these two vessels.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessel' ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following Navy ships to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy:

Vessel	Number	Meters[1]
USS TOWERS	DDG–9	2.3
USS COCHRANE	DDG–21	1.5

[1] Distance in meters of forward masthead light below minimum required height. Annex I, § 2 (a) (i).

Dated and Approved: February 6, 1987.

John Lehman,

Secretary of the Navy.

[FR Doc. 87–3521 Filed 2–18–87; 8:45 am]

BILLING CODE 3810–AE–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–3148–2]

Approval and Promulgation of Implementation Plans; Connecticut; Reasonably Available Control Technology for King Industries, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from King Industries, Inc. (King) in Norwalk, Connecticut. The required RACT control methods are add-on control equipment, process modifications, and recordkeeping. The intended effect of this action is to approve a source-specific RACT determination submitted by the State in accordance with commitments made in its Ozone Attainment Plan which EPA approved on March 21, 1984 (49 FR 10542). This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: March 23, 1987.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, DC 20460; and Air Compliance Unit, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David Conroy, (617) 565–3252; FTS 835–3252 or Lynne Naroian, (617) 565–3246; FTS 835–3246.

SUPPLEMENTARY INFORMATION: On July 11, 1986 (51 FR 25210), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. The NPR proposed to approved State Order No. 944 as a revision to the Connecticut SIP. The provisions of the Connecticut Department of Environmental Protection's (DEP's) State Order define and impose RACT for King as required by section 22a–174–20, subsection (ee) of the Connecticut Ozone Attainment Plan.

A description of the revision and EPA's rationale for approving it were provided in the NPR and will not be restated here. However, EPA proposed approval with the understanding that King would submit additional emission reduction estimates and data as required by the DEP. The estimated percent of VOC emission reductions, from actual operating conditions of 1985, achieved by adding on control equipment and modifying processes are as follows:

- Install a condenser on Neutralization Reactors No. 1 and No. 3.....79%
- Install scrubber on Sulfonation Reactors S101, S102, S120.....60–65%
- Initiate certain modifications to Neutralization Reactor No. 2—addition of a condenser and discontinuation of the Lithium Carbonate Process.....72–79%
- Install a continuous distillation process as a replacement of batch stills S–112 and S122.....25%
- Initiate modifications to certain listed vessels and in process storage tanks—addition of condensers.....58–96%

After extensive review of these estimated emission reductions by the State and EPA, EPA has determined that State Order No. 944 imposes RACT for the VOC emission points identified at King. EPA's analysis of these estimated reductions is provided in the technical support document prepared for this SIP revision. Copies of that document are available at the EPA Regional Office listed in the Addresses section of this notice. No public comments were received on the NPR.

Final Action: EPA is approving Connecticut State Order No. 944 as a revision to the Connecticut SIP. The Order was issued to King Industries, Inc. on April 18, 1986 by the Connecticut

DEP and requires VOC RACT controls at the facility.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 20, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

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

Dated: January 27, 1987.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

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

Subpart H—Connecticut

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.370, is amended by adding paragraph (c)(37) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(37) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on April 18, 1986 and February 3, 1987.

(i) Incorporation by Reference.

(A) State Order No. 944 for King Industries, Inc. dated April 18, 1986 which establishes and requires reasonably available control technology for the control of volatile organic compounds from this facility.

(B) A letter from the Connecticut Department of Environmental Protection dated February 3, 1987 which states that the effective date of State Order No. 944 is May 28, 1986.

[FR Doc. 87–1958 Filed 2–18–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[AD-FRL-3141-4]

Standards of Performance for New Stationary Sources; Appendix A, Reference Methods; Miscellaneous Clarifications and Addition of Concentration Calculation Equations to Method 18

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Revisions and additions to Method 18 of Appendix A of 40 CFR Part 60 were proposed in the Federal Register on March 5, 1986 (51 FR 7585). This action promulgates the revisions and additions in order to clarify previous procedural and equipment requirements, and to include concentration calculation equations. The intended effect of these revisions and additions is to enhance the reliability of data produced by Method 18.

EFFECTIVE DATE: February 19, 1987.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: *Docket.* A docket, number A–85–23, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE–131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. William Grimley or Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

This rulemaking provides revisions and additions to an existing test method in order to improve the reliability of data produced by the method. The rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard.

II. Public Participation

The proposed revisions and additions to Method 18 were published in the Federal Register on March 5, 1986 (51 FR 7585). Public comments were solicited at the time of proposal. To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed procedures, a public hearing was scheduled for April 9, 1986, beginning at 10:00 a.m. The hearing was not held because one requested to speak. The public comment period was from March 5, 1986, to May 19, 1986. One comment letter was received concerning issues related to the proposed revisions and additions. The comments therein have been carefully considered and, where determined to be appropriate by the Agency, changes have been made to the proposed rulemaking.

III. Comments and Changes to the Proposed Rulemaking

The only comment letter received on the proposed revisions and additions was from a chemical manufacturing facility. The comments therein are addressed directly in this preamble, and no separate document to summarize those comments and responses has been produced. The following summary of those comments and their respective responses serves as the basis for the changes which have been made to the rulemaking between proposal and promulgation.

The first comment dealt with Section 5.1.7 of Method 18. The commenter suggested that the number and sizes of the syringes not be limited to those specified.

The Agency believes that the sizes specified will cover all method requirements. However, the Agency agrees that other sizes may also be appropriate, and the section has been revised with wording to that effect.

The second comment dealt with Section 5.1.19. The commenter felt that the specification should be changed to also allow probe placement at any point not less than 1 meter from the stack walls.

The Agency agrees with the comment, and the section has been revised accordingly. Similar wording in Sections 5.3.1.1, 5.3.1.2, 7.1.1.2, 7.2.2, 7.3.2, and 7.4.2 has also been revised in consideration of this comment.

The third comment dealt with Section 5.2.4. The commenter suggested that in order to eliminate controversy, the term

"Pure or nearly pure . . ." be replaced by the definitive "Pure (99.9%) . . .".

The Agency agrees that it may seem desirable to definitize the term "pure;" however, it does not believe that it is appropriate to restrict the calibration solutions to a purity of 99.9 percent, since such purity may not be reasonably available or necessary for every organic compound that could be measured by Method 18. The section has, therefore, been revised to specify "Pure (99.9%), or as pure as can reasonably be obtained, . . ."

The fourth comment dealt with Section 6.2. The commenter pointed out that "each organic compound" may not need to be measured, and so that qualification should be made.

Since Method 18 is not meant to identify and measure those organics that are present in trace amounts, this comment is correct, and Section 6.2 has been revised accordingly.

The fifth comment dealt with Section 6.2.1. The commenter presented two equations that the commenter thought would simplify the existing dilution calculation equations.

The Agency has considered the two equations presented by the commenter, and does not consider them to be a simplification of the existing equations. Therefore the existing equations have not been changed.

The sixth comment dealt with Section 6.2.2.1. The commenter felt that the chances for error in this standards preparation procedure were many, and suggested that this technique should only be used if none of the others were available.

The Agency believes that good results can be obtained with this procedure, if it is performed with proper care. Also, the Agency believes the quality assurance auditing procedures of Method 18 are sufficient to detect any serious errors that may arise from misuse of this procedure.

The seventh and final comment dealt with Section 6.2.1. The commenter said that there are commercial diluters available which are better than the methods described, and that their use should be allowed, and a list of the approved ones should be given.

The Agency agrees that commercial diluters are available, and that they have the potential to produce acceptably accurate standards. However, the Agency is not in a position to evaluate and approve specific devices, and instead will rely on the quality assurance procedures that are already incorporated in the method to qualify their use. Section 6.2.1 has, therefore, been revised to mention that commercially available diluters can also be used.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards, and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, but, instead, provides clarification of an existing test method in order to improve the reliability of data produced by the method. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis (RFA) in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, an RFA has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have any significant economic impact on small entities, because no additonal testing costs will be incurred.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Synthetic organic chemicals manufacturing, Reporting and recordkeeping requirements.

Dated: February 11, 1987.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60, Appendix A, Method 18, is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

Appendix A, Method 18 [Amended]

2. By revising the first paragraph of Section 1.2 as follows:

The major organic components of a gas mixture are separated by gas chromatography (GC) and individually quantified by flame ionization, photoionization, electron capture, or other appropriate detection principles.

3. By revising the last sentence in the last paragraph of Section 4 as follows:

To adjust gaseous organic concentrations when water vapor is present in the sample, water vapor concentrations are determined for those samples, and a correction factor is applied.

4. By revising the first paragraph of Section 5 as follows:

Perform a presurvey for each source to be tested. Refer to Figure 18–1. Some of the information can be collected from literature surveys and source personnel. Collect gas samples that can be analyzed to confirm the identities and approximate concentrations of the organic emissions.

5. By adding a sentence after the heading of Section 5.1 as follows:

5.1 Apparatus. This apparatus list also applies to Sections 6 and 7.

6. By revising Section 5.1.4 as follows:

5.1.4 Flowmeters. To measure flow rates.

7. By revising Section 5.1.7 as follows:

5.1.7 Syringes. 0.5-ml, 1.0- and 10-microliter sizes, calibrated, maximum accuracy (gas tight), for preparing calibration standards. Other appropriate sizes can be used.

8. By adding Sections 5.1.19 and 5.1.20 as follows:

5.1.19 Sample Probes. Pyrex or stainless steel, of sufficient length to reach centroid of stack, or a point no closer to the walls than 1 m.

5.1.20 Barometer. To measure barometric pressure.

9. By revising Section 5.2.4 as follows:

5.2.4 Organic Compound Solutions. Pure (99.9 percent), or as pure as can reasonably be obtained, liquid samples of all the organic compounds needed to prepare calibration standards.

10. By revising the seventh sentence of Section 5.3.1.1 as follows:

Place the filter end of the probe at the centroid of the duct, or at a point no closer to the walls than 1 m, and purge the probe with the rubber suction bulb.

11. By revising the third sentence of Section 5.3.1.2 as follows:

Place the filter end of the probe at the centroid of the duct, or at a point no closer to the walls than 1 m, and apply suction with the bulb to completely purge the probe and flask.

12. By removing the first sentence of Section 6.

13. By revising the last paragraph of Section 6.1.1 as follows:

Plants with analytical laboratories may also be able to provide information on appropriate analytical procedures.

14. By revising Section 6.2, 6.3, 6.4, and 6.5 as follows:

6.2 Calibration Standards. Prepare or obtain enough calibration standards so that there are three different concentrations of each organic compound expected to be measured in the source sample. For each organic compound, select those concentrations that bracket the concentrations expected in the source samples. A calibration standard may contain more than one organic compound. If available, commercial cylinder gases may be used if their concentrations have been certified by direct analysis.

If samples are collected in adsorbent tubes (charcoal, XAD–2, Tenax, etc.), prepare or obtain standards in the same solvent used for the sample extraction procedure. Refer to Section 7.4.3.

Verify the stability of all standards for the time periods they are used. If gas standards are prepared in the laboratory, use one or more of the following procedures.

6.2.1 Preparation of Standards from High Concentration Cylinder Standards. Obtain enough high concentration cylinder standards to represent all the organic compounds expected in the source samples.

Use these high concentration standards to prepare lower concentration standards by dilution, as shown by Figures 18–5 and 18–6.

To prepare the diluted calibration samples, calibrated rotameters are normally used to meter both the high concentration calibration gas and the diluent gas. Other types of flowmeters and commercially available dilution systems can also be used.

Calibrate each flowmeter before use by placing it between the diluent gas supply and suitably sized bubble meter, spirometer, or wet test meter. Record all data shown on Figure 18–4. While it is desirable to calibrate the cylinder gas flowmeter with cylinder gas, the available quantity and cost may preclude it. The error introduced by using the diluent gas for calibration is insignificant for gas mixtures of up to 1,000 to 2,000 ppm of each organic component.

Once the flowmeters are calibrated, connect the flowmeters to the calibration and diluent gas supplies using 6-mm Teflon tubing. Connect the outlet side of the flowmeters through a connector to a leak-free Tedlar bag as shown in Figure 18–5. (See Section 7.1 for bag leak-check procedures.) Adjust the gas flow to provide the desired dilution, and fill the bag with sufficient gas for GC calibration. Be careful not to overfill and cause the bag to apply additional pressure on the dilution system. Record the flow rates of both flowmeters, and the laboratory temperature and atmospheric pressure. Calculate the concentration C_s in ppm of each organic in the diluted gas as follows:

$$C_s = \frac{10^6 (\bar{X} q_c)}{q_c + q_d} \qquad \text{Eq. 18-1}$$

where:

10^6 = Conversion to ppm.

X = Mole or volume fraction of the organic in the calibration gas to be diluted.

q_c = Flow rate of the calibration gas to be diluted.

q_d = Diluent gas flow rate.

Single-stage dilutions should be used to prepare calibration mixtures up to about 1:20 dilution factor.

For greater dilutions, a double dilution system is recommended, as shown in Figure 18–6. Fill the Tedlar bag with the dilute gas from the second stage. Record the laboratory temperature, barometric pressure, and static pressure readings. Correct the flow reading for temperature and pressure. Calculate the concentration C_s in ppm of the organic in the final gas mixture as follows:

$$C_s = 10^6 \bar{X} \left(\frac{q_{c1}}{q_{c1} + q_{d1}}\right)\left(\frac{q_{c2}}{q_{c2} + q_{d2}}\right) \qquad \text{Eq. 18-2}$$

Where:

10^6 = Conversion to ppm.

X = Mole or volume fraction of the organic in the calibration gas to be diluted.

q_{c1} = Flow rate of the calibration gas to be diluted in stage 1.

q_{c2} = Flow rate of the calibration gas to be diluted in stage 2.

q_{d1} = Flow rate of diluent gas in stage 1.

q_{d2} = Flow rate of diluent gas in stage 2.

Further details of the calibration methods for flowmeters and the dilution system can be found in Citation 21 in the Bibliography.

6.2.2 Preparation of Standards from Volatile Materials. Record all data shown on Figure 18–3.

6.2.2.1 Gas Injection Technique. This procedure is applicable to organic compounds that exist entirely as a gas at ambient conditions. Evacuate a 10-liter Tedlar bag that has passed a leak-check (see Section 7.1), and meter in 5.0 liters of air or nitrogen through a dry gas meter that has been calibrated in a manner consistent with the procedure described in Section 5.1.1 of Method 5. While the bag is filling use a 0.5-ml syringe to inject a known quantity of "pure" gas of the organic compound through the wall of the bag, or through a septum-capped tee at the bag inlet. Withdraw the syringe needle, and immediately cover the resulting hole with a piece of masking tape. In a like manner, prepare dilutions having other concentrations. Prepare a minimum of three concentrations. Place each bag on a smooth surface, and alternately depress opposite sides of the bag 50 times to mix the gases Record the average meter temperature and pressure, the gas volume and the barometric pressure. Record the syringe temperature and pressure before injection.

Calculate each organic standard concentration C_s in ppm as follows:

$$C_s = \frac{G_v \times 10^6 \frac{293}{T_s} \frac{P_s}{760}}{V_m Y \frac{293}{T_m} \frac{P_m}{760} 1000}$$

$$= \frac{G_v \times 10^3 \frac{P_s}{T_s} \frac{T_m}{P_m}}{V_m Y} \qquad \text{Eq. 18-3}$$

where:

G_v = Gas volume or organic compound injected, ml.

10^6 = Conversion to ppm.

P_s = Absolute pressure of syringe before injection, mm Hg.

T_s = Absolute temperature of syringe before injection, °K.

V_m = Gas volume indicated by dry gas meter, liters.

Y = Dry gas meter calibration factor, dimensionless.

P_m = Absolute pressure of dry gas meter, mm Hg.

T_m = Absolute temperature of dry gas meter, °K.

1000 = Conversion factor, ml/liter.

6.2.2.2 Liquid Injection Technique. Use the equipment shown in Figure 18–8. Calibrate the dry gas meter as described in Section 6.2.2.1 with a wet test meter or a spirometer. Use a water manometer for the pressure gauge and glass, Teflon, brass, or stainless steel for all connections. Connect a valve to the inlet of the 50-liter Tedlar bag.

To prepare the standards, assemble the equipment as shown in Figure 18–8, and leak-check the system. Completely evacuate the bag. Fill the bag with hydrocarbon-free air, and evacuate the bag again. Close the inlet valve.

Turn on the hot plate, and allow the water to reach boiling. Connect the bag to the impinger outlet. Record the initial meter reading, open the bag inlet valve, and open the cylinder. Adjust the rate so that the bag

will be completely filled in approximately 15 minutes. Record meter pressure and temperature, and local barometric pressure.

Allow the liquid organic to equilibrate to room temperature. Fill the 1.0- or 10-microliter syringe to the desired liquid volume with the organic. Place the syringe needle into the impinger inlet using the septum provided, and inject the liquid into the flowing air stream. Use a needle of sufficient length to permit injection of the liquid below the air inlet branch of the tee. Remove the syringe.

When the bag is filled, stop the pump, and close the bag inlet valve. Record the final meter reading, temperature, and pressure.

Disconnect the bag from the impinger outlet, and either set it aside for at least 1 hour, or massage the bag to insure complete mixing.

Measure the solvent liquid density at room temperature by accurately weighing a known volume of the material on an analytical balance to the nearest 1.0 milligram. A ground-glass stoppered 25-mil volumetric flask or a glass-stoppered specific gravity bottle is suitable for weighing. Calculate the result in terms of g/ml. As an alternative, literature values of the density of the liquid at 20 °C may be used.

Calculate each organic standard concentration C_s in ppm as follows:

$$C_s = \frac{\frac{L_v \rho}{M}(24.055 \times 10^6)}{V_m Y \frac{293}{T_m}\frac{P_m}{760}1000} = 6.24 \times 10^4 \frac{L_v \rho T_m}{M V_m Y P_m} \quad \text{Eq. 18-4}$$

Where:

L_v = Liquid volume of organic injected, μl.

μl = Liquid organic density as determined, g/ml.

M = Molecular weight of organic, g/g-mole.

24.055 = Ideal gas molar volume at 293 °K and 760 mm Hg, liters/g-mole.

10_6 = Conversion to ppm.

1000 = Conversion factor, μl/ml.

6.3 Preparation of Calibration Curves. Establish proper GC conditions, then flush the sampling loop for 30 seconds at a rate of 100 ml/min. Allow the sample loop pressure to equilibrate to atmospheric pressure, and activate the injection valve. Record the standard concentration, attenuator factor, injection time, chart speed, retention time, peak area, sample loop temperature, column temperature, and carrier gas flow rate. Repeat the standard injection until two consecutive injections give area counts within 5 percent of their average. The average value multipled by the attenuator factor is then the calibration area value for the concentration.

Repeat this procedure for each standard. Prepare a graphical plot of concentration (C_s) versus the calibration area values. Perform a regression analysis, and draw the least squares line.

6.4 Relative Response Factors. The calibration curve generated from the standards for a single organic can usually be related to each of the individual GC response curves that are developed in the laboratory for all the compounds in the source. In the field, standards for that single organic can then be used to "calibrate" the GC for all the organics present. This procedure should first be confirmed in the laboratory by preparing and analyzing calibration standards containing multiple organic compounds.

6.5 Quality Assurance for Laboratory Procedures. Immediately after the preparation of the calibration curves and prior to the presurvey sample analysis, the analysis audit described in 40 CFR Part 61, Appendix C, Procedure 2: "Procedure for Field Auditing GC Analysis," should be performed. The information required to document the analysis of the audit samples has been included on the example data sheets shown in Figures 18–3 and 18–7. The audit analyses should agree with the audit concentrations within 10 percent. When available, the tester may obtain audit cylinders by contacting: U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Quality Assurance Division (MD–77), Research Triangle Park, North Carolina 27711. Audit cylinders obtained from a commercial gas manufacturer may be used provided that (a) the gas manufacturer certifies the audit cylinder in a manner similar to the procedure described in 40 CFR Part 61, Appendix B, Method 106, Section 5.2.3.1, and (b) the gas manufacturer obtains an independent analysis of the audit cylinders to verify this analysis. Independent analysis is defined as an analysis performed by an individual other than the individual who performs the gas manufacturer's analysis, while using calibration standards and analysis equipment different from those used for the gas manufacturer's analysis. Verification is complete and acceptable when the independent analysis concentration is within 5 percent of the gas manufacturer's concentration.

15. By revising the first paragraph of Section 7.1.1 as follows:

7.1.1 Evacuated Container Smapling Procedure. In this procedure, the bags are filled by evacuating the rigid air-tight containers that hold the bags. Use a field sample data sheet as shown in Figure 18–10. Collect triplicate sample from each sample location.

16. By revising the fourth sentence of Section 7.1.1.2 as follows:

Place the end of the probe at the centroid of the stack, or at a point no closer to the walls than 1 m, and start the pump with the needle valve adjusted to yield a flow of 0.5 liter/minute.

17. By changing the first word after the heading of Section 7.1.2 from "Flow" to "Follow."

18. By revising Section 7.1.5 and 7.1.6, and adding 7.1.7 and 7.1.8 as follows:

7.1.5 Analysis of Bag Samples.

7.1.5.1 Apparatus. Same as Section 5. A minimum of three gas standards are required.

7.1.5.2 Procedure. Establish proper GC operating conditions as described in Section 6.3, and record all data listed in Figure 18–7. Prepare the GC so that gas can be drawn through the sample valve. Flush the sample loop with gas from one of the three calibration mixtures, and activate the valve. Obtain at least two chromatograms for the mixture. The results are acceptable when the peak areas from two consecutive injections agree to within 5 percent of their average. If they do not, run additional analyses or correct the analytical techniques until this requirement is met. Then analyze the other two calibration mixtures in the same manner. Prepare a calibration curve as described in the same manner. Prepare a calibration curve as described in Section 6.3.

Analyze the source gas samples by connecting each bag to the sampling valve with a piece of Teflon tubing identified for that bag. Follow the specifications on replicate analyses specified for the calibration gases. Record the data listed in Figure 18–11. If certain items do not apply, use the notation "N.A." After all samples have been analyzed, repeat the analyses of the calibration gas mixtures, and generate a second calibration curve. Use an average of the two curves to determine the sample gas concentrations. If the two calibration curves differ by more than 5 percent from their mean value, then report the final results by comparison to both calibration curves.

7.1.6 Determination of Bag Water Vapor Content. Measure and record the ambient temperature and barometric pressure near the bag. From a water saturation vapor pressure table, determine and record the water vapor content as a decimal figure. (Assume the relative humidity to be 100 percent unless a lesser value is known.) If the bag has been maintained at an elevated temperature as described in Section 7.1.4, determine the stack gas water content by Method 4.

7.1.7 Quality Assurance. Immediately prior to the analysis of the stack gas samples, perform audit analyses as described in Section 6.5. The audit analyses must agree with the audit concentrations within 10 percent. If the results are acceptable, proceed with the analyses of the source samples. If they do not agree within 10 percent, then determine the reason for the discrepancy, and take corrective action before proceeding.

7.1.8 Emission Calculations. From the average calibration curve described in Section 7.1.5., select the value of C_s that corresponds to the peak area. Calculate the concentration C_c in ppm, dry basis, of each organic in the sample as follows:

$$C_C = \frac{C_s P_r T_i F_r}{P_i T_r (1-B_{ws})} \quad \text{Eq. 18-5}$$

Where:

C_s = Concentration of the organic from the calibration curve, ppm.

P_r = Reference pressure, the barometric pressure or absolute sample loop pressure recorded during calibration, mm Hg.
T_l = Sample loop temperature at the time of sample analysis, °K.
F_r = Relative response factor (if applicable, see Section 6.4).
P_l = Barometric or absolute sample loop pressure at time of sample analysis, mm Hg.
T_r = Reference temperature, the termperature of the sample loop recorded during calibration, °K.
B_{ws} = Water vapor content of the bag sample or stack gas, proportion by volume.

19. By revising the ninth sentence of Section 7.2.2 as follows:

Place the inlet of the probe at the centroid of the duct, or at a point no closer to the walls than 1 m, and draw source gas into the probe, heated line, and sample loop.

20. By removing the last paragraph of Section 7.2.2.

21. By adding Sections 7.2.3, 7.2.4, and 7.2.5 as follows:

7.2.3 Determination of Stack Gas Moisture Content. Use Method 4 to measure the stack gas moisture content.

7.2.4 Quality Assurance. Same as Section 7.1.7. Introduce the audit gases in the sample line immediately following the probe.

7.2.5 Emission Calculations. Same as Section 7.1.8.

22. By revising the fourth sentence of Section 7.3.2 as follows:

Insert the probe and source thermocouple to the centroid of the duct, or to a point no closer to the walls than 1 m.

23. By adding Section 7.3.3, 7.3.4, and 7.3.5 as follows:

7.3.3 Determination of Stack Gas Moisture Content. Same as Section 7.2.3.

7.3.4 Quality Assurance. Same as Section 7.2.4.

7.3.5 Emission Calculations. Same as Section 7.2.5, with the dilution factor applied.

24. By revising the first sentence of the second paragraph of Section 7.4.2 as follows:

Use a sample probe, if required, to obtain the sample at the centroid of the duct, or at a point no closer to the walls than 1 m.

25. By revising Figure 18–3 to appear as follows:

BILLING CODE 6560-50-M

Preparation of Standards in Tedlar Bags and Calibration Curve

Standards Preparation Data:	Standards Mixture #1	Standards Mixture #2	Standards Mixture #3
Organic: _____			
Bag number or identification			
Dry gas meter calibration factor			
Final meter reading (liters)			
Initial meter reading (liters)			
Metered volume (liters)			
Average meter temperature (°K)			
Average meter pressure, gauge (mm Hg)			
Average atmospheric pressure (mm Hg)			
Average meter pressure, absolute (mm Hg)			
Syringe temperature (°K) (Section 6.2.2.1)			
Syringe pressure, absolute (mm Hg) (Section 6.2.2.1)			
Volume of gas in syringe (ml) (Section 6.2.2.1)			
Density of liquid organic (g/ml) (Section 6.2.2.2)			
Volume of liquid in syringe (µl) (Section 6.2.2.2)			
GC Operating Conditions:			
Sample loop volume (ml)			
Sample loop temperature (°C)			
Carrier gas flow rate (ml/min)			
Column temperature			
Initial (°C)			
Rate change (°C/min)			
Final (°C)			
Organic Peak Identification and Calculated Concentrations:			
Injection time (24-hr clock)			
Distance to peak (cm)			
Chart speed (cm/min)			
Organic retention time (min)			
Attenuation factor			
Peak height (mm)			
Peak area (mm^2)			
Peak area x attenuation factor (mm^2)			
Calculated concentration (ppm) (Equation 18-3 or 18-4)			

Plot peak area x attenuation factor against calculated concentration to obtain calibration curve.

Figure 18-3. Standards prepared in Tedlar bags and calibration curve.

26. By revising Figure 18-4 to appear as follows:

Flowmeter Calibration

Flowmeter number or identification _____
Flowmeter type _____
Calibration device (x): Bubble meter___ Spirometer___ Wet test meter___
Readings at laboratory conditions:
Laboratory temperature (T_{lab}) _____ °K
Laboratory barometric pressure (P_{lab}) _____ mm Hg
Flow data:

Flowmeter			Calibration device		
reading (as marked)	temp. (°K)	pressure (absolute)	Time (min)	gas volume[a]	flow rate[b]

a = Volume of gas measured by calibration device, corrected to standard conditions (liters).

b = Calibration device gas volume/time.

Plot flowmeter reading against flow rate (standard conditions), and draw a smooth curve. If the flowmeter being calibrated is a rotameter or other flow device that is viscosity dependent, it may be necessary to generate a "family" of calibration curves that cover the operating pressure and temperature ranges of the flowmeter.

While the following technique should be verified before application, it may be possible to calculate flow rate readings for rotameters at standard conditions Q_{std} as follows:

$$Q_{std} = Q_{lab}\left(\frac{760 \times T_{lab}}{P_{lab} \times 293}\right)^{1/2}$$

Flow rate (laboratory conditions)	Flow rate (standard conditions)

Figure 18-4. Flowmeter calibration.

27. By revising Figure 18-7 to appear as follows:

Preparation of Standards by Dilution of Cylinder Standard

Cylinder standard: Organic _____ Certified concentration _____ ppm

Standards Preparation Data: Date _____

Stage 1	Mixture 1	Mixture 2	Mixture 3
Standard gas flowmeter reading			
Diluent gas flowmeter reading			
Laboratory temperature (°K)			
Barometric pressure (mm Hg)			
Flowmeter gage pressure (mm Hg)			
Flow rate cylinder gas at standard conditions (ml/min)			
Flow rate diluent gas at standard conditions (ml/min)			
Calculated concentration (ppm)			
Stage 2 (if used)			
Standard gas flowmeter reading			
Diluent gas flowmeter reading			
Flow rate stage 1 gas at standard conditions (ml/min)			
Flow rate diluent gas at standard conditions (ml/min)			
Calculated concentration (ppm)			
GC Operating Conditions:			
Sample loop volume (ml)			
Sample loop temperature (°C)			
Carrier gas flow rate (ml/min)			
Column temperature:			
Initial (°C)			
Program rate (°C/min)			
Final (°C)			
Organic Peak Identification and Calculated Concentrations:			
Injection time (24-hr clock)			
Distance to peak (cm)			
Chart speed (cm/min)			
Retention time (min)			
Attenuation factor			
Peak area (mm^2)			
Peak area x attenuation factor			

Plot peak area x attenuation factor against calculated concentration to obtain calibration curve.

Figure 18-7. Standards prepared by dilution of cylinder standard.

[FR Doc. 87-3316 Filed 2-18-87; 8:45 am]
BILLING CODE 6560-50-C

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 201

[FIRMR Temp. Reg. 10, Supp. 1]

Triennial Review of Agency Administration and Operation of Information Resources Management Activities

AGENCY: Information Resources Management Service, GSA.

ACTION: Temporary regulation supplement.

SUMMARY: This supplement extends Federal Information Resources Management Temporary Regulation 10 for 2 additional years and makes minor pen and ink changes and page substitutions in the attachment. Temporary Regulation 10 established the Federal Information Resources Management Review Program. This extension will permit additional program experience to be incorporated into the codification amendment. The comment period is accordingly extended to March 31, 1987.

DATES: Effective date: February 19, 1987.
Expiration date: December 31, 1988.
Comments are due: March 31, 1987.

ADDRESS: Comments should be addressed to: General Services Administration (KMPR), (Project 86.48T) Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Phillip R. Patton, Regulations Branch (KMPR), Information Resources Management Service, telephone (202) 566–0194 or FTS 566–0194.

SUPPLEMENTARY INFORMATION: (1) A notice of proposed rulemaking was published in the **Federal Register** (49 FR 33906, August 27, 1984) and the comments received were considered in the initial promulgation of this rule. All comments received during the temporary regulation comment period will be considered in the codification of the final amendment. Additional comments are welcome and may be submitted no later than March 31, 1987. It is intended to codify the policies and procedures added by this regulation in a new Part 201–19 to the FIRMR.

(2) The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This Governmentwide management regulation will have little or no cost effect on society. The temporary rule is therefore not likely to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 41 CFR Chapter 201

Government information resources activities, Government procurement, Information resources management reviews.

December 17, 1986

FIRMR Temporary Regulation 10

Supplement 1

To: Head of Federal Agencies
Subject: Information Resources Management Reviews

1. *Purpose.* This supplement makes pen and ink changes to FIRMR Temporary Regulation 10 and extends its expiration date for 2 additional years. Accordingly, the comment period is also extended to March 31, 1987. This extension will permit additional program experience to be incorporated into the codification amendment. Under this 2-year extension, the intent is to modify and codify this temporary regulation as a FIRMR amendment during calendar year 1988.

2. *Expiration date.* The expiration date of this temporary regulation is extended from December 31, 1986, to December 31, 1988.

3. *Explanation of changes.* The following pen and ink changes are made in FIRMR Temporary Regulation 10:

a. In paragraph 6b, change the lead statement from "IRM reviews have for principal objectives" to "The four principal objectives of the Federal IRM Program are:".

b. In the 9th line of paragraph 8, after "(OMB Circular A–76);" insert "IRM activity, privacy, and security reviews (OMB Circular A–130);".

c. In paragraph 9, change "bulletin" to "issuance".

d. In paragraph 9a(2), change "agency" to "agency-specific".

e. In paragraph 10a(2)(ii), change "agency" to "agency-specific".

f. In paragraph 12c, change "FPMR 101–11.11" to "FIRMR 201–45.6".

g. In paragraph 15, change June 24, 1985" to "March 31, 1987," to extend the comment period for this temporary regulation.

h. Replace Attachments A, B, C, and D with new Attachments A, B, C, and D.

T.C. Golden,

Administrator of General Services.

Attachment A—Agency IRM Review Plan Format Three Year Cycle: FY 8x – 8x Year 1

For Each Agency/Bureau IRM Review Program:
Agency:
Priority Review Areas: (As identified in GSA call or by agencies)
Triennial Objectives:
For Each Year 1 Review:
Title of Review:
Agency Review Number:
Scope of Review:
Brief Description:
Review Milestones and Schedules:
Agency Contact and Telephone Number:
For Each Year 2 & 3 Review:
Title of Review:
Agency Review Number:
Scope of Review:
Brief Description:

Note.—Agencies may add additional data elements to these formats (Attachments A thru D) as deemed necessary.

[This format shall only be used as a guide and will not be printed, reproduced or stocked]

Attachment B—Agency IRM Review Plan Format Three Year Cycle: FY 8x – 8x Year 2

For Each Agency/Bureau IRM Program:
Agency:
Priority Review Areas: (If different from Year 1)
Triennial Objectives: (If different from Year 1)
For Each Year 2 Review:
Title of Review:
Listed on Year 1 Plan: ___ Yes ___ No
Agency Review Number:
Scope of Review:
Brief Description:
Review Milestones and Schedules:
Agency Contact and Telephone Number:
For Each Year 3 Review:
Title of Review:
Listed on Year 1 Plan: ___ Yes ___ No
Agency Review Number:
Scope of Review:
Brief Description:

[This format shall only be used as a guide and will not be printed, reproduced or stocked]

Attachment C—Agency IRM Review Plan Format Three Year Cycle: FY 8x – 8x Year 3

For Each Agency/Bureau IRM Review Program:
Agency:
Priority Review Areas: (If different from Year 2)
Triennial Objectives: (If different from Year 2)
For Each Year 3 Review:
Title of Review:
Listed on Year 1 Plan: ___ Yes ___ No
Listed on Year 2 Plan: ___ Yes ___ No
Agency Review Number:
Scope of Review:
Brief Description:
Review Milestones and Schedules:
Agency Contact and Telephone Number:

[This format shall only be used as a guide and will not be printed, reproduced or stocked]

Attachment D—Agency Review Synopsis Three Year Cycle: FY 8x – 8x Year 1, 2, & 3

Agency:
Title of Review:
Agency Review Number:
Objectives of Review:
Synopsis of Review:
Primary Findings:
Recommendations:
Intitiatives and Actions:
Agency Contact and Telephone Number:

[This format shall only be used as a guide and will not be printed, reproduced or stocked]

[FR Doc. 87-3431 Filed 2-18-87; 8:45 am]
BILLING CODE 6820-25-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 6

Privacy Act of 1974: Exempt Systems of Records

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This notice of rulemaking exempts certain existing systems of records from certain requirements of the Privacy Act pursuant to 5 U.S.C. 552a(k).

DATE: Effective March 23, 1987.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, (202) 646-3840.

SUPPLEMENTARY INFORMATION: On Monday, January 5, 1987, 52 FR 304, FEMA published a notice of proposed rulemaking exempting certain existing FEMA systems of records from certain requirements of the Privacy Act pursuant to 5 U.S.C. 552a(k). FEMA did not receive any comments pursuant to that notice. Therefore, only three typographical changes are being made. Specifically, under § 6.87(b)(1), the reference to 5 U.S.C. 552a(9)(2) is being corrected to read 5 U.S.C. 552a(k)(2) and the identification number for Equal Employment Opportunity Complaints of Discrimination Files is being corrected from (FEMA/PAR-2) to (FEMA/PER-2). Under § 6.87(c)(2), in the next to the last sentence, "informaiton" is being corrected to read "information".

The publication of these new exemptions are made in accordance with the requirements of 5 U.S.C. 553 of the Administrative Procedure Act.

List of Subjects in 44 CFR Part 6

Privacy Act.

Accordingly, 44 CFR Part 6, Subpart G—Exempt Systems of Records, is amended as follows:

PART 6—[AMENDED]

1. The authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 552a; Reorganization Plan No. 3 of 1978; and E.O. 12127.

2. Section 6.87 is amended by revising paragraphs (a), (b)(1) and adding new paragraph (c) to read as follows:

§ 6.87 Specific exemptions.

(a) *Exempt under 5 U.S.C. 552a(k)(1).* The Director, Federal Emergency Management Agency has determined that certain systems of records may be exempt from the requirements of (c)(3) and (d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 12356 or any subsequent Executive order and which are required to be kept secret in the interest of national defense or foreign policy. To the extent that this occurs, such records in the following systems would be exempt:

Claims (litigation) (FEMA/GC-1)—Limited Access
FEMA Enforcement (Compliance) (FEMA/GC-2)—Limited Access
General Investigative Files (FEMA/IG-1)—Limited Access
Security Management Information System (FEMA/SEC-1)—Limited Access

(b) * * *

(1) *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a(k)(2) listed in paragraph (b) of this section.

Claims (litigation) (FEMA/GC-1)—Limited Access
FEMA Enforcement (Compliance) (FEMA/GC-2)—Limited Access
General Investigative Files (FEMA/IG-1)—Limited Access
Equal Employment Opportunity Complaints of Discrimination Files (FEMA/PER-2)—Limited Access

* * * * *

(c) *Exempt under 5 U.S.C. 552a(k)(5).* The Director, Federal Emergency Management Agency has determined that certain systems of records are exempt from the requirements of (c)(3) and (d) of 5 U.S.C. 552a.

(1) *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(5), shall be exempted from the provisions of 5 U.S.C. 552a listed in paragraph (c) of this section.

Claims (litigation) (FEMA/GC-1)—Limited Access
FEMA Enforcement (Compliance) (FEMA/GC-2)—Limited Access
General Investigative Files (FEMA/IG-2)—Limited Access
Security Management Information Systems (FEMA/SEC-1)—Limited Access

(2) *Reasons for exemptions.* All information about individuals in these records that meet the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirements of 5 U.S.C. 552a (c)(3) and (d). These provisions of the Privacy Act relate to making accountings of disclosure available to the subject and access to and amendment of records. These exemptions are claimed because the system of records entitled, FEMA/SEC-1, Security Management Information System, contains investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for access to classified information or classified Federal contracts, but only to the extent that the disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. During the litigation process and investigations, it is possible that certain records from the system of records entitled, FEMA/SEC-1, Security Management System may be necessary and relevant to the litigation or investigation and included in these systems of records. To the extent that this occurs, the Director, FEMA, has determined that the records would also be exempted from subsections (c)(3) and (d) pursuant to 5 U.S.C. 552a(k)(5) to protect such records. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

Dated: February 11, 1987.

Julius W. Becton, Jr.,

Director.

[FR Doc. 87-3417 Filed 2-18-87; 8:45 am]
BILLING CODE 6718-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-54; RM-5012, 5050]

Radio Broadcasting Services; Rancho Mirage, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 258A to Rancho Mirage, CA, as its first local FM service as requested by RWR Associates and denies a mutually exclusive proposal to allot the channel

to LaQuinta, CA, as proposed by Kern Broadcasting Co. for lack of continuing interest. With this action, this proceeding is terminated.

DATES: Effective March 23, 1987; the window period for filing applications on Channel 258A at Rancho Mirage, California will open on March 24, 1987, and close on April 22, 1987.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–54, adopted December 5, 1986, and released February, 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of Allotments is amended by adding Rancho Mirage, Channel 258A, under California.

Federal Communications Commission.

Ralph A. Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–3397 Filed 2–18–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 86–161; RM–5022, RM–5023, RM–5024, RM–5025, RM–5038, RM–5251, RM–5281, RM–5282]

Amendment of the Amateur Radio Service Rules To Expand the Privileges Available to Novice Operators

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The attached rule amendments authorize additional operating privileges for Amateur Novice operators. The rules are necessary in order to remove restrictions and to allow a further growth in the Amateur service. The effect of the amendments is to offer Novices a greater opportunity to participate in amateur radio by authorizing them additional frequencies. and emissions modes

EFFECTIVE DATE: 0001 UTC March 21, 1987.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted January 28, 1987 and released February 10, 1987

1. The full text of this Commission decision including the rule changes is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC The complete text of this decision and the rule changes may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

2. The amended rules expand Novice class amateur radio operator privileges to include all emission modes for the 1.25 and 0.23 meter bands and emissions, A1A, F1B and J3E for the HF 10 meter band. Some restrictions on transmitter power were, however, adopted. Other actions include modifications to the written examination questions for Technician and General operators to conform them more closely with operator privileges. In the case of Technician operators, the new examination will contain questions about VHF and UHF privileges; for General operators, questions about MF and HF privileges will be emphasized. Because of the expanded Novice privileges, the Commission decided to require two volunteer examiners to administer such examinations. Finally, all present Novice and Technician operators will be authorized the new privileges without additional qualification requirements. Technician class operators licensed before the effective date of the rules will be given credit for having already passed the revised General class written examination if they choose to upgrade. The amended rules are set forth at the end of this document.

3. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, we submit that these rule amendments are expected to create a market for low-cost transmitters, receivers and transceivers to be used by the 21,000 persons each year that are expected to become Novices. Any significant economic impact of the rules on small entities will result in a benefit to such entities.

4. The rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain a modified form. Burden hours on the public will not increase or decrease. Implementation of the amended rules will be subject to the approval of the Office of Management and Budget.

5. This Report and Order and these rule amendments are issued under the authority of 47 U.S.C. 4(i) and 303(c) and (r). The authority citation for Part 97 continues to read as follows: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

6. A copy of this Report and Order will be served on the Chief Counsel for Advocacy of the Small Business Administration.

7. It is ordered that Part 97 is amended as shown at the end of this document. It is further ordered that these rule amendments shall become effective 0001 UTC March 21, 1987. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 97

Amateur radio, Digital communications, Examinations, Frequencies.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Amended Rules

PART 97—[AMENDED]

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.7 (a) is amended by revising the line entry for the 10-meter band and adding a megahertz listing for the 1.25 and 0.23-meter bands is amended following the kilohertz listing to read as follows:

§ 97.7 Frequency privileges.

* * * * *

(a) *Novice class.*

Meter band	Terrestrial location of the amateur radio station			
	Limitations	ITU Region 1	ITU Region 2	ITU Region 3 see para.(g))
kilohertz				
10	28100–28500	28100–28500	28100–28500	1
megahertz				
1.25		222.10–223.91		5
0.23	1270–1295	1270–1295	1270–1295	5,22

3. In § 97.7 (b), the line entry for the 10-meter band is revised to read:

(b) * * *

* * * * *

Meter band	Terrestrial location of the amateur radio station	Limitations		
		ITU Region 1	ITU Region 2	ITU Region 3 (see para.(g))
10	28100–28500	28100–28500	28100–28500	1

4. Section 97.7 (g)(1) is revised to read as follows:

* * * * *

(g) *Limitations:* (1) Control operators holding the Novice or Technician class operator license are limited to international Morse code when the station is transmitting emission AIA in the 80, 40, 15 and 10 meter bands.

* * * * *

5. In § 97.21, paragraphs (c) and (d) are revised to read as follows:

§ 97.21 Examination elements and standards.

* * * * *

(c) A written examination shall be such as to prove that a person possesses the operational and technical qualifications required to perform properly the duties of an amateur radio licensee. Each written examination shall be comprised of a question set, as follows:

(1) Element 2: At least 30 questions concerning the privileges of Novice class licensees;

(2) Element 3(A): At least 25 questions concerning the additional privileges of Technican class licensees;

(3) Element 3(B): At least 25 questions concerning the additional privileges of General class licensees;

(4) Element 4(A): At least 50 questions concerning the additional privileges of Advanced class licensees;

(5) Element 4(B): At least 40 questions concerning the additional privileges of Amateur Extra Class licensees;

(d) The topics and percentage of questions in each question set shall be that listed for the appropriate examination element:

Topics	Elements (percent)				
	2	3(A)	3(B)	4(A)	4(B)
(1) Federal Communications Commission's Rules for the Amateur radio service	35	20	16	12	20
(2) Amateur station operating procedures	5	12	12	2	10
(3) Radio wave propagation characteristics of amateur frequency bands	5	12	12	4	5
(4) Amateur radio practices	15	16	20	8	10
(5) Electrical principles as applied to amateur station equipment	15	8	8	20	15
(6) Amateur station equipment circuit components	5	8	4	12	10
(7) Practical circuits employed in amateur station equipment	5	4	4	20	10
(8) Signals and emissions transmitted by amateur stations	5	8	8	12	10
(9) Amateur station antennas and feed lines	10	12	16	10	10

6. Section 97.23 is revised to read as follows:

§ 97.23 Examination requirements.

Applicants for operator licenses will be required to pass the following examination elements.

(a) Amateur Extra: Elements 1(C), 2, 3(A), 3(B), 4(A) and 4(B);

(b) Advanced: Elements 1(B), 2, 3(A), 3(B) and 4(A);

(c) General: Elements 1(B), 2, 3(A) and 3(B);

(d) Technician: Elements 1(A), 2 and 3(A);

(e) Novice: Elements 1(A) and 2.

7. In § 97.25, paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 97.25 Examination credit.

(a) An applicant for a higher class of amatuer operator license who holds a void amateur operator license issued by the Federal Communications Commission will be given credit, as follows:

(1) Novice: Elements 1(A), and 2;

(2) Technician: Elements 1(A), 2 and 3(A);

(3) General: Elements 1(B), 2, 3(Al) and 3(B);

(4) Advanced: Elements 1(B), 2, 3(A), 3(B) and 4(A).

* * * * *

(e) An applicant holding a Technician operator license issued before (effective date of these rules) will be given credit for Elements 1(A), 2, 3(A) and 3(B).

8. In § 97.28, paragraphs (a) and (b) are revised to read as follows:

§ 97.28 Examination administration.

(a) Unless otherwise prescribed by the Federal Communications Commission, each examination for an amateur radio operator license (except the Novice operator license) shall be administered by three accredited (see § 97.515) volunteer examiners. A volunteer examiner administering element 1(A) or element 2 (in conjunction with an examination other than a Novice operator examination), or element 3(A), must hold an Amateur Extra or Advanced radio operator license issued by the Federal Communications Commission. A volunteer examiner administering element 1(B), element 1(C), element 3(B), element 4(A), or element 4(B) must hold an Amateur Extra operator license issued by the Federal Communications Commission.

(b) Unless otherwise prescribed by the Federal Communications Commission, each examination for a Novice operator license shall be administered by two volunteer examiners. The volunteer examiners do not have to be accredited. The volunteer examiners must hold current General, Advanced or Amateur Extra operator licenses issued by the Federal Communications Commission.

* * * * *

9. Section 97.61(a) is amended by adding a new line entry before 28000–28300 kHz, by removing limitation 1 from the line entry for 28000–28300 kHz, by adding a new limitation 3 in the line entry for 28300–29500 kHz, by removing line entry 28300–29700 kHz and adding a line entry 29500–29700 kHz.

§ 97.61 Authorized emissions.

(a) *kilohertz:*

Frequency Band kHz	Emissions	Limitations (see para. (d))
*	*	*
28000–29700	A1A	

Frequency Band kHz	Emissions	Limitations (see para. (d))
29500-29700..	A1A, A3E, F2A, F3E, G3E, A3C, F3C, A3F, F3F, H3E, J3E, R3E.	.....

* * * * *

10. Section 97.61 is amended to add a new paragraph (d)(3), as follows:

§ 97.61 Authorized emissions.

* * * * *

(d) * * *

(3) A station with a Novice or Technician control operator is authorized to transmit only emissions A1A and J3E in this subband.

11. Section 97.67 is amended by revising paragraph (d)(6) and by adding new paragraphs (j) and (k) as follows:

§ 97.67 Maximum transmitting power.

* * * * *

(d) * * *

(6) 28100–28500 kHz when the control operator holds a Novice or Technician class operator license.

* * * * *

(j) The transmitter power of each amateur station at which the control operator holds a Novice class operator license shall not exceed 25 watts peaks envelope power when transmitting in the 1.25 meter band.

(k) The transmitter power of each amateur station at which the control operator holds a Novice class operator license shall not exceed 5 watts peak envelope power when transmitting in the 0.23 meter band.

12. Section 97.85 is amended by adding a new paragraph (i), as follows:

§ 97.85 Repeater operation.

* * * * *

(i) No amateur station at which the control operator or station licensee holds a Novice class operator license shall be in repeater operation.

13. Section 97.86 is amended by adding a new paragraph (e), as follows:

§ 97.86 Auxiliary operation.

* * * * *

(e) No amateur station at which the control operator or station licensee holds a Novice class operator license shall be in auxiliary operation.

14. Section 97.87 is amended by adding a new paragraph (f), as follows:

§ 97.87 Beacon operation.

* * * * *

(f) No amateur station at which the control operator or station licensee holds a Novice class operator license shall be in beacon operation.

[FR Doc. 87-3480 Filed 2-18-87; 8:45am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 60973-7008]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule amending the implementing regulations for the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This rule modifies the minimum mesh size requirement of 1 x 2 inches for fish traps deployed in th e exclusive economic zone (EEZ) to allow minimum meshes of 1.5 x 1.5 inches square and 1.5 inches hexagonal in addition to the 1 x 2 inches rectangular. The intent of the rule is to provide more flexibility to the industry in selecting the most advantageous of several commercially available mesh materials and to eliminate the incongruity in minimum mesh size requirements between two adjoining Council areas managed under separate fishery management plans.

EFFECTIVE DATE: February 18, 1987.

ADDRESS: Copies of the final supplemental regulatory impact review/regulatory flexibility analysis for this rule may be obtained from Donald W. Geagan, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–893–3722.

SUPPLEMENTARY INFORMATION: The FMP is implemented by regulations appearing at 50 CFR Part 641. Section 641.24 requires a minimum mesh size of 1 x 2 inches and a minimum of two escape windows of 2 x 2 inches on each of two sizes of a trap (four in total) for all fish traps deployed in the EEZ of the Gulf of Mexico. A proposed rule to allow the use of alternative minimum mesh sizes was published October 14, 1986 (51 FR 36574). A discussion of the scientific basis and rationale for the alternative minimum mesh sizes was presented in the proposed rule and is not repeated here.

Comments on the proposed rule were invited through November 28, 1986. The U.S. Department of Interior, Fish and Wildlife Service, provided the only comment; it supported the change in minimum mesh size restrictions. NOAA concurs and believes that allowing the alternatives minimum mesh sizes for traps will provide greater flexibility to the fishing industry, increase escapement of smaller fish, and standardize trap restrictions between two adjacent Council areas (different mesh size requirements for the Gulf and South Atlantic trap fisheries has been a perplexing problem for fishermen in South Florida).

Changes from the proposed rule

Part 641. In Part 641 the terms "fishery conservation zone" and "FCZ" have been deleted wherever they appeared and the new terms "exclusive economic zone" and "EEZ" have been inserted.

Section 641.2. The definition for "Exclusive economic zone (EEZ)" has been added in alphabetical order and the definition for "Fishery conservation zone (FCZ)" has been deleted.

Section 641.24. The wording in § 641.24 has been modified slightly for purposes of clarification.

Classification

The Director, Southeast Region, NMFS, determined that the amendment is necessary for the conservation and management of the reef fish fishery and that it is consistent with the Magnuson Act and other applicable law.

The Gulf of Mexico Fishery Management Council prepared an environmental assessment for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the environmental assessment from the address above.

The Administrator, NOAA, determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The Assistant Administrator also determined that this is a substantive rule that relieves a restriction and therefore there is good cause to waive the 30-day period of delayed effectiveness required under the Administrative Procedure Act, 5 U.S.C. 553(d). The rule revises an existing limitation of mesh size and material, enabling fishermen to choose from three mesh sizes of traps instead of only one, and a wider variety of materials and styles as well.

The Council prepared a regulatory flexibility analysis which describes the effects this rule will have on small

entities. You may obtain a copy of this analysis from the address above.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing.

Dated: February 13, 1987.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 641 is amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 641 continues to read as follows:

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

2. The words "fishery conservation zone" and the acronym "FCZ" are removed wherever they appear in Part 641 and are replaced by the words "exclusive economic zone" and the acronym "EEZ" respectively.

3. In § 641.2, the definition for "Fishery conservation zone" is removed and a new definition for "Exclusive economic zone (EEZ)" is added in alphabetical order to read as follows:

§ 641.2 Definitions.

* * * * *

Exclusive economic zone (EEZ) means the area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

* * * * *

4. In § 641.24, paragraph (b)(4) is revised to read as follows:

§ 641.24 Gear limitations.

* * * * *

(b) * * *

(4) Fish traps must meet all the following mesh size requirements (based on centerline measurements between opposite wires or netting strands):

(i) A minimum of 2 square inches of opening for each mesh;

(ii) One-inch minimum length for shortest side;

(iii) Minimum distance of 1 inch between parallel sides of rectangular openings, and 1.5 inches between parallel sides of square openings and of mesh openings with more than four sides;

(iv) One and nine-tenths (1.9) inches minimum distance for diagonal measures of mesh (Figure 3); and

(v) Each trap must have at least two escape windows on each of two sides (excluding the bottom) which are 2 x 2 inches or larger

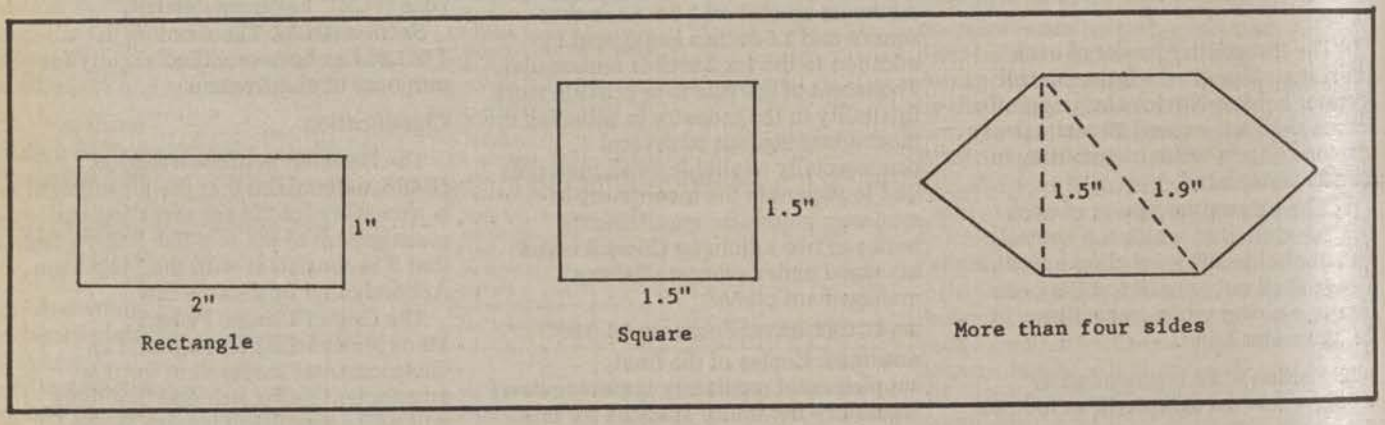


Figure 3. Examples of mesh sizes meeting the measurement criteria

[FR Doc. 87-3527 Filed 2-18-87; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 33
Thursday, February 19, 1987

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.

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0567]

Capital Maintenance; Revision to Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: In April, 1985, the Board announced revised Guidelines for minimum and appropriate levels of capital for bank holding companies and state chartered banks that are members of the Federal Reserve System (50 FR 16057 (1985)). These revised Guidelines, contained in Appendix A to the Board's Regulation Y, 12 CFR Part 225, were designed to establish, in conjunction with other federal bank regulatory agencies, uniform capital standards for all federally regulated banking organizations regardless of size. These uniform capital standards were based on ratios of primary and total capital to total assets.

While these ratios of capital to total assets are a useful tool for assessing capital adequacy, the Board believes that there is a need for a measure that is more explicitly and systematically sensitive to the risk profiles of individual banking organizations. As a result, the Board proposed on January 24, 1986, to amend its Guidelines by adding a supplemental adjusted capital measure that the Board would consider in tandem with existing ratios of capital to total assets. Based in part on comments received by the Board on that earlier proposal and extensive discussions with other federal banking agencies and the Bank of England, the Board has revised its January 24, 1986 proposal in a number of respects. The Board is seeking comment on this revised proposal, which would amend the Board's Guidelines to include a risk-based capital measure (also known as a risk asset ratio) to be used in tandem with existing capital ratios, and would amend the definition of primary capital for purposes of computing existing capital-to-total assets ratios. This revised proposal represents an effort to establish uniform capital standards for all federally supervised banking organizations operating in the United States and to continue the process of coordinating with regulatory authorities of other countries to establish appropriate capital standards, in accordance with the International Lending Supervision Act of 1983 ("ILSA"), 12 U.S.C. 3901 *et seq.*

DATE: Comments must be received by May 13, 1987.

ADDRESS: All comments should refer to Docket No. [R-0567], and should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551, or should be delivered to the Office of the Secretary, Room 2223, Eccles Building, 20th and Constitution Avenue NW., between the hours of 9:00 a.m. and 5:00 p.m. weekdays. Comments may be inspected in Room 1119, Eccles Building, between 9:00 a.m. and 5:00 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Richard Spillenkothen, Deputy Associate Director (202/452-2594), Anthony G. Cornyn, Assistant Director (202/452-3354), Stephen M. Lovette, Manager (202/452-3622), or Rhoger Pugh, Manager (202/452-5883), Division of Banking Supervision and Regulation, Board of Governors; or James E. Scott, Senior Counsel (202/452-3513), or Conrad G. Bahlke, Attorney (202/452-3707), Legal Division, Board of Governors; or Andrew Spindler, Vice President (212/720-5846), Donald E. Schmid, Manager (212/720-6611), or Jeffrey Bardos, Financial Analyst (212/720-7962), Federal Reserve Bank of New York. For the hearing impaired *only*, Telecommunication Device for the Deaf, Earnestine Hill or Dorothea Thompson 202/452-3544.

SUPPLEMENTARY INFORMATION:

Background

The Purpose of the Proposed Adjusted Capital Measure

In announcing its revised Capital Adequacy Guidelines in April, 1985, 50 FR 16057, the Board expressed its continuing concern that the emphasis in the Guidelines on ratios based on the amount of total assets should not be interpreted to exclude considerations of risk. The Board proposed to deal with the issue of risk on a case-by-case basis, stating that: (1) It would assess the overall capital position of a banking organization by taking into account both the volume of the organization's risk assets and its off-balance sheet risks (although the latter were not explicitly included in the capital ratios); (2) the ratios stated in the Guidelines were minimums, and banking organizations with high levels of on- or off-balance sheet risk would be expected to operate above the minimum ratios; and (3) banking organizations would be expected to avoid the practice of attempting to meet the minimum ratios by decreasing the level of liquid assets relative to total assets. The Board also indicated that it would continue to review the need for more explicit procedures for factoring on- and off-balance sheet risks into the assessment of capital adequacy.

In response to comments received in connection with the 1985 revisions to the Capital Adequacy Guidelines, the Board acknowledged that, in addition to assessing capital adequacy on the basis of the total quantity of assets, there would be significant analytical value to a systematic evaluation of capital based upon the degree of risk associated with such assets.

In an effort to address the degree of risk associated with certain assets and off-balance sheet exposures, the Board issued for public comment on January 24, 1986, a proposal to add a supplemental adjusted capital measure to the Board's Capital Adequacy Guidelines for bank holding companies and state member banks.

In recent months, the Federal Reserve staff has worked with the staffs of the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC") and the Bank of England to devise a method for bringing the capital requirements of U.S. and U.K. banking organizations into closer alignment, and to facilitate further international convergence of capital requirements among other major industrialized nations, consistent with the terms of ILSA. Discussions between these U.S. banking agencies and the Bank of England have resulted in the proposed United States/United Kingdom Agreement ("U.S./U.K. Agreement")

that is the basis for this revised proposal. The text of the proposed Agreement is attached to this **Federal Register** Notice. In light of the discussions resulting in the U.S./U.K. Agreement, and comments submitted in connection with the Board's January 1986 proposal, the Board continues to believe that there is a need to modify or supplement the Board's Guidelines to include greater sensitivity to certain types of risk exposures of individual banking organizations.

In its January 1986 proposal, the Board stated its belief that a supplemental adjusted capital measure, based upon an assessment of distinct but necessarily broad risk categories, could prove useful in assessing the financial strength and stability of individual organizations and the banking system as a whole. The Board believes that its revised risk-based capital proposal, based upon the U.S./U.K. Agreement, would provide the Board with an additional means of assessing whether the capital level of an individual bank or bank holding company is adequate to serve the key functions of capital, namely, providing a buffer to absorb losses in times of poor performance, promoting the safety of depositors' funds, maintaining public confidence in banking organizations, and supporting the reasonable growth of such organizations. This revised proposal attempts to achieve these purposes by requiring that an organization's capital base bear a reasonable relationship to the risk profile of that organization.

In addition to providing another tool for assessing capital adequacy, the Board's revised proposed capital measure will further the policy objectives of its January 1986 proposal by addressing the rapid expansion of off-balance sheet exposures, tempering the disincentives inherent in the existing Guidelines to hold low-risk, relatively liquid assets, and moving capital adequacy policies in the United States more closely in line with those of other major industrial countries so as to develop a framework for achieving greater international convergence in the supervision of capital positions of large international banking organizations. Finally, the proposed measure would provide more explicit guidance to bankers and examiners for relating capital to risk profiles.

The Board's revised proposal differs in several respects from its January 1986 proposal, primarily as a result of further discussions with the OCC and the FDIC, review of the public comments on the January 1986 proposal, and actions to coordinate the proposals of the three federal banking agencies with the views of the Bank of England. Some of the major differences between this revised proposal, which is based on the proposed U.S./U.K. Agreement, and the January 1986 proposal, are discussed below.

First, the January 1986 proposal did not address the definition of capital. However, the Board believes that a common understanding of what constitutes primary capital, as incorporated in the proposed U.S./U.K. Agreement, is an essential part of any effort to achieve greater convergence of capital requirements on an international basis. To that end, the Board's revised proposal includes a definition of primary capital that would revise the definition contained in the Board's current Guidelines. The revised definition of primary capital would be used in calculations of both a risk-based capital ratio and the primary and total capital-to-total assets ratios specified in the Board's current Guidelines. Thus, while the proposed risk-based measure would be used in tandem with existing measures, as was proposed in the Board's January 1986 proposal, the numerator of the existing primary and total capital-to-total assets ratios would be redefined. The revised proposal creates two categories of primary capital: base primary capital, which consists of certain primary capital funds that would be counted in full in the calculation of capital ratios; and limited primary capital, which would be included to a limited extent as primary capital in calculating capital ratios. The proposal also includes certain deductions from primary capital for purposes of calculating these capital ratios.

Second, as set forth in the proposed U.S./U.K. Agreement, the regulatory authorities intend to set a uniform minimum ratio of adjusted primary capital to weighted risk assets applicable to banking organizations in both the United States and the United Kingdom. Moreover, the proposal is intended to serve, in part, as a vehicle to seek broader convergence in the assessment of the capital adequacy of international banking organizations. In contrast, the Board's January 1986 proposal would have applied to only U.S. banking organizations. As the proposed U.S./U.K. Agreement points out, most institutions would be expected to operate with capital ratios above the minimum level. At this time, the Board is seeking comments on the terms and structure of the revised proposal, and has decided to defer proposing a numerical minimum risk-based capital ratio.

Third, the Board's revised proposal includes five categories of risk assets, to be weighted at 0, 10, 25, 50, or 100 percent, depending on the identity of the obligor and, where appropriate, on the maturity of the instrument. (See Table 1 on page 28). These categories represent a change from the Board's January 1986 proposal, which included four categories of risk assets: 0, 30, 60, and 100 percent. This change results in a somewhat lower risk weight for many of the assets originally assigned to the 30 and 60 percent risk asset categories and a somewhat higher weight for some items originally assigned to the 0 percent category. In addition, the list of assets that would be assigned to each category differs in some significant respects from the list proposed in the Board's January 1986 proposal.

Fourth, the Board's revised proposal does not distinguish between claims on foreign banks or governments based upon the identity of the foreign country. The revised proposal also places claims on U.S. banks in the same risk category as claims on foreign banks. The January 1986 proposal generally placed claims on foreign banks and governments of industrial countries in a lower risk category than claims on foreign banks and governments of nonindustrial countries, and generally placed short-term claims on U.S. banks in a lower risk category than similar claims on foreign banks.

Fifth, in the case of off-balance sheet items, risk weights are determined by a two-step process, rather than by a simple categorization of off-balance sheet items in one of the risk asset categories, as suggested in the January 1986 proposal. First, the face amount of each off-balance sheet item is multiplied by an appropriate "credit conversion factor," a ratio designed to translate the face amount of certain off-balance sheet exposures into rough on-balance sheet credit equivalents. (See Table 2 on page 29.) The resulting figure is then placed in one of the five risk asset categories and included in the asset component of the risk-based capital ratio. (See Table 3 on pages 30 and 31.) This revised treatment results in risk weights for some off-balance sheet items that are slightly lower than the weights originally proposed.

Sixth, the Board's revised proposal includes loan commitments to consumers as a form of credit commitment that requires some capital support. The January 1986 proposal did not define such loan commitments to

include explicitly commitments to extend credit to consumers.

The general construction of most aspects of the Board's revised proposal remains similar to that of the Board's January 1986 proposal. First, an institution's risk-based capital ratio continues to be determined by dividing its primary capital base by the sum of its weighted risk assets. The weighted risk assets are determined by assigning all assets (as well as off-balance sheet items) to appropriate risk categories. An illustration of how the proposed ratio would be calculated is contained in Table 3 on pages 30 and 31.

Second, this revised proposal contemplates, as did the January 1986 proposal, that the calculation of a risk-based capital ratio is only one step in evaluating capital adequacy. Many other factors must be taken into account in connection with the examination and supervisory processes before an overall determination of capital adequacy can be made, including the quality and diversification of the loan portfolio, the quality, trend and variability of earnings, the dividend payout ratio and the level and trend of retained earnings, liquidity and the structure of liabilities, the effectiveness of loan and investment policies, and management's overall ability to monitor and control risks. Of these factors, asset quality is particularly critical. Thus, while not explicitly incorporated into the proposed risk-based ratio, the assessment of capital adequacy must take account of the composition of the loan portfolio, including foreign or domestic loan concentrations, and the level and severity of problem and classified assets. Adjustments based upon these factors made by examiners and supervisors mean that the final supervisory judgment of an organization's capital adequacy may differ significantly from conclusions that might be drawn solely from the absolute level of the organization's risk-based capital ratio.

Third, as in the January 1986 proposal, the revised risk-based capital framework contemplates that U.S. banking regulators would apply the minimum risk-based capital ratio to all banking organizations that they supervise. Thus, the Board would apply the proposed measure to all state member banks and to bank holding companies with consolidated assets of $150 million or more. Bank holding companies with less than $150 million in consolidated assets would generally be exempt from the calculation and analysis of risk-based capital ratios on a consolidated holding company basis under the same terms and conditions as provided in the current Guidelines.[1] The application of the risk-based capital framework to both large and small banking organizations will avoid the possible introduction of a dual standard based upon size.

Fourth, the revised proposal does not factor in all types of risk, and it contemplates, as did the January 1986 proposal, continued efforts to evaluate and refine the risk-based ratio. Under the proposed U.S./U.K. Agreement, the Board, the OCC, the FDIC and the Bank of England are committed to continue efforts to develop techniques for factoring counterparty credit risks on interest rate swaps and other interest rate and foreign exchange contracts into the risk-based capital ratio in the near future. In addition, the proposed U.S./U.K. Agreement indicates a commitment to introduce a capital requirement for exchange rate risk. Finally, the Agreement also reflects a commitment to factor a more direct measure of overall interest rate risk into the capital ratio. In the interim, the proposed U.S./U.K. Agreement addresses interest rate risk in a limited manner by assigning higher risk weights to long-term domestic national government debt.

The Proposed Definition of Capital

The proposed risk-based capital ratio would relate an institution's adjusted primary capital (the numerator of the ratio) to its weighted risk assets (the denominator). One of the principal qualities of primary capital is that it is freely available to absorb current losses while permitting an organization to continue to function as a going concern. Under the proposed U.S./U.K. Agreement, primary capital is defined for purposes of the risk-based ratio to consist of two classes of capital funds: "base primary capital," that is, capital funds treated as primary capital without limit, and "limited primary capital," that is, primary capital funds that are limited to a specified percentage of base primary capital. The types of capital that would be considered to be base primary capital and limited primary capital are discussed below. The proposed Agreement includes a listing of the components of the two categories of primary capital.

[1] The current Guidelines apply to bank holding companies with less than $150 million in consolidated assets on a bank-only basis unless (1) the holding company or any nonbank subsidiary is engaged directly or indirectly in any nonbank activity involving significant leverage or (2) the holding company or any nonbank subsidiary has outstanding debt held by the general public.

1. Base Primary Capital: Capital Funds That Are Treated as Primary Capital Without a Percentage Limitation

These capital funds include common stockholders' equity (common stock, surplus and retained earnings); general reserves for unidentified losses (including the allowance for losses on loans . and leases, but excluding reserves that, in effect, have been allocated for known losses such as the "allocated transfer risk reserve"); and minority interests in the equity accounts of consolidated subsidiaries.

Although the proposed U.S./U.K. Agreement includes general (valuation) reserves as base primary capital, U.S. and U.K. regulators agree that provisions made against identified losses should not be regarded as primary capital. Such provisions, having been set aside to absorb identified losses, cannot be viewed as being freely available to absorb estimated or anticipated, but unidentified, losses, a principal function of primary capital.

2. Limited Primary Capital: Capital Funds That Are Treated as Primary Capital Subject to a Percentage Limitation

Limited primary capital is considered to be primary capital to the extent that on a combined basis it does not exceed 50 percent of the amount that results from subtracting from base primary capital *all* intangible assets, including those intangible assets that are otherwise considered "grandfathered" intangible assets as discussed below. Existing limited primary capital instruments in excess of this limitation would be "grandfathered" and, therefore, included in primary capital, provided that such limited primary capital instruments were issued prior to the final adoption of the risk-based capital ratio and only to the extent that such limited primary capital instruments complied with the Board's then existing definition of primary capital and with the related limitations on the amounts of such instruments included in primary capital. However, if the grandfathering provision causes the aggregate amount of limited primary capital instruments to exceed the amount permitted under this proposal as based upon the U.S./U.K. Agreement, new limited primary capital instruments would not be included as primary capital until the new limited primary capital instruments, together with the grandfathered instruments, comply with the new proposed limitation on the amount of limited primary capital.

Limited primary capital funds include: perpetual preferred stock[2] and limited-life preferred stock with an original maturity of at least 25 years[3]; debt that is subordinated to deposits (or, for bank holding companies, debt that is unsecured) and that meets the new criteria set forth in the proposed U.S./U.K. Agreement for inclusion in primary capital; and the amount of mandatory convertible securities that were issued before the final adoption of the risk-based ratio and that counted as primary capital under the Board's then existing guidelines.

Although the Board has established a policy that common stockholders' equity should remain the dominant form of capital, the Board believes that the inclusion of some long-term limited-life preferred stock as primary capital is appropriate. The Board believes it would be appropriate to adjust for the amount of limited-life preferred stock included in primary capital by discounting such limited-life preferred stock with an original maturity of 25 years or more as maturity approaches. This discounting process is necessary because as limited-life preferred stock approaches maturity it must either be redeemed or refunded, thereby becoming more like a current liability and less like a component of capital. The Board is seeking comment on the best method of discounting limited-life preferred stock for capital adequacy purposes as maturity approaches. One such discounting method would be to discount the original outstanding balance for capital assessment purposes by 20 percent each year during the instrument's last five years before maturity. The amount of outstanding limited-life preferred stock that is not included in primary capital as a result of this discounting process would be included in secondary capital, provided it meets the general criteria in the Guidelines for inclusion in secondary capital.

The proposed U.S./U.K. Agreement also establishes new criteria for including debt instruments in primary capital. These criteria are designed to ensure that such debt instruments (a) are permanent; (b) provide strength and loss absorption capacity and, when serious losses occur, permit the organization to continue to operate as a going concern; and (c) provide the issuer with the option, under certain conditions, to defer interest payments during periods of serious financial adversity.

The new criteria for state member banks and bank holding companies, which are essentially similar to those incorporated in the Board's existing definition of perpetual debt, are:

(i) The instruments must be subordinated to deposits or, if issued by bank holding companies, unsecured.

(ii) The instruments can only be converted into or redeemed with equity or equity equivalents. This means that (a) the instrument cannot provide the holder with any right to demand repayment of principal (even in the event of non-payment of interest), except in the event of bankruptcy, insolvency or reorganization; and (b) the issuer cannot voluntarily redeem the securities without the approval of the Federal Reserve, except that securities may be simultaneously replaced by a like amount of capital instruments that qualify as primary capital under the U.S./U.K. Agreement's new definition.

(iii) The instruments must be available to absorb losses when necessary to allow the organization to continue to operate as a going concern. Thus, the instrument must convert automatically to common or preferred stock that qualifies as primary capital in the event that the issuer's retained earnings and surplus accounts become negative.

(iv) The instruments must provide the option for the issuer to defer (they may also allow the issuer to reduce or eliminate) cash interest payments if the issuer does not report a profit in the preceding period (defined as combined profits for the most recent four quarters) and/or the issuer eliminates cash dividends on common and preferred stock. This provision is intended to provide the issuer with the option of mitigating the burden associated with interest payments during a period of severe financial stress.

Any debt instrument meeting these broad criteria, so long as the debt instrument does not contain other provisions inconsistent with safe and sound banking practices, would qualify as primary capital. Mandatory convertible securities, as presently defined by the Federal Reserve, would henceforth be included in primary capital only to the extent that such instruments also satisfy the proposed criteria set forth above. Thus, mandatory convertible instruments that provide for conversion to equity and deferment of interest in accordance with the criteria specified above would qualify as primary capital. Moreover, mandatory convertible securities issued before the date that the risk-based capital ratio is finally adopted by the Board and that comply with the then existing, but not the new, criteria for inclusion in primary capital would be "grandfathered" as limited primary capital. However, only the amount of such mandatory convertible securities that was included in primary capital under the previous limitations would be grandfathered.

3. Deductions From Primary Capital

The Board's revised proposal, and the U.S./U.K. Agreement on which the proposal is based, calculate adjusted primary capital by first adding base primary capital and limited primary capital, and then deducting all intangible assets (except "grandfathered" intangible assets as discussed below), equity investments in unconsolidated subsidiaries and associated companies, and investments in certain consolidated subsidiaries as discussed below.

All intangible assets, other than those previously approved or permitted by the Board under its current Guidelines, would be deducted from primary capital. Generally, the Board's current guidelines do not deduct any intangibles from bank holding company capital and include all intangibles, except goodwill, in the capital of state member banks. Thus, the specific intangibles that were acquired before the final adoption of the risk-based ratio and that were permitted to be included in bank holding company and state member bank capital under the Board's then existing Guidelines would not be deducted from primary capital. Rather, such intangible assets would be grandfathered for a limited, but as yet unspecified, period of time, such as the assets' useful lives or a shorter period. Intangible assets acquired after the date of final adoption of the risk-based ratio would be deducted from primary capital. It should be noted that specific intangible assets would be grandfathered; existing dollar amounts of intangibles would not be permanently grandfathered. Moreover, while goodwill, along with all other intangibles acquired after the ratio is adopted, would be deducted from primary capital for the purpose of assessing capital adequacy, the Board may on a case-by-case basis exempt from this deduction goodwill and other intangibles acquired in connection with

[2] Perpetual preferred stock is defined as preferred stock that does not have a stated maturity date and may not be redeemed at the option of the holder of the instrument.

[3] Limited-life preferred stock currently is considered to be an element of secondary capital; thus, the U.S./U.K. Agreement represents a change from the Board's current Capital Adequacy Guidelines. The maturity of limited-life preferred stock is defined as the stated maturity date or the earliest point in time at which the instrument can be redeemed at the option of the holder, if the latter comes first.

a supervisory merger with a failing institution.

Because the manner in which intangible assets are grandfathered may have a significant impact on an institution's capital ratios, the Board is seeking public comment on the most appropriate approach for grandfathering intangible assets, including the possible adoption of an approach that would grandfather intangible assets for the lesser of the useful lives of such intangible assets or some other specified period of time, such as ten years, shorter than the useful lives of such intangibles.

While U.S. regulators intend to grandfather existing intangible assets for the purpose of calculating capital ratios, the Federal Reserve will continue to monitor the level and quality of all intangible assets and, as it does now, to consider tangible as well as stated capital ratios in assessing an organization's overall capital adequacy. In this regard, the Board expects banking organizations experiencing substantial growth, internally or through acquisitions, to maintain strong capital positions substantially above minimum supervisory ratios without significant reliance on intangibles, particularly goodwill.

The revised risk-based proposal contemplates deducting equity investments in all unconsolidated subsidiaries and associated companies, including joint ventures,[4] from capital, the numerator, as well as from the denominator of both the proposed risk-based ratio and the existing capital-to-total-assets ratios. The Board believes that because the assets of unconsolidated subsidiaries and associated companies are not fully reflected in a banking organization's consolidated total assets, such assets are the equivalent of off-balance sheet assets. Although such assets are not explicitly taken into account in calculating a banking organization's capital ratio, they nonetheless expose the organization to risk. For this reason, the Board believes that it would be appropriate to view the equity capital invested in these entities as primarily supporting the risks inherent in these off-balance sheet assets, and not generally available to support risks elsewhere in the organization. Thus, the proposal provides for the deduction of the equity capital supporting these activities from an organization's consolidated primary capital. While this treatment suggests that the assets of unconsolidated subsidiaries and joint ventures would not be included in the calculation of an organization's consolidated risk-based capital ratio, the Federal Reserve would continue to evaluate the capital adequacy of these entities and their potential impact on the consolidated organization.

Under this revised proposal and the proposed U.S./U.K. Agreement, the Board will evaluate the activities of other consolidated subsidiaries in order to determine whether to deduct investments in such activities from primary capital and, if so, how such deductions should be made. Such determinations could be made through amendments to the Board's Capital Guidelines (or other regulations) for all subsidiaries engaged in certain activities, or could be made on a case-by-case basis in light of prudential considerations. For example, the Board has already proposed, in connection with its proposed rulemaking concerning bank holding company investments in real estate development activities, that investments in subsidiaries engaged in such real estate development activities would be deducted from capital in determining compliance with capital adequacy guidelines. As has been the case regarding real estate activities, 52 FR 543 (January 7, 1987), the Board would normally seek comment on any proposed regulatory amendment to deduct investments in certain other subsidiaries for the purpose of assessing capital adequacy.

Under the proposed Agreement, the Bank of England would continue its current practice of deducting from capital all interbank holdings of capital, that is, holdings of capital securities issued by other banks. U.S. regulatory agencies have agreed to monitor banking organizations' holdings of capital instruments issued by other commercial banking organizations and may, on a case-by-case basis, require the deduction from primary capital of holdings of primary capital instruments issued by other banking organizations. Such deductions would be made in the case of reciprocal or other formal or informal arrangements in which banking organizations swap primary capital instruments in order to raise their capital ratios without in reality raising new capital funds. Deductions would not be made in the case of legitimate interstate "stake out" investments that comply with the Board's Policy Statement on Nonvoting Equity Investments, 12 CFR 225.143. Moreover, holdings of capital instruments issued by other banking organizations but taken in satisfaction of debts previously contracted would also be exempt from any deduction from primary capital.

Proposed Weights for Assets and Off-Balance Sheet Activities

Although the January 1986 proposal did not contemplate any changes in the manner in which primary capital is defined for purposes of a risk-based ratio, both the January 1986 proposal and this revised proposal provide that primary capital, as determined, be compared with a banking organization's total assets weighted for risk considerations in order to determine a risk-based capital, or risk asset, ratio. Under this revised proposal, each of a banking organization's assets is assigned to one of five risk categories and weighted according to the relative risk of that category. The determination of asset groupings and the assignment of weights primarily reflect credit risk considerations, with some sensitivity to liquidity and interest rate risk.

This revised proposal and the proposed U.S./U.K. Agreement on which it is based contain some significant modifications to the January 1986 proposal, some of which have already been briefly mentioned above. First, a "credit equivalent" approach is used in weighting the risks of off-balance sheet activities. Under this approach, the face amount of an off-balance sheet item is multiplied by a credit conversion factor, and the resulting amount is assigned to the appropriate risk category depending upon the identity of the obligor and, in certain cases, the maturity of the instrument.

Second, the revised proposal explicitly includes commitments to extend credit to consumers within the category of commitments for which a capital requirement is being proposed. As discussed more fully below, such consumer credit lines would be multiplied by a credit conversion factor to reach a credit equivalent amount. That amount would then be included in a bank's asset figure in accordance with the risk categories discussed below. The explicit inclusion of consumer credit lines as commitments represents a change from the Board's January 1986 proposal.

Third, although the revised proposal does not explicitly recognize general forms of collateral or guarantees in calculating asset risk, the proposal recognizes collateral in the form of cash and U.S. Treasury, Government agency and Government-sponsored agency securities, and guarantees by the U.S. Government and Government agencies. (The definitions of Government agencies

[4] The definitions of unconsolidated subsidiaries, associated companies, and joint ventures are contained in the instructions to the Bank Report of Condition and the consolidated Bank Holding Company FR Y-9 Report.

and Government-sponsored agencies are discussed below.) Thus, the proposal includes in the 25 percent risk category claims fully collateralized by cash on deposit in the lending institution or by U.S. Government or Government agency securities, and portions of claims guaranteed by the U.S. Government or U.S. Government agencies. Claims collateralized by U.S. Government-sponsored agency debt are assigned to the 50 percent weight category. The Board's proposal thus recognizes the risk-reducing effects of collateral in the form of U.S. Government securities and cash, but does not explicitly take account of any other form of collateral, guarantees or credit enhancements. However, all forms of collateral and guarantees are considered by examiners in evaluating asset quality and are taken into account in making an overall assessment of capital adequacy.

Fourth, this proposal does not explicitly incorporate transfer risk distinctions among foreign countries in assigning assets and off-balance sheet items to risk categories. The Board's January 1986 proposal placed short-term claims on U.S. banks in a lower risk category than similar claims on foreign banks. The Board's earlier proposal also further distinguished between claims on banks and governments in industrial versus non-industrial countries, based on the IMF and World Bank's list of industrial market economies. This revised proposal treats claims on all banks, foreign and domestic, in an equivalent fashion and places in the standard risk category claims on *all* foreign governments that involve transfer risk.

Although the proposed risk-based capital ratio thus does not take account of transfer risk distinctions among foreign countries, transfer risk will continue to be monitored closely in the examination process, and banks with large exposures to high-risk countries will be required to maintain capital positions above the minimum ratios. Evaluation of transfer risk on an individual basis is consistent with the requirements of section 904 of ILSA, 12 U.S.C. 3903 (a), (b), which provides that federal banking agencies shall establish examination and supervisory procedures to assure that such foreign country exposure and transfer risk are taken into account in evaluating the capital adequacy of banking institutions.

In incorporating explicit distinctions among foreign countries in its January 1986 proposal, the Board had hoped that the use of an appropriate list or simple, objective criteria to account for transfer risk would be more practical than country-by-country evaluations that would require frequent updating and publication. However, the Board removed explicit transfer risk distinctions among foreign countries for several reasons. The list of industrialized countries compiled by the IMF, while perhaps more acceptable than possible alternatives, is not based upon prudential criteria or transfer risk considerations. Moreover, it is difficult to develop simple, objective criteria that effectively distinguish countries with high and low degrees of transfer risk. Finally, the treatment of country risk contained in the Board's January 1986 proposal could be viewed as different from the typical approach used in the risk-based capital measures of other countries, which assign a low risk weight to claims on their own governments or groups of affiliated governments, while assigning claims on all other governments to the equivalent of a standard risk category. Thus, the January 1986 proposal might have conflicted with the Board's stated goal of converging United States capital policies with those of other industrial countries.

While the revised proposal does not incorporate explicit transfer risk distinctions among foreign countries, transfer risk considerations are not totally absent from the proposal. Thus, as described below, local currency claims on foreign central governments are placed in a relatively low (25 percent) risk category *to the extent* the bank has local currency liabilities booked in offices located in the foreign country. The reason for this is that such claims constitute national government obligations that do not involve transfer risk. All foreign government obligations that involve transfer risk (that is, all other claims on foreign governments) are assigned to the standard (100 percent) risk category.

The types of assets and off-balance sheet items in each category and the rationale for assigning certain items to a particular category are discussed below and in the proposed U.S./U.K. Agreement. Generally, unless otherwise specified, short-term assets are defined as claims with a remaining maturity of one year or less; long-term assets are defined as claims with a remaining maturity of more than one year. The following tables provide a summary of major risk-based asset and off-balance sheet items as they pertain to state member banks and bank holding companies, and an illustration of how the proposed risk-based capital ratio would be calculated.

Table 1

Summary of Risk Weights and Major Risk Categories for State Member Banks and Bank Holding Companies

0 percent

Cash—domestic and foreign
Claims on Federal Reserve Banks

10 percent

Short-term (one year or less) claims on U.S. Government and its Agencies

25 percent

Cash items in process of collection
Short-term claims on domestic depository institutions and foreign banks, including foreign central banks
Long-term claims on U.S. Government and its Agencies
Claims (including repurchase agreements) collateralized by cash or U.S. Government or Agency debt
Claims guaranteed by the U.S. Government or its Agencies
Local currency claims on foreign central governments to the extent that bank has local currency liabilities
Federal Reserve Bank stock

50 percent

Claims on U.S. Government-sponsored Agencies
Claims (including repurchase agreements) collateralized by U.S. Government-sponsored Agency debt
General obligation claims on states, counties and municipalities
Claims on multinational development institutions in which U.S. is a shareholder or contributing member

100 percent

All other assets not specified above, including:
Claims on private entities and individuals
Long-term claims on domestic and foreign banks
All other claims on foreign governments and private obligors

Table 2

Summary of Off-Balance Sheet Items and Conversion Factors for State Member Banks and Bank Holding Companies

Direct credit substitutes (financial guarantees and standby letters of credit serving the same purpose)—100 percent credit conversion factor.

Trade-related contingencies (commercial letters of credit, bid and performance bonds and performance standby letters of credit)—50 percent credit conversion factor.

Sale and repurchase agreements and asset sales with recourse, if not already included on the balance sheet—100 percent credit conversion factor.

Other commitments, including overdraft facilities, revolving underwriting facilities (RUFs/NIFs), underwriting commitments, commercial and consumer credit lines. The credit conversion factors are:

10 percent—one year and less original maturity[1]

25 percent—over one to five years original maturity

50 percent—over five years original maturity

Credit Conversion Factor To Be Determined

Interest rate swaps and other interest rate contracts.

Foreign exchange rate contracts.

Table 3

The following table illustrates the calculation of the risk-based capital ratio, as proposed in the U.S./U.K. Agreement. This example assumes a banking organization with $100,000 in total assets, $50,000 in certain off-balance sheet credit equivalent amounts, and $7,000 in adjusted primary capital as defined by the proposal.

Risk category	On-balance sheet and credit equivalent amounts		Risk weight		Weighted risk assets and off-balance sheet items
0 Percent	$5,000	×	0		0
10 Percent	10,000	×	0.10		$1,000
25 Percent	30,000	×	0.25		7,500
50 Percent	20,000	×	0.50		10,000
100 Percent	85,000	×	1.00		85,000
Total (including $100,000 in total assets and $50,000 in credit equivalent off-balance sheet items, as derived in the example below)	150,000				103,500
Adjusted primary capital	7,000				
Risk-based capital ratio (as proposed)	7,000	=	6.8%		
	103,500				

The following table illustrates the calculation of the "credit equivalent" value of selected off-balance sheet items by multiplying the principal amount by the appropriate "credit conversion factor." Each credit equivalent value would subsequently be assigned to one of the five risk categories (in the table above) depending on the identity of the obligor.

Off-balance sheet item	Principal amount		Credit conversion factor		On-balance sheet credit equivalent amount
Standby letter of credit (financial guarantee)	$40,000	×	1.00	=	$40,000
Commitment with original maturity of three years	20,000	×	0.25	=	5,000
Commercial letter of credit	10,000	×	0.50	=	5,000
Total	70,000				50,000

a. Category I: Zero Weight

For U.S. banking organizations, this category includes vault cash (domestic and foreign) and balances with and claims on Federal Reserve Banks, excluding Federal Reserve Bank stock.

b. Category II: 10 Percent

This category includes short-term claims on the U.S. Government and U.S. Government agencies, that is, federal agencies whose debt obligations are explicitly guaranteed by the full faith and credit of the U.S. Government. The placement of such claims in a 10 percent category is based on the view that although short-term claims on the U.S. Government bear no credit risk, such claims could involve some interest rate exposure. Moreover, such claims normally are highly liquid.

c. Category III: 25 Percent

This category includes short-term interbank claims and assets that normally have little or no risk of default and a significant degree of liquidity. The specific items included in this category are: Short-term claims (including demand deposits) on domestic depository institutions[5] and all foreign banks[6] (including foreign central banks);[7] cash items in the process of collection, both foreign and domestic; claims (including repurchase agreements) fully collateralized by cash on deposit in the lending institution or U.S. Government or U.S. Government agency debt; portions of loans guaranteed by the U.S. Government or U.S. Government agencies; local currency claims on foreign central governments[8] to the extent that a bank has local currency liabilities booked in that foreign country; and long-term claims on the U.S. Government and U.S. Government agencies.

Several elements of this category differ from those included in the Board's January 1986 proposal. As noted above, treatment of claims on foreign banks differs from the Board's original proposal in that foreign banks are assigned to the same risk category as U.S. banks, and no distinction is made among foreign banks based upon country of origin. The decision to include in this category short-term claims with maturities of one year or less on all banks reflects comments in response to the Board's January 1986 proposal that the inclusion in a low-risk category of only claims with maturities of three months or less would discourage intermediate-term lending and could have a negative impact on interbank funding markets.

The assignment of short-term claims on all banks, foreign and domestic, to the 25 percent category reflects a recognition of the importance of facilitating the smooth and efficient functioning of the interbank funding markets and a desire to avoid discouraging banks from holding liquid interbank claims. This treatment also reflects a recognition of the fact that national governments generally have established supervisory frameworks to promote the stability of their banking systems.

In general, as already indicated, the revised proposal does not explicitly recognize collateral or guarantees. However, the revised proposal includes

[1] Maturity is defined as the stated maturity date or the earliest possible time at which the bank may *unconditionally* cancel the commitment, if the latter comes first.

[5] Domestic (U.S.) depository institutions are defined to include both the U.S. and foreign branches of banks and depository institutions chartered and headquartered in the U.S. The term includes U.S. chartered banks and depository institutions owned by foreigners, but excludes U.S. branches and agencies of foreign banks. In addition to banks, domestic depository institutions include mutual or stock savings banks, savings or building and loan associations, cooperative banks, credit unions, and international banking facilities of domestic banks and depository institutions.

[6] Foreign banks are defined as organizations that are organized under laws of a foreign country; engage in the business of banking; are recognized as banks by the bank supervisory or monetary authorities of the country of their organization or principal banking operations; receive deposits to a substantial extent in the regular course of business; *and* have the power to accept demand deposits. Claims on foreign banks are defined to include claims on the U.S. branches and agencies of the foreign banks.

[7] Short-term claims are included in this category regardless of the form of the instrument, that is, this category includes federal funds sold, certificates of deposit, Eurocurrency placements, repurchase agreements, and bankers acceptances for which the account party is a domestic depository institution or a foreign bank.

[8] Foreign governments are defined to include the central government and its ministries, departments, and agencies; they do not include state, provincial or local governments in foreign countries or government-owned enterprises. In addition, claims on foreign governments do not include claims on non-governmental entities guaranteed by foreign governments.

in Category III claims fully collateralized by cash on deposit in the lending institution or by U.S. Government or Government agency securities, and portions of claims guaranteed by the U.S. Government or U.S. Government agencies. As noted below, claims on U.S. Government-sponsored agencies (as defined below), and claims collateralized by U.S. Government-sponsored agency debt, are assigned to the 50 percent category. The Board's revised proposal thus recognizes the risk-reducing effects of collateral in the form of U.S. Government securities and cash.

The framework does not explicitly take account of any other form of collateral, guarantees or so-called credit enhancements. Thus, collateral in the form of foreign government debt, bank securities, or domestic local government debt, or guarantees issued by foreign or domestic local governments or banks, do not affect the assignment of claims to risk categories. In addition, the risk-based proposal does not explicitly recognize guarantees in the form of the sale of risk participations in bankers acceptances or standby letters of credit, or credit enhancements in the form of standby letters of credit backing outstanding loans or investments. This latter treatment differs to some degree from the Board's January 1986 proposal which recognized explicitly the sale of risk participations in bankers acceptances. The main reasons for this change were to bring the proposed treatment of these particular items into line with the proposal's general approach to guarantees and to coordinate the Federal Reserve's proposal with the views of the other regulatory authorities.

The regulatory authorities do not wish to discourage legitimate arrangements designed to reduce credit exposure. Thus, collateral and guarantees are currently and will continue to be considered by examiners in evaluating asset quality and are taken into account, along with other relevant factors, in making an overall assessment of capital adequacy. The presence of guarantees and collateral, if prudently administered and controlled, may mean that an organization can operate with lower levels of capital (although still at or above the minimums) than would otherwise be required if the organization had not taken steps to limit its credit exposure.

Nonetheless, there are several reasons for this very limited recognition of collateral and guarantees. First, recognition of collateral more broadly would significantly complicate the ratio and could greatly expand any reporting requirements established to monitor the risk-based measure. Second, the existence of collateral may not always preclude losses since legal or operational problems could arise affecting a bank's control over or access to underlying collateral. Third, guarantees are only as good as the strength of the guarantor; thus, explicit recognition of guarantees beyond what is contained in the proposal would suggest the need to make individual credit judgments on guarantors, judgments that would appear to be better left to the on-site examination. Finally, guarantees vary in content, and may contain clauses or conditions that could limit the protection provided to the lender under certain circumstances. All of these factors suggest that the effect of collateral and guarantees on bank exposure are more appropriately evaluated in the course of the on-site supervisory examination.

The Board's January 1986 proposal assigned trading account assets to the 30 percent risk category. The revised proposal does not incorporate this approach; rather, all assets, including trading account assets, are assigned directly to the appropriate risk category depending upon the identity of the obligor and, if applicable, the maturity of the instrument. Many of the assets currently in bank trading accounts, such as U.S. Government and agency securities, short-term obligations of banks, and general obligation municipal securities are assigned weights of 25 or 50 percent, well below the 100 percent weight that is implicit in the Board's existing capital-to-total assets guidelines. Nonetheless, the Board recognizes that as banking organizations become involved in trading a wider range of non-government securities, it may be desirable to recognize explicitly the different risks inherent in trading account assets that are readily marketable and marked to market on a frequent basis. Thus, the Board seeks comment on how the risks associated with trading account assets might be assessed and how such assets might be treated in a risk-based capital framework.

The inclusion in Category III of local currency claims on foreign central governments *to the extent* a bank has local currency liabilities booked in that foreign country recognizes that such claims are debt obligations of national governments that do not involve transfer risk. All other claims on foreign governments are assigned to the 100 percent category.

The proposed U.S./U.K. Agreement assigns short-term domestic central government securities to the 10 percent category and long-term central government securities to the 25 percent category. This maturity break is intended to recognize an element of interest rate risk in long-term government securities, as well as the liquidity inherent in short-term securities, pending the development of a more direct and comprehensive approach to assessing overall interest rate risk. Nonetheless, it has been argued that since domestic central government securities bear no credit risk, both short- and long-term securities should be assigned to the same risk category, perhaps the 0 or 10 percent category. While the risk-based capital ratio is intended to focus primarily on credit risk, the 0 percent category seems inappropriate in view of the fact that even a government securities portfolio involves some operational and interest rate risks. On the other hand, placing long-term Government securities in the 10 percent category could understate the potential for interest rate exposure. Thus, in the absence of a more comprehensive measure of interest rate risk, the Board is proposing to incorporate the maturity break for U.S. Government securities as set forth in the proposed U.S./U.K. Agreement. The Board recognizes the importance of a consistent approach to interest rate risk and seeks public comment on this issue.

d. Category IV: 50 Percent

This category includes assets that have more credit risk than the assets categorized above, but generally less credit risk than the standard commercial bank loan portfolio. This category includes claims on U.S. Government-sponsored agencies, that is, agencies originally established or chartered by the federal government to serve public purposes specified by the U.S. Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the U.S. Government. It also includes claims fully collateralized by U.S. Government-sponsored agency debt and direct claims on multinational development banks in which the U.S. government is a shareholder or contributing member. The latter would include, among other institutions, the World Bank and the Inter-American Development Bank. Category IV also includes general obligation claims on domestic state and local governments.

If a claim is secured by two forms of collateral that are recognized explicitly in the proposal but placed in different risk categories, such as U.S. Government

debt and U.S. Government-sponsored agency debt, the claim would be assigned to the higher of the two risk categories, provided that the claim is fully collateralized. Any claim that is not fully secured, based upon current market value, would be placed in the risk category appropriate for an unsecured claim to the obligor.

e. Category V (Standard Risk): 100 Percent

All assets not included in the categories above are assigned to this category. If it appears that a claim could be assigned to more than one category, for example, a long-term claim on a bank (100 percent) secured by U.S. Government debt (25 percent), the claim should be assigned to the lower of the two risk categories.

The bulk of the assets typically found in a loan portfolio would be assigned to the 100 percent category. Such assets include: long-term claims on domestic depository institutions and foreign banks; all other claims on foreign central governments (including local currency claims on foreign central governments that exceed local currency liabilities in that foreign country), that is, claims on foreign governments that entail transfer risk; and all other assets including commercial and industrial loans and lease financing receivables, residential real estate and consumer loans, corporate securities and commercial paper, all other claims on foreign private obligors, and investments in fixed assets and premises. This category also includes loans to nondepository financial institutions, such as insurance companies, mortgage companies, and finance companies, as well as loans to depository and nondepository financial institution holding companies, including bank holding companies. This category also includes domestic tax-exempt state and local government revenue and industrial development bonds.

f. Off-Balance Sheet Items

As noted above, the Board's January 1986 proposal assigned both assets and certain off-balance sheet items directly to an appropriate risk category. By contrast, this proposal follows the treatment outlined in the proposed U.S./U.K. Agreement, that is, a two-step credit equivalent approach to determining off-balance sheet risk. The face amount of an off-balance sheet item is multiplied by a credit conversion factor (see Table 2 above) and the resulting amount is assigned to the appropriate risk category depending upon the identity of the obligor and, in certain cases, on the maturity of the instrument.[9] The Board believes that the proposed credit equivalent approach provides supervisors greater flexibility for factoring new off-balance sheet instruments into a risk-based capital calculation.

The proposed U.S./U.K. Agreement applies a 100 percent conversion factor to direct credit substitutes, defined to include financial guarantees and standby letters of credit backing outstanding financial claims of the account party. These direct credit substitutes would include standby letters of credit, or other equivalent irrevocable obligations or surety arrangements, that "back" or guarantee repayment of commercial paper, tax-exempt securities, or other commercial or individual loans or debt obligations. In addition, sale and repurchase agreements and asset sales with recourse (to the extent not already included on a financial institution's balance sheet) are converted at 100 percent of their face amount.[10]

Conversion of these items at the 100 percent level reflects the view that the credit risk associated with these items is broadly equivalent to the risks associated with on-balance sheet items. By issuing such instruments, a bank has the same credit risk with respect to a customer that it would have if it made a direct extension of credit to the customer. This treatment of standby letters of credit is also consistent with the fact that such exposures are generally covered by statutory limits on loans to a single borrower, warrant the same credit review and approval process as traditional loans, and are treated and analyzed like loans by bank examiners and supervisors.

The Agreement proposes that trade-related contingencies be converted at 50 percent. Such trade-related contingencies include commercial letters of credit and performance standby letters of credit. The latter includes obligations backing the performance of nonfinancial or commercial contracts or undertakings. To the extent permitted by law or regulation, performance standby letters of credit would include arrangements backing, among other things, subcontractors' and suppliers' performance, labor and materials contracts, and construction bids. The conversion of trade-related contingencies at the 50 percent level is based on the view that the counterparty involved in such contingencies has a strong incentive to meet its obligations if it wishes to continue to conduct its day-to-day commercial business. Moreover, such trade-related contingent obligations are often short-term, and banks have maintained that their loss record on these instruments is favorable.

The credit conversion factors proposed for other commitments, including overdraft facilities, revolving credit facilities, note issuance facilities, and commercial and consumer commitments, are tied to the *original* maturity of the commitment. Maturity in this regard is defined by the earliest possible point in time that the bank can, at its option, *unconditionally* cancel its commitment to a borrower. As is apparent from the above discussion, maturity is generally not a factor in assigning loans to risk categories because once a direct loan has been made the funds are disbursed to the borrower, the bank is fully exposed on the entire amount of the loan, and deterioration of a loan with a short stated maturity can, nonetheless, result in a long-term exposure for the lender. However, with respect to a loan commitment, the longer the term of the commitment the greater the risk since there is a greater likelihood the borrower's financial circumstances or condition may change during the period the commitment is outstanding. Thus, under the proposal, commitments with an original maturity of one year or less would be converted at 10 percent; those with an original maturity of over one year and up to and including five years would be converted at 25 percent; and those with an original maturity of more than five years would be converted at 50 percent.

The Board's January 1986 proposal aggregated commitments and assigned them directly to the 30 percent asset risk category. Thus, the U.S./U.K. proposal places a lower weight on short- and intermediate-term commitments and a higher weight on long-term commitments than incorporated in the Board's January 1986 proposal. In addition, the Board's January 1986 proposal did not explicitly include obligations in the form of credit card and consumer commitments, which include home equity lines and mortgage commitments, in the risk categories, as this proposal does. The Board is seeking comment on the proposed definition and treatment of commitments, particularly the inclusion of commitments to consumers in the form of credit card

[9] Credit equivalent amounts of off-balance items that are secured by recognized collateral (that is, cash or debt of the U.S. Government, Government agencies or Government-sponsored agencies) are assigned, as with on-balance sheet exposures, to the appropriate risk category based upon the nature of the collateral.

[10] A bank's purchases of risk participations in bankers acceptances are also included and converted at 100 percent and assigned to the appropriate category depending upon the identity of the account party.

lines, home equity lines and mortgage commitments.

Commitments, for risk-based capital purposes, are defined as any arrangements that legally obligate a banking organization to purchase loans or securities, or extend credit in the form of loans or leases, participations in loans and leases, overdraft facilities, revolving credit or underwriting facilities, or similar transactions. Generally, commitments involve a written contract or agreement, or a commitment fee or some other form of consideration. For the purpose of calculating the risk asset ratio, the definition includes, as noted above, commitments that obligate the banking organization to extend credit to consumers or individuals in the form of retail credit cards, check credit and overdraft facilities, home equity and mortgage lines, and other similar arrangements.

Commitments are to be included in the risk asset ratio regardless of whether they contain "material adverse change" clauses or other provisions that are intended to relieve the bank of its funding obligation under certain conditions. However, lending arrangements that are unconditionally cancelable at any time at the option of the bank would not be deemed to be commitments for risk asset purposes, *provided that* the bank, in fact, makes a separate credit decision based upon the borrower's current financial condition before each drawing under the lending facility. Arrangements under which a banking organization agrees to extend credit for a specified period, even if unconditionally cancelable at any time, would constitute commitments for risk-based capital purposes if the bank does *not* make an individual decision based upon the borrower's financial condition at the time each extension of credit or drawing under the lending facility is made. As already noted, the proposed definition is intended to include the unused portion of credit card lines.

Commitments with material adverse change clauses are included because such commitments are nonetheless binding and may involve risk if a bank funds the commitment *before* the customer's condition deteriorates, or before the deterioration is recognized. Moreover, while the Board does not wish to discourage the use of material adverse change clauses, recent court decisions suggest that the presence of a material adverse change clause cannot necessarily be relied on in all cases to relieve a bank of its obligations pursuant to a commitment.

In the case of commitments structured as syndications, the risk asset framework includes only the banking organization's proportional share of such commitments. In addition, only the unused portion of commitments are treated as off-balance sheet items. Amounts that are already drawn and outstanding under a commitment appear on the balance sheet and such amounts, therefore, should not also be included as commitments for purposes of computing the risk asset ratio.

The definition of the maturity of commitments in connection with revolving credit facilities raises a number of questions. Such arrangements typically entail (i) a commitment period during which the borrower has access to a revolving credit facility, and (ii) conversion of the outstanding balance to a term loan at a specified future date. Thus, the maturity of such commitments could be defined in terms of the duration of the revolving credit facility only, or in terms of the combined period of the revolving credit facility and the term loan. The Board seeks public comment on the appropriate manner by which to define the maturity of these types of commitments, as well as on the broader issue of the definition of commitments incorporated in this proposal.

Administration of a Risk-Based Capital Measure

As the current Guidelines emphasize with respect to primary and total capital ratios, the proposed risk-based ratio would be used as a guideline in the assessment of capital adequacy. The Board wishes to emphasize that the introduction of a risk-based capital ratio would in no way lessen the need for supervisors and examiners to make judgments on capital adequacy—judgments which reflect a broad mix of qualitative and quantitative considerations.

The proposed U.S./U.K. Agreement upon which the Board's proposal is based provides that banking authorities will emphasize the risk-based capital ratio. However, the Agreement leaves each banking agency free to use other capital ratios in assessing capital adequacy. In this regard, the Board intends to use the risk-based capital ratio in tandem with current capital-to-total-assets ratios. This means that individual banking organizations would still be subject to an overall constraint on total leverage (although the revised definition of capital proposed in the risk-based capital measure would apply to the leverage ratios as well as to the risk-based capital ratio), with the proposed risk-based capital ratio used as an additional guideline designed to encourage banking organizations to make appropriate adjustments in either the risk composition of their portfolios or their overall level of primary capital.

Under the tandem operation of the risk-based capital and capital-to-total assets (leverage) ratios, banking organizations in strong financial condition and with risk-based capital ratios well above the risk-based minimum might be allowed to reduce their ratios of primary and total capital to total assets (that is, increase their leverage) closer to the existing 5.5 percent and 6.0 percent supervisory minimums. This would be permitted only to the extent that such banking organizations did not face significant risks, such as excessive loan concentrations or problem loans, significant interest rate exposure, or other financial, managerial or operational deficiencies, and only to the extent that reductions in ratios of capital to total assets were carried out in a manner consistent with sound banking practices. Normally, as long as the total leverage constraints are in place, banking organizations would not be permitted to reduce their capital-to-total assets ratios below the supervisory minimums.

The use of the risk-based capital ratio in tandem with existing supervisory guidelines would not result in inconsistent supervisory treatment since most banking organizations have capital-to-total assets ratios above the current supervisory minimums. Thus, the proposed risk-based capital ratio and current supervisory guidelines will complement each other by providing a framework for evaluating capital in relation to risk as well as overall leverage. As experience is gained in the application of the risk-based ratio, the Board may consider whether the existing capital-to-total assets ratios should be reduced, phased out or eliminated. In this regard, the Board seeks public comment on whether, in the long run, some form of total leverage constraint should be retained and what factors should be considered in making this determination.

As is the case under the Board's current Guidelines, this proposal envisions that risk-based capital ratios would be calculated for all state member banks and bank holding companies on a consolidated basis (bank holding companies with less than $150 million in consolidated assets would be exempt under the same terms and conditions as provided in the current Guidelines.) The risk asset framework would be employed to evaluate the capital of all banking organizations regardless of size since the rationale for relating capital needs

to risk applies to both large and small institutions.

The proposed U.S./U.K. Agreement indicates the intention to establish a minimum ratio of adjusted primary capital to total assets weighted for risk for U.S. and U.K. banking organizations. However, as stated in the proposed Agreement, most banking institutions would generally be expected to operate above the minimum risk-based capital level. Supervisors would be able to establish risk-based capital ratios or guidelines above the minimum standard for individual banking institutions. In addition, the Board is requesting comment on whether it should adopt zones or benchmarks above the minimum acceptable risk-based capital ratio. Such zones or benchmarks would be used to designate risk-based capital ratios that would be considered adequate, barring other significant financial, managerial, supervisory or operating problems. If risk-based ratio zones were to be established, such zones would replace the zones in the Board's current Guidelines for total capital to total assets in order to avoid confusion and excessive complexity.

The proposed U.S./U.K. Agreement does not specify at this time the actual minimum risk-based ratio, nor is the Board proposing at this time any specific benchmarks or zones above the minimum. Instead, it would appear to be more appropriate to encourage respondents to focus on the underlying policy considerations and the proposed definitions and framework of this proposal, rather than on where the minimum risk-based capital level should be set.

Banking organizations will be able to comply with the risk-based capital measure in several ways, some of which do not require raising new external capital. For example, an organization can moderate its growth and/or increase its earnings retention. More importantly, however, within a risk-sensitive capital framework, an organization can raise its capital ratio by reducing its risk profile. This could be done by reducing off-balance sheet risk or by placing proportionately greater emphasis on those balance sheet activities that carry lower risk weights. If an individual banking organization is required to raise additional capital in order to comply with the risk-based capital guidelines, the organization would be asked to submit a plan, acceptable to the Federal Reserve, that includes a program for achieving compliance with the required ratios within a reasonable period of time.

Issues for Further Consideration

Since the issuance of the Board's supplemental adjusted capital proposal in January 1986, the Board has received public comment on the proposal and the concept of a risk-based capital measure in general. The Federal Reserve staff has worked with the staffs of the FDIC and OCC to maintain uniform capital standards for all federally supervised banking organizations in the United States. In addition, the staffs of the Federal Reserve, FDIC and OCC have coordinated with the staff of the Bank of England to develop the agreement that provides the basis for this revised proposal. Nevertheless, significant questions remain and the Board is seeking comments in the specific areas described below.

1. The proposed U.S./U.K. Agreement, upon which the Board's proposal is based, provides that banking authorities will emphasize the risk-based capital ratio. However, the Agreement leaves each banking agency free to use other capital ratios in assessing capital adequacy. In this regard, the Board intends to use the risk-based capital ratio in tandem with current capital ratios. The Board seeks comment on whether the risk-based capital ratio should eventually replace the existing capital-to-total assets ratios. Stated differently, should some form of total leverage constraint be retained? What factors should be considered in making this determination? In addition, should the proposed redefinition of primary capital apply, as is now proposed, to the Board's current capital Guidelines as well as to a risk-based capital measure, or should the proposed redefinition apply only to the proposed risk-based capital measure?

2. The proposed U.S./U.K. Agreement states that the regulatory authorities intend to establish a minimum level of primary capital to weighted risk assets, although most institutions will be expected to operate above the minimum. Should the Board supplement the proposed minimum risk-based capital ratio with the use of zones above the minimum acceptable ratio—similar to but replacing the zones currently incorporated in the Board's existing Capital Guidelines—for the purpose of measuring appropriate or adequate levels of risk-based capital?

3. While the proposed U.S./U.K. Agreement focuses on primary capital, it indicates that the regulatory authorities will consider other measures of capital adequacy. In addition to the Board's proposed ratio of primary capital to weighted risk assets, should the Board establish a minimum ratio of *total* capital (defined as primary capital plus secondary capital) to weighted risk assets for U.S. banking organizations?

4. The U.S./U.K. Agreement proposes capital requirements for commitments, including commitments to extend credit to consumers in the form of credit card lines, home equity lines, mortgage commitments, and overdraft facilities. How should commitments be defined for risk-based capital purposes? Should the Board consider commitments to consumers to be different, in terms of risk exposure, from commitments to commercial borrowers? What is the most appropriate way to treat commitments to consumers in light of the supervisory objective of relating capital to risks assumed by banks?

5. Adoption of the proposed U.S./U.K. Agreement would modify the criteria for including certain non-common equity instruments in primary capital. Are the criteria for defining limited forms of primary capital and the limitations that apply to these instruments reasonable? Are the criteria consistent with the concepts of loss absorption capacity and permanence, two major characteristics that determine the quality of capital instruments? How will such criteria affect the ability of organizations to raise primary capital in the form of preferred stock and perpetual debt? What is the most appropriate way to discount limited-life preferred stock with an original maturity of 25 years or more for prudential purposes as it approaches maturity?

6. The proposed U.S./U.K. Agreement defines primary capital to include general reserves for losses resulting from charges to earnings (that is, the valuation reserve for losses on loans and leases). The proposal also states, however, that specific reserves for identified losses should not be included in primary capital since such reserves are not generally available to absorb estimated, but unidentified, losses. Given the practical difficulty of distinguishing between specific and general reserves, the proposed Agreement provides that the banking agencies will seek comment on whether loan loss reserves should be phased out of primary capital.

Valuation reserves have historically been included in U.S. bank capital because they are deemed to be available to absorb estimated or anticipated (but not identified) losses inherent in the loan portfolio. However, it could be argued that such reserves should be excluded from primary capital to the extent that such reserves actually reflect known or identified losses, or to the extent that banks are reluctant to charge

off loans because such action would reduce their primary capital ratios. This argument reflects the view that the capital base exists to absorb unidentified losses and should not be inflated by the presence of a high volume of known or identified problem loans.

7. The proposed Agreement provides that intangible assets be deducted from primary capital for the purposes of calculating the risk-based capital ratio, but proposes to grandfather intangibles acquired before the final adoption of the risk-based capital framework. Two approaches to grandfathering are possible: (1) Intangibles could be grandfathered for their useful lives; or (2) they could be grandfathered for a specific period, such as 10 years, if such a period is shorter than the useful life. By what method should the Board grandfather intangible assets for purposes of deducting intangible assets from capital in calculating supervisory capital ratios?

8. Should the Board revise the definition of adjusted primary capital for the purpose of calculating daylight overdraft limits to be consistent with the definition of capital proposed by the U.S./U.K. Agreement?

9. Should risk-based capital ratios be calculated from period-end or average data?

10. As discussed above, should the risks associated with trading account assets be incorporated explicitly into the risk-based capital ratio, and, if so, how might this be done? What would be the rationale in terms of risk exposure for assigning trading account assets a different weight than the weight assigned to the same assets held for investment purposes? If assets held in trading accounts are to be given a different weight than if they are held as investments, how should trading account assets be specifically defined and delimited to distinguish them from assets held for investment purposes?

11. The Board's proposal incorporates a maturity break for U.S. Government securities as a proxy for dealing with an element of interest rate exposure. However, the U.S./U.K. Agreement acknowledges that interest rate risk is best dealt with in a more comprehensive fashion. What alternatives exist for addressing interest rate risk in a more comprehensive manner within the risk asset framework?

Regulatory Flexibility Act Analysis

The Board does not believe that adoption of this proposal would have a significant economic impact on a substantial number of small business entities, in this case small bank holding companies and state member banks, within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). While all state member banks would presumably be required to revise their reporting procedures to permit supervisory monitoring of risk-based capital ratios, the major aspects of this proposal would generally apply only to bank holding companies with assets of $150 million or more.

In addition, this proposal is designed primarily to take account of those practices, such as the increased use of off-balance sheet risk and the decline in the holdings of low-risk, liquid assets, which have been engaged in primarily by certain larger banking organizations. Moreover, rather than requiring all banking organizations to raise additional capital, this proposal is directed at institutions whose capital positions are less than fully adequate in relation to their risk profiles. While some additional reporting requirements would be imposed by this proposal, the Board will attempt to minimize the additional requirements, to use existing forms and collected data where possible, and to eliminate or reduce existing reporting requirements to offset to the extent possible any additional reporting burden.

List of Subjects in 12 CFR Part 225

Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting requirements, State member banks.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

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, 3909.

2. The Board proposes to revise Appendix A to 12 CFR Part 225 as follows:

Appendix A—Capital Adequacy Guidelines for Bank Holding Companies and State Member Banks

The Board of Governors of the Federal Reserve System has adopted minimum capital ratios and guidelines to provide a framework for assessing the adequacy of the capital of bank holding companies and state member banks (collectively "banking organizations"). The guidelines generally apply to all state member banks and bank holding companies regardless of size and are to be used in the examination and supervisory process as well as in the analysis of applications acted upon by the Federal Reserve. The Board of Governors will review the guidelines from time to time for possible adjustments commensurate with changes in the economy, financial markets, and banking practices.

The guidelines include a ratio that relates adjusted primary capital to assets and certain off-balance sheet items weighted for risk considerations (risk-based capital ratio) and ratios that relate adjusted primary capital and total capital to total assets. The definitions of adjusted primary capital and total capital and the procedures for calculating the risk-based capital ratio and the adjusted primary and total capital-to-total assets ratios (primary capital and total capital ratios) are set forth in the definitional sections of these guidelines.

I. Appropriate Capital Levels

The Board has established minimum levels of capital for bank holding companies and state member banks, including a minimum risk-based capital ratio of — percent, a minimum primary capital ratio of 5.5 percent and a minimum total capital ratio of 6.0 percent. Since no capital ratio takes account of all risk factors, banking organizations are generally expected to operate above these minimum capital levels and maintain capital positions that are consistent with the organizations' overall risk exposure.

In addition, the Board has established the following three zones for total capital for banking organizations of all sizes:

	Total capital ratio (percent)
Zone 1	Above 7.0
Zone 2	6.0 to 7.0
Zone 3	Below 6.0

The capital guidelines apply to both banks and bank holding companies on a consolidated basis.[1] Some banking organizations are engaged in significant nonbanking activities that typically require capital ratios higher than those of commercial banks alone. The Board believes that, as a matter of both safety and soundness and competitive equity, the degree of leverage common in banking should not automatically extend to nonbanking activities. Thus, nonbank subsidiaries of a banking organization should maintain levels of capital consistent with the levels that have been established by industry norms or standards, by Federal or state regulatory agencies for similar firms that are not affiliated with banking organizations, or that may be established by the Board after taking into account risk factors of a particular industry. The assessment of an organization's

[1]The guidelines will apply to bank holding companies with less than $150 million in consolidated assets on a bank-only basis unless (1) the holding company or any nonbank subsidiary is engaged directly or indirectly in any nonbank activity involving significant leverage or (2) the holding company or any nonbank subsidiary has outstanding significant debt held by the general public. Debt held by the general public is defined to mean debt held by parties other than financial institutions, officers, directors, and principal shareholders of the banking organization or their related interests.

consolidated capital adequacy must take into account the amount and nature of all nonbank activities, and an institution's consolidated capital position should at least equal the sum of the capital requirements of the organization's bank and nonbank subsidiaries as well as those of the parent company.

II. Supervisory Action

The nature and intensity of supervisory action will be determined by an organization's compliance with minimum supervisory ratios and its overall financial condition. Banks and bank holding companies with risk-based capital ratios below the — percent minimum or primary capital ratios below the 5.5 percent minimum will be considered undercapitalized unless they can demonstrate clear extenuating circumstances. Such banking organizations will be required to submit an acceptable plan for achieving compliance with the capital guidelines and will be subject to denial of applications and appropriate supervisory enforcement actions.

An organization's compliance with minimum risk-based and primary capital ratios and the zone in which the organization's total capital ratio falls will normally trigger the following supervisory responses, subject to qualitative analysis:

For institutions operating in Zone 1, the Federal Reserve will:

—Consider that capital is generally adequate if the risk-based and primary capital ratios are acceptable to the Federal Reserve and are above the supervisory minimums.

For institutions operating in Zone 2, the Federal Reserve will:

—Pay particular attention to the risk-based capital ratio and to financial factors, such as asset quality, asset concentrations, liquidity, and interest rate risk, as they relate to the adequacy of capital. If these areas are deficient and the Federal Reserve concludes capital is not fully adequate, the Federal Reserve will intensify its monitoring and take appropriate supervisory action.

For institutions operating in Zone 3, the Federal Reserve will:

—Consider that the institution is undercapitalized, absent clear extenuating circumstances;

—Require the institution to submit a comprehensive capital plan, acceptable to the Federal Reserve, that includes a program for achieving compliance with the required minimum ratios within a reasonable time period; and

—Institute appropriate supervisory and/or administrative enforcement action, which may include the issuance of a capital directive or denial of applications, unless a capital plan acceptable to the Federal Reserve has been adopted by the institution.

Institutions with risk-based capital ratios below the minimum supervisory ratio will also be subject to these Zone 3 enforcement actions, even though their primary and total capital ratios comply with supervisory minimums.

While the risk-based capital ratio establishes a general framework for assessing the capital of an individual banking organization in relation to risks, the ratio measures only certain types of risk in a general and relatively broad manner. The Board will make judgments on capital adequacy in individual cases, judgments which reflect a broad mix of qualitative and quantitative considerations that may not be contained in the ratio. The Board will consider, among other things, the quality, trend and variability of earnings; liquidity and the structure of liabilities; vulnerability to interest rate changes; the quality of management, internal systems and controls, and operating procedures; the effectiveness of loan and investment policies; and the quality of loans and investments. Asset quality considerations are especially critical in the assessment of capital adequacy. These include the risk composition and profile of the loan portfolio, credit and sovereign risk concentrations, and the level and severity of examiner classified and criticized assets. The Board will assess capital adequacy by (1) calculating and assessing the risk-based capital ratio, together with the primary and total capital ratios, (2) evaluating all other risk factors and, in particular, (3) taking into account the *level* and *severity* of classified assets.

The Board has determined that it will deduct all intangible assets from primary capital for the purpose of determining compliance with minimum supervisory capital guidelines, except that intangibles included in capital prior to the adoption of these risk-based guidelines will continue to be treated as primary capital to the degree and in the amount that the Board included such intangibles in primary capital previously under its guidelines. While the Board has "grandfathered" intangibles acquired prior to the adoption of these risk-based capital guidelines, the Federal Reserve will continue to monitor the level and quality of all intangible assets and may consider tangible as well as stated capital ratios in assessing an organization's capital adequacy. Banking organizations experiencing substantial growth, either internally or through acquisitions, should maintain strong capital positions above minimum supervisory ratios without significant reliance on intangibles, particularly goodwill.

III. Definition of capital to be used in determining capital adequacy of bank holding companies and State member banks

A. Primary Capital Components

Primary capital consists of two classes of capital funds: "Base primary capital," that is, capital funds treated as primary capital without limit, and "limited primary capital," that is, primary capital funds that are limited to a specified percentage of base primary capital. The types of capital that would be considered to be base primary capital and limited primary capital are discussed below.

1. *Base primary capital: Capital funds that are treated as primary capital without a percentage limitation.* The components of base primary capital are:

—Common stock,

—Surplus (relating to common stock),

—Undivided profits or retained earnings,

—Allowance for possible loan and lease losses (exclusive of reserves allocated for identified losses, such as transfer risk reserves), and

—Minority interest in the equity accounts of consolidated subsidiaries.

2. *Limited Primary Capital: Capital funds that are treated as primary capital subject to a percentage limitation (set forth below).* The components of limited primary capital are:

—Perpetual preferred stock[2] and limited-life preferred stock with an original maturity of at least 25 years,[3]

—Debt that is unsecured and subordinated (in the case of a bank) to deposits, that may only be converted into or redeemed by equity or equity equivalents, and that meets the additional criteria set forth below for inclusion in primary capital, and

—Mandatory convertible securities that were issued before the risk-based capital ratio was adopted by the Board and that meet the "grandfather" conditions set forth below.

Limited primary capital is considered to be primary capital to the extent that on a combined basis it does not exceed 50 percent of the amount that results from subtracting from base primary capital *all* intangible assets, including those intangible assets that are otherwise considered "grandfathered" intangible assets as discussed below. Existing limited primary capital instruments in excess of this limitation will be "grandfathered" and, therefore, included in primary capital, provided that such limited primary capital instruments were issued prior to the final adoption of the risk-based capital ratio and only to the extent that such limited primary capital instruments (1) complied with the Board's definition of primary capital prior to adoption of the risk-based capital ratio and (2) do not exceed the amounts eligible for treatment as primary capital prior to adoption of the risk-based capital ratio. If the grandfathering provision causes the aggregate amount of limited primary capital instruments to exceed the 50 percent limitation, new limited primary capital instruments will not be included as primary capital until the new limited primary capital, together with the grandfathered instruments comply with the limitation on limited primary capital.

3. *Restrictions on treatment of 25-year limited-life preferred stock as primary capital.* Limited-life preferred stock with an original maturity of 25 years or more is to be discounted for the purpose of calculating limited primary capital as it approaches maturity. This discounting process is necessary because as limited-life preferred stock approaches maturity it must either be redeemed or refunded, thereby becoming more like a current liability and less like a component of capital. For capital assessment purposes, the original outstanding balance is to be discounted by 20 percent each year

[2] Perpetual preferred stock is defined as preferred stock that does not have a stated maturity date and may not be redeemed at the option of the holder of the instrument.

[3] The maturity of limited-life preferred stock is defined as the stated maturity date or the earliest point in time at which the instrument can be redeemed at the option of the holder, if the latter comes first.

during the instrument's last five years before maturity. The amount of outstanding limited-life preferred stock that is not included in limited primary capital as a result of this discounting process would be included in secondary capital, provided it meets the general criteria for inclusion in secondary capital.

4. *Criteria for including debt instruments in primary capital.* The Board has established criteria for including debt instruments in primary capital. These criteria are designed to ensure that such debt instruments (a) are permanent; (b) provide strength and loss absorption capacity and, when serious losses occur, permit the organization to continue to operate as a going concern; and (c) provide the issuer with the option, under certain conditions, to defer interest payments during periods of serious financial adversity.

The criteria for state member banks and bank holding companies are:

(i) The instruments must be subordinated to deposits or, if issued by bank holding companies, unsecured.

(ii) The instruments can only be converted into or redeemed with equity or equity equivalents. This means that (a) the instruments cannot provide the holder with any right to demand repayment of principal (even in the event of non-payment of interest), except in the event of bankruptcy, insolvency or reorganization; and (b) the issuer cannot voluntarily redeem the securities without the approval of the Federal Reserve, except that securities may be simultaneously replaced by a like amount of capital instruments that qualify as primary capital.

(iii) The instruments must be available to absorb losses when necessary to allow the organization to continue to operate as a going concern. Thus, the instruments must convert automatically to common or preferred stock that qualifies as primary capital in the event that the issuer's retained earnings and surplus accounts become negative.

(iv) The instruments must provide the option for the issuer to defer (they may also allow the issuer to reduce or eliminate) cash interest payments if the issuer does not report a profit in the preceding period (defined as combined profits for the most recent four quarters) and/or the issuer eliminates cash dividends on common and preferred stock. This provision is intended to provide the issuer with the option of mitigating the burden associated with interest payments during a period of severe financial stress.

Any debt instrument meeting these criteria, so long as the debt instrument does not contain other provisions inconsistent with safe and sound banking practices, would qualify as primary capital. Mandatory convertible securities, formerly defined as capital by the Federal Reserve, are not included in primary capital if issued after the date of adoption of the risk-based capital measure, unless such instruments also satisfy the criteria set forth above. Mandatory convertible instruments that provide for conversion to equity and deferment of interest in accordance with the criteria specified above qualify as primary capital. Moreover, mandatory convertible securities issued before the date that the risk-based capital ratio was adopted by the Board and that qualified for inclusion in primary capital would be "grandfathered" as limited primary capital under the risk-based capital guidelines. However, only the amount of such mandatory convertible securities that were included in primary capital under the previous limitations would be grandfathered.

B. Adjustments to Primary Capital

Adjusted primary capital is calculated by adding base primary capital and limited primary capital, and then deducting all intangible assets (except "grandfathered" intangible assets as discussed below), equity investments in unconsolidated subsidiaries and associated companies, and investments in certain consolidated subsidiaries as discussed below. Amounts deducted from primary capital are also to be excluded from total assets and weighted risk assets in the calculation of capital ratios.

1. *Intangible assets.* In considering the treatment of intangible assets for the purpose of assessing capital adequacy, the Federal Reserve recognizes that the determination of the future benefits and useful lives of intangible assets may involve a degree of uncertainty that is not normally associated with other banking assets. Supervisory concern over intangible assets derives from this uncertainty and from the possibility that, in the event an organization experiences financial difficulties, such assets may not provide the degree of support generally associated with other assets. For this reason, the Federal Reserve intends to deduct all intangible assets from primary capital for the purpose of assessing capital adequacy, except that intangibles acquired before the date of the adoption of the risk-based capital ratio will be "grandfathered" to the extent the intangibles were included in primary capital under previous supervisory guidelines.

Such intangible assets, generally including all intangibles for bank holding companies and intangibles excepting goodwill for state member banks, are grandfathered for a limited period of time, not to exceed the assets' useful lives. Intangible assets acquired after the date of final adoption of the risk-based ratio are to be deducted from primary capital. It should be noted that specific intangible assets are to be grandfathered; existing dollar amounts of intangibles are not grandfathered. Moreover, while goodwill, along with all other intangibles acquired after the ratio is adopted, would be deducted from primary capital for the purpose of assessing capital adequacy, the Board may on a case-by-case basis exempt from this deduction goodwill and other intangibles acquired in connection with a supervisory merger with a failing institution.

2. *Unconsolidated subsidiaries and joint ventures.* Equity investments in all unconsolidated subsidiaries and associated companies, including joint ventures,[4] are to be deducted from primary capital, the numerator, as well as from the denominator of the risk-based ratio and both of the capital-to-total assets ratios. The assets of unconsolidated subsidiaries and associated companies are not fully reflected in a banking organization's consolidated total assets, and such assets, therefore, are the equivalent of off-balance sheet assets. Although such assets are not explicitly taken into account in calculating a banking organization's capital ratio, they nonetheless expose the organization to risk. For this reason, it is appropriate to view the equity capital invested in these entities as primarily supporting the risks inherent in these off-balance sheet assets, and not generally available to support risks elsewhere in the organization. Thus, the equity capital supporting these activities is to be deducted from an organization's consolidated primary capital. The Federal Reserve, however, will continue to evaluate on a case-by-case basis the capital adequacy of these entities and their potential impact on the consolidated organization.

3. *Certain consolidated subsidiaries.* The Board will evaluate the activities of consolidated subsidiaries in order to determine whether such activities present such significant additional risk as to warrant the protection of additional capital or whether the Board should deduct investments in such activities from primary capital. The Board reserves the right to require additional capital protection through amendments to these Guidelines (or other regulations) for all subsidiaries engaged in certain activities, or on a case-by-case basis in light of prudential considerations. The Board may also deduct investments in other consolidated subsidiaries if such a step is warranted in light of the nature of the risks involved or the regulatory framework to which the subsidiaries are subjected. In general, if investments in certain consolidated subsidiaries are deducted from primary capital, their assets will also be excluded in the calculation of capital ratios.

4. *Capital instruments of other banking organizations.* The Federal Reserve will monitor banking organizations' holdings of capital instruments issued by other commercial banking organizations and may, as set forth below, require the deduction from primary capital of holdings of primary capital instruments issued by other banking organizations. Such deductions would generally be made in the case of reciprocal or other formal or informal arrangements in which banking organizations swap primary capital instruments in order to raise their capital ratios without in reality raising new capital funds. Deductions would not be made in the case of legitimate interstate "stake out" investments that comply with the Board's Policy Statement on Nonvoting Equity Investments, 12 CFR 225.143; nor would they be made in the case of capital instruments taken in satisfaction of debts previously contracted.

C. Secondary Capital Components

The components of secondary capital are:

[4] The definitions of unconsolidated subsidiaries, associated companies, and joint ventures are contained in the instructions to the Bank Report of Condition and the consolidated Bank Holding Company FR Y-9 Report.

—Limited-life preferred stock with an original maturity of at least seven years but less than 25 years (including related surplus),

—Portions of 25-year limited-life preferred stock that no longer count as primary capital as a result of the discounting process, and

—Limited primary capital instruments that do not qualify as primary capital because they exceed the percentage limitation (excepting those that are grandfathered),

—Bank subordinated notes and debentures and unsecured long-term debt of the parent company and its nonbank subsidiaries.

The secondary components must meet the following conditions to qualify as capital:

—The instrument must have an original weighted-average maturity of at least seven years.

—The instrument must be unsecured.

—The instrument must clearly state on its face that it is not a deposit and is not insured by a federal agency.

—Bank debt instruments must be subordinated to deposits.

—For banks only, the aggregate amount of secondary capital components qualifying as capital may not exceed 50 percent of the amount of the bank's adjusted primary capital.

As secondary capital components approach maturity, the banking organization must plan to redeem or replace the instruments while maintaining an adequate overall capital position. Thus, the remaining maturity of secondary capital components will be an important consideration in assessing the adequacy of total capital.

D. Restrictions Relating to Capital Components

To qualify as primary or secondary capital, a capital instrument should not contain or be covered by any covenants, terms, or restrictions that are inconsistent with safe and sound banking practices. Examples of such terms are those regarded as unduly interfering with the ability of the bank or holding company to conduct normal banking operations, those interfering with the bank holding company's ability to serve as a source of strength to its subsidiary banks, or those resulting in significantly higher dividends or interest payments in the event of a deterioration in the financial condition of the issuer.

IV. Capital Ratios

The risk-based capital ratio and the ratios of adjusted primary and total capital to total assets are computed as follows:

Risk-based capital ratio:

Adjusted Primary Capital
—divided by—
Risk-weighted assets and off-balance sheet items + Allowance for loan and lease losses (exclusive of reserves for identified losses, such as allocated transfer risk reserves)—Appropriate adjustments

Primary capital ratio:

Adjusted primary capital
—divided by—
Total assets + Allowance for loan and lease losses (exclusive of reserves for identified losses, such as allocated transfer risk reserves)—Appropriate adjustments

Total capital ratio:

Adjusted primary capital + Secondary capital
—divided by—
Total assets + Allowance for loan and lease losses (exclusive of reserves for identified losses, such as allocated transfer risk reserves)—Appropriate adjustments

Generally, average total assets will be used in calculating the ratios of adjusted primary capital and total capital to total assets. All other components of these ratios will be based upon period-end balances. The risk-based capital ratio will be calculated from period-end figures, although the Board is studying whether the ratio should be calculated on the basis of average data.

V. Method of Computing Risk-Weighted Assets and Off-Balance Sheet Items To Be Used In The Risk-Based Capital Ratio

The assets and off-balance sheet items of state member banks and bank holding companies are assigned to one of five categories broadly weighted according to risk. The aggregate dollar value of the assets in each category is multiplied by the weight assigned to that category. The resulting weighted values from each of the five risk categories are added together and this sum is the risk-weighted assets total that, as adjusted, comprises the denominator of the risk-based capital ratio.

Off-balance sheet risks are weighted by a "credit equivalent" approach. The face amount of each type of off-balance sheet item is multiplied by a specific credit conversion factor appropriate to convert the type of off-balance sheet item to an on-balance sheet risk equivalent. The converted value is then placed in the appropriate risk category, depending on the identity of the obligor and, in certain cases, the maturity of the instrument.

The Board has set forth in Table 1 a listing of the risk categories, a summary of the types of assets to be included in each category, and the weight assigned to each category, i.e., 0 percent, 10 percent, 25 percent, 50 percent and 100 percent. A brief explanation of the components of each category follows. Thereafter, in Table 2, the Board has set forth the conversion factors for various types of off-balance sheet items and a description of how various types of off-balance sheet items are converted.

Table 1—Summary of Risk Weights and Major Risk Categories for State Member Banks and Bank Holding Companies

0 percent

Cash—domestic and foreign.
Claims on Federal Reserve Banks.

10 percent

Short-term (one year or less) claims on U.S. Government and its Agencies.

25 percent

Cash items in process of collection.

Short-term claims on domestic depository institutions and foreign banks, including foreign central banks.

Long-term claims on U.S. Government and its Agencies.

Claims (including repurchase agreements) collateralized by cash or U.S. Government or Agency debt.

Claims guaranteed by the U.S. Government or its Agencies.

Local currency claims on foreign central governments to the extent that bank has local currency liabilities.

Federal Reserve Bank stock.

50 percent

Claims on U.S. Government-sponsored Agencies.

Claims (including repurchase agreements) collateralized by U.S. Government-sponsored Agency debt.

General obligation claims on states, counties and municipalities.

Claims on multinational development institutions in which U.S. is a shareholder or contributing member.

100 percent

All other assets not specified above, including:

Claims on private entities and individuals.

Long-term claims on domestic and foreign banks.

All other claims on foreign governments and private obligors.

a. Category I: Zero Weight

This category includes vault cash (domestic and foreign) and balances with and claims on Federal Reserve Banks, excluding Federal Reserve Bank stock.

b. Cateqory II: 10 Percent

This category includes highly liquid claims that bear no credit risk but could involve some interest rate exposure, such as short-term claims (one year or less) on the U.S. Government and U.S. Government agencies, that is, federal agencies whose debt obligations are explicitly guaranteed by the full faith and credit of the U.S. Government.

c. Category III: 25 Percent

This category includes short-term interbank claims and assets that normally have little or no risk of default and a significant degree of liquidity. The specific items included in this category are: short-term claims (including demand deposits) on domestic depository institutions [5]/ and all

[5] Domestic (U.S.) depository institutions include both the U.S. and foreign branches of banks and depository institutions chartered and headquartered in the U.S. The term includes U.S. chartered banks and depository institutions owned by foreigners, but excludes U.S. branches and agencies of foreign banks. In addition to banks, domestic depository institutions include mutual or stock savings banks, savings or building and loan associations, cooperative banks, credit unions, and international banking facilities of domestic banks and depository institutions.

foreign banks [6] (including foreign central banks),[7] cash items in the process of collection, both foreign and domestic; claims (including repurchase agreements) fully collateralized by cash or U.S. Government or U.S. Government agency debt; portions of loans guaranteed by the U.S. Government or U.S. Government agencies; local currency claims on foreign central governments [8] to the extent that a bank has local currency liabilities booked in that foreign country; and long-term claims (over one year) on the U.S. Government and U.S. Government agencies.

d. Category IV: 50 Percent

This category includes assets that have more credit risk than the assets categorized above, but generally less credit risk than the standard commercial bank loan portfolio. This category includes claims on U.S. Government-sponsored agencies, that is, agencies originally established or chartered by the federal government to serve public purposes specified by the U.S. Congress but whose debt obligations are not explicitly guaranteed by the full faith and credit of the U.S. Government. It also includes claims fully collateralized by U.S. Government-sponsored agency debt and direct claims on multinational development banks in which the U.S. government is a shareholder or contributing member. Category IV also includes general obligation claims on domestic state and local governments.

If a claim is secured by two forms of collateral that are recognized explicitly in the proposal but placed in different risk categories, such as U.S. Government debt and U.S. Government-sponsored agency debt, the claim would be assigned to the higher of the two risk categories, provided that the claim is fully collateralized. Any claim that is not fully secured, based upon current market value, would be placed in the risk category appropriate for an unsecured claim to the obligor.

e. Category V (Standard Risk): 100 Percent

All assets not included in the categories above are assigned to this category. If a claim could be assigned to more than one category, for example, a long-term claim on a bank (100 percent) secured by U.S. Government debt (25 percent), the claim should be assigned to the lower of the two risk categories.

The bulk of the assets typically found in a loan portfolio would be assigned to the 100 percent category. Such assets include: Long-term claims (over one year) on domestic depository institutions and foreign banks; all other claims on foreign central governments (including local currency claims on foreign central governments that exceed local currency liabilities in that foreign country), that is, claims on foreign governments that entail some degree of transfer risk; and all other assets, including commercial and industrial loans and lease financing receivables, residential real estate and consumer loans, corporate securities and commercial paper, all other claims on foreign private obligors, and investments in fixed assets and premises. This category also includes loans to nondepository financial institutions, such as insurance companies, mortgage companies, and finance companies, as well as loans to depository and nondepository financial institution holding companies, including bank holding companies. This category also includes domestic tax-exempt state and local government revenue and industrial development bonds.

Table 2—Summary of Off-Balance Sheet Items and Conversion Factors for State Member Banks and Bank Holding Companies

Direct credit substitutes (standby letters of credit that guarantee commercial paper, tax-exempt obligations or any other debt obligation, financial guarantees, and any other equivalent arrangements, including purchases of risk participations)—100 percent credit conversion factor.

Sale and repurchase agreements and asset sales with recourse, if not already included on the balance sheet—100 percent credit conversion factor.

Trade-related contingencies (commercial letters of credit, bid and performance bonds and standby letters of credit that guarantee performance of a commercial contract)—50 percent credit conversion factor.

Other commitments, including overdraft facilities, revolving underwriting and note issuance facilities (RUFs/NIFs), underwriting commitments, and other binding commitments to extend funds to firms or individuals. The credit conversion factors are:

10 percent—one year and less original maturity[9]

25 percent—over one to five years original maturity

50 percent—over five years original maturity.

Off-balance sheet items whose conversion factors are not being established at this time:

Interest rate swaps and other interest rate contracts

Foreign exchange rate contracts.

The face amount of an off-balance sheet item is multiplied by a credit conversion factor (see Table 2 above) and the resulting amount is assigned to the appropriate risk category depending upon the identity of the obligor and, in certain cases, on the maturity of the instrument.[10]

A 100 percent conversion factor applies to direct credit substitutes, including financial guarantees and standby letters of credit backing outstanding financial claims of the account party. These direct credit substitutes would include standby letters of credit, or other equivalent irrevocable obligations or surety arrangements, that "back" or guarantee repayment of commercial paper, tax-exempt securities, or other commercial or individual loans or debt obligations. In addition, sale and repurchase agreements and asset sales with recourse (to the extent not already included on a financial institution's balance sheet) are converted at 100 percent of their face amount.[11]

Trade-related contingencies are to be converted at 50 percent. Such trade-related contingencies include commercial letters of credit and performance standby letters of credit. The latter includes obligations backing the performance of nonfinancial or commercial contracts or undertakings. To the extent permitted by law or regulation, performance standby letters of credit would include arrangements backing, among other things, subcontractors' and suppliers' performance, labor and materials contracts, and construction bids.

The credit conversion factors for other commitments, including overdraft facilities, revolving credit facilities, note issuance facilities, and commercial and consumer commitments, are tied to the *original* maturity of the commitment. Maturity in this regard is defined by the earliest possible point in time that the bank can, at its option, *unconditionally* cancel its commitment to a borrower. The longer the term of a loan commitment the greater the risk since there is a greater likelihood the borrower's financial circumstances or condition may change during the period the commitment is outstanding. Thus, under these guidelines, commitments with an original maturity of one year or less would be converted at 10 percent; those with an original maturity of more than one year and up to and including five years would be converted at 25 percent; and those with an original maturity of more than five years would be converted at 50 percent.

Commitments, for risk-based capital purposes, are defined as any arrangements that legally obligate a banking organization to purchase loans or securities, or extend credit in the form of loans or leases.

[6] Foreign banks are organizations that are organized under laws of a foreign country; engage in the business of banking; are recognized as banks by the bank supervisory or monetary authorities of the country of their organization or principal banking operations; received deposits to a substantial extent in the regular course of business; *and* have the power to accept demand deposits. Claims on foreign banks include claims on the U.S. branches and agencies of the foreign banks.

[7] Short-term claims are included in this category regardless of the form of the instrument, that is, this category includes federal funds sold, certificates of deposit, Eurocurrency placements, repurchase agreements, and bankers acceptances for which the account party is a domestic depository institutions or a foreign bank.

[8] Foreign governments include the central government and its ministries, departments, and agencies; they do not include state, provincial or local governments in foreign countries or government-owned enterprises. In addition, claims on foreign governments do not include claims on non-governmental entities guaranteed by foreign governments

[9] Maturity is defined as the stated maturity date or the earliest possible time at which the bank may unconditionally, at its option, cancel the commitment, if the latter comes first.

[10] Credit equivalent amounts of off-balance items that are secured by recognized collateral (that is, cash or debt of the U.S. Government, Government agencies or Government-sponsored agencies) are assigned, as with on-balance sheet exposures, to the appropriate risk category depending upon the nature of the collateral and, if appropriate, the maturity of the instrument.

[11] A bank's purchases of risk participations in bankers acceptances are also included and converted at 100 percent and assigned to the appropriate category depending upon the identity of the account party.

participations in loans and leases, overdraft facilities, revolving credit or underwriting facilities, or similar transactions. Generally, commitments involve a written contract or agreement, or a commitment fee or some other form of consideration. For the purpose of calculating the risk-based capital ratio, the definition includes commitments that obligate the banking organization to extend credit to consumers or individuals in the form of retail credit cards, check credit and overdraft facilities, home equity and mortgage lines, and other similar arrangements.

The existence of a "material adverse change" clause or similar provisions does not by itself suggest that a lending arrangement is not a commitment. However, lending arrangements that are unconditionally cancelable at any time at the option of the bank would not be deemed to be commitments for risk asset purposes, *provided that* the bank, in fact, makes a separate credit decision based upon the borrower's current financial condition before each drawing under the lending facility. Unused credit card lines are to be included in the definition of commitments.

In the case of commitments structured as syndications, the risk asset framework includes only the banking organization's proportional share of such commitments. In addition, only the unused portion of commitments are treated as off-balance sheet items. Amounts that are already drawn and outstanding under a commitment appear on the balance sheet and such amounts, therefore, should not also be included as commitments for purposes of computing the risk-based capital asset ratio.

Board of Governors of the Federal Reserve System, February 12, 1987.

William W. Wiles,

Secretary of the Board.

Attachment—Agreed Proposal of the United States Federal Banking Supervisory Authorities and the Bank of England on Primary Capital and Capital Adequacy Assessment

Note.—This attachment is not for publication in the Code of Federal Regulations.

This paper constitutes a system for the measurement of capital adequacy agreed by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation and the Bank of England. The principal objective of the paper is to promote the convergence of supervisory policies on capital adequacy assessments among countries with major banking centers. The proposal outlined below is intended to serve as a basis for consultation with the banking industry and others in the United States and the United Kingdom. The authorities concerned hope that the approach adopted by the United States and the United Kingdom will provide a basis which other countries can follow.

This paper explains the agreed proposal concerning:

(I) The components of the primary capital base of banking organizations;

(II) The deductions to be made from primary capital in computing the capital base for the calculation of a risk asset ratio;

(III) The weighting structure of risk assets and off-balance sheet activities; and

(IV) The use for supervisory purposes of a ratio of primary capital to weighted risk assets.

The paper should be read in conjunction with the attached tables which are appropriately cross-referenced.

I. Primary Capital

Primary capital represents the highest quality form of capital for banks and banking organizations (hereinafter a reference to banks should generally be taken to include banks, bank holding companies in the United States and banking groups in the United Kingdom). Within this category of capital, quality cannot be regarded as uniform and some components are undoubtedly of a higher quality than others. There are a number of elements that strengthen the balance sheets of banks to some extent, although clearly falling short of primary capital. Into this latter category may fall subordinated debt with a fixed maturity and the excess of market value over book value of some bank assets, notably bank premises and long-term investments. It is not the intention of the supervisors to ignore these items but rather to take some account of them after the basic primary capital to weighted risk asset ratio has been calculated. The supervisory authorities in both countries will therefore also take account of the ratio of total capital to weighted risk assets, as well as other qualitative factors, in their overall prudential assessment.

The components of the primary capital base represent resources which can be used to meet current losses while leaving banks able to continue operating on a going concern basis. The supervisors agree that this criterion is the most important determinant of the status of primary capital.

Common stock/equity (IA1), although repayable in strictly defined and limited circumstances, clearly meets the criterion as does any premium or surplus arising from the issue of common stock/equity. These, together with reserves in the form of *retained earnings* (IA2), represent the highest quality form of capital. *The minority interest in subsidiaries that are consolidated for supervisory purposes* (IA3) is also available to absorb losses.

There are no limits on the amounts of such capital that can be included in a bank's capital base for purposes of measuring capital adequacy. While it could be argued on grounds of uncertainty that it would be desirable to defer inclusion of *current year earnings* (IA2) until the end of the year in question, the U.S. and U.K. supervisory authorities have decided to include them. A realized profit arising out of the disposal of real property, for example, clearly fully meets the criterion for inclusion in primary capital. It is, however, possible that lending or trading profits for interim periods during the year may be eroded by later or unidentified losses.

General reserves/general provisions (IA4) for losses resulting from charges to earnings will be included for the present in primary capital. The U.S. and U.K. supervisory authorities are agreed that provisions made against identified losses cannot and should not be regarded as capital. General reserves/general provisions are made against unidentified or potential losses and can therefore be regarded as meeting the criterion. The U.S. and U.K. supervisory authorities have reservations about those general provisions that in reality are earmarked against specific assets or categories of assets and that do not therefore satisfy the criterion of general availability. However, it is not always possible to distinguish such provisions. Therefore, while for the present all general reserves/general provisions are included as primary capital, the supervisory authorities would like to seek comment from banks, the accounting profession and other interested parties on whether such reserves should be phased out of the primary capital base.

Hidden reserves (IA5), in the form of undisclosed retained earnings, do not exist in the United States and presently are permitted only to a limited number of banks in the United Kingdom. The issue has been addressed in the European Community's Bank Accounts Directive and, within its terms, member states have the option to allow banks in their country to maintain limited hidden reserves. This option will be reviewed five years after the Directive has been implemented. The position of hidden reserves in the United Kingdom will therefore next be considered when the Bank Accounts Directive is implemented. If it is then decided that U.K. banks should not be permitted to maintain hidden reserves, they will be available for transfer to disclosed reserves. Until this occurs, the Bank of

England will continue to include them as primary capital.

In addition to the elements to be allowed without limit, the supervisory authorities propose to include in primary capital, but subject to a limit, certain items that give much greater strength to a bank than subordinated debt of a fixed maturity but that have certain drawbacks as compared with common stock and other unlimited components of the primary capital base.

Perpetual preferred shares (IB1a) and *instruments perpetual in nature and capable of meeting current losses* (IB2), together with *long-term dated (limited-life) preferred shares* (IB1b), will be included in the primary capital base subject to a limit of 50 percent of the unlimited elements after the deduction of intangible assets. (For example, if the unlimited items total US$100 million and there are intangibles of US$10 million, then there will be a limit of US$45 million applying to qualifying preferred shares and perpetual debt and their equivalents). Perpetual preferred shares and perpetual subordinated debt cannot be redeemed at the option of the holder and any repayment may occur only with the prior consent of the supervisory authorities. Included here are perpetual subordinated debt and certain instruments that can only be converted into primary capital instruments. The proceeds of such instruments effectively remain available to meet current losses and leave the bank able to continue operating. Long-term dated preferred shares (25 years or more initial maturity) also provide a cushion against current losses. Such shares must be amortized for the purpose of assessing capital adequacy over the last few years of their life.

Since changes are involved in the definition of the capital base, the respective supervisory authorities will continue to include (in the United States) existing mandatory convertible securities which do not meet the new criteria (in the attached tables at IB2 (a), (b), (c)) and (in the United Kingdom) existing revaluation reserves for bank premises.

II. Deductions From Primary Capital

The U.S. and U.K. supervisors have also agreed to propose that certain deductions should be made from the total of primary capital elements in order to derive the adjusted capital base for purposes of calculating the risk weighted capital ratio. In the United States, all future *intangible assets* will be deducted; existing allowed intangible assets will be "grandfathered." The Bank of England reaffirms its present policy of deducting all existing intangible assets (IIA).

Investments in unconsolidated subsidiaries and associated companies including, but not limited to, unconsolidated joint ventures, will also be deducted (IIB). For the United States, this could include certain consolidated subsidiaries as determined by U.S. regulatory authorities. The assets of such companies will not be brought into the calculation of the risk asset ratio.

The Bank of England already deducts *bank holdings of other banks' capital instruments* (IIC), except for limited concessions to allow some banks to play an active role in market-making in the primary (new issues) and/or secondary markets. This policy will be maintained. The U.S. authorities accept the principle underlying this policy and will monitor bank holdings of capital instruments issued by other banks and may, as appropriate, deduct these items on a case-by-case basis.

III. The Risk Asset Ratio

(a) General

The risk asset ratio is calculated by applying to each broad category of assets or off-balance sheet obligations a weight reflecting the relative riskiness inherent in each. The total of weighted risk assets is then measured in relation to the adjusted capital base to derive a ratio. The U.S. and U.K. authorities intend to concentrate on the primary capital to total weighted risk asset ratio.

This section describes and explains the simple structure of weights and indicates areas where further work is required to augment the present agreed approach.

It is recognized that it would be possible to establish more weights but this would introduce greater complexity, and more onerous statistical reporting obligations, without any assurance of a significantly more efficient or effective system. The calculation of the ratio represents only one element in the assessment of capital adequacy, although it is a most important one.

The agreed framework consists of broad categories of obligor and, to some extent, of maturity. With certain important exceptions, it reflects credit risk, that is, the risk of borrower or counterparty default. In addition the Bank of England includes the net open foreign exchange position in the risk asset ratio as defined in Foreign Currency Exposure, April 1981. The U.S. authorities are committed to introducing a capital requirement for exchange rate risk. All authorities are firmly committed to the development of an approach that will enable interest rate risk to be incorporated into the framework. Some other risks—for example, of operational failures—are important but cannot readily be captured in a risk asset ratio. The agreed weighting structure takes no account of country transfer risk. Nor is commercial lending differentiated with respect to credit quality or collateral, except for the strictly limited exception for exposures secured by government securities or cash. These factors will be considered, as now, through the examination/supervisory process.

Five risk weight categories are proposed—0 percent, 10 percent, 25 percent, 50 percent and 100 percent — and the weighting for particular items is discussed below. There are some special institutional features of the U.S. and U.K. markets which require differences in treatment between the two countries; these are indicated in the text which follows.

(b) On-balance Sheet

The weightings set out in what follows are based on relative degrees of risk starting from 100 percent for a claim on a non-bank obligor, which can for these purposes be regarded as a standard risk.

(i) Cash and All Claims on the Domestic Central Bank

Cash and all claims on the domestic central bank (III 1, 2) are regarded as bearing no significant banking risks and therefore are assigned a weight of 0 percent. The Bank of England will also continue to give a 0 percent weight to government-guaranteed export and ship-building loans (III 3). As indicated below, the U.S. supervisory agencies place comparable U.S. Government-guaranteed claims in the 25 percent risk category (III 12).

(ii) Short-term Claims on Domestic National Government

Short-term claims (remaining maturity of one year or less) on the domestic national government and on domestic national government agencies (III 4) are assigned a weight of 10 percent. (For the United States, national government agencies are defined as those agencies whose debt obligations are backed by the full faith and credit of the U.S. Government.) While short-term claims on the domestic national government bear no credit risk, such claims could involve a degree of interest rate exposure. Thus, as described below, until a more direct measure of interest rate risk is developed, such claims will be assigned to the 10 percent category.

(iii) U.K. Discount Houses, Gilt-edged Market Makers and Stock Exchange Money Brokers

The Bank of England proposes a weighting of 10 percent for short-term (remaining maturity of one year or less) claims on discount houses, gilt-edged market markers and Stock Exchange money brokers. These specialist institutions have an operational relationship with the Bank, including secured borrowing facilities, and are subject to close supervision. They trade predominantly in high quality liquid assets on which their borrowing is customarily secured. For these reasons, short-term claims on this group involve less risk than short-term claims on banks. This treatment effectively reflects the special institutional structure in the United Kingdom (III 5).

(iv) Short-term Claims on Domestic Depository Institutions and Foreign Banks (Including Foreign Central Banks)

The weighting for short-term claims (remaining maturity of one year or less) on domestic depository institutions and foreign banks and equivalent off-balance sheet exposures (III 6, 7, 11) reflects the lower risk generally of such claims as compared with claims on commercial obligors and longer-term claims on banks. For this reason, a weighting of 25 percent for this category has been proposed. It is acknowledged that short-term claims on some commercial borrowers may involve less risk than similar claims on some banks. It is considered, however, that since depository institutions are supervised and a particularly high quality is inherent in short-term inter-bank claims, the treatment proposed is broadly reasonable. Longer-term claims on depository institutions are regarded as bearing a higher risk that is generally closer in quality to claims on commercial obligors and these will be assigned a weight of 100 percent. The breakpoint at one year is admittedly arbitrary but captures most genuine short-term, inter-bank money market activity.

(v) Longer-term Claims on Own (Domestic) Governments and Analogous Claims

For U.S. banks, the weighting of long-term claims on the U.S. Government (Treasury), and for U.K. banks, the weighting of long-term claims on HM Government, does not reflect any credit risk but is designed, as a temporary measure, to be a proxy for the significant element of interest rate risk inherent in holdings of longer-term government securities. It is the intention of the U.S. authorities and the Bank of England to develop a more direct measure of interest rate risk. Pending this further work, it has been agreed that government securities with a remaining maturity of more than one year should be weighted at 25 percent (III 9).[1]

To be consistent with this approach, claims having an analogous nature are also to be weighted at 25 percent. Thus, for U.S. banks, all long-term claims on U.S. Government agencies (III 9), all claims collateralized by U.S. Government and U.S. Government agency debt or cash (III 10) and claims guaranteed by the U.S. Government or its agencies (III 12) will be assigned to the 25 percent category. For U.K. banks, claims collateralized by domestic national government debt or cash (III 10), most domestic national government guaranteed claims (III 12) and claims on U.K. public corporations and the rest of the public sector (III 9) will be weighted at 25 percent.

For U.S. banks, all claims on U.S. Government-*sponsored* agencies (that is, agencies that are chartered or established by the Federal Government to carry out a public purpose as specified by the U.S. Congress and whose debt obligations are not guaranteed by the full faith and credit of the U.S. Government) and all claims collateralized by U.S. Government-sponsored agency debt are assigned to the 50 percent category (III 14, 15).

Although the credit risk attaching to claims on U.K. local authorities is not the same as claims on HM Government, the Bank of England believes that they should be included in the 25 percent category rather than in the 50 percent category (III 8). The U.S. authorities propose placing general obligation claims on domestic state and local governments in the 50 percent category (III 16).

(vi) Local Currency Claims on Foreign Central Governments in Foreign Offices

The treatment of assets in overseas offices of banks raises difficult conceptual and practical questions. It has been agreed, however, that local currency claims on foreign *central* governments, to the extent funded by local currency liabilities in that country, do not involve any transfer risk. A 25 percent weight will therefore be applied to both short and long-term claims. (III 13)

(vii) Multinational Development Institutions

All direct claims of U.S. banks on multinational development institutions in which the U.S. Government has shareholder or contributing member status and, similarly, all direct claims of U.K. banks on such institutions in which HM Government has the same status will be given a weight of 50 percent. This reflects the generally high quality of claims on such institutions (III 17).

(viii) Other Assets

All assets not mentioned so far will carry a 100 percent weight (III 18, 19, 20, 21, 22). As discussed earlier, the Bank of England also already applies a weight of 100 percent to the net open foreign exchange position (III 23) and will maintain this. The U.S. authorities are committed to introducing a capital requirement for exchange rate risk.

(c) Off-Balance Sheet

(i) General

The U.S. and U.K. banking supervisory authorities believe that all off-balance sheet items giving rise to credit risk (and in addition, in time, foreign exchange and interest rate risks) should in principle be included in the risk asset ratio. The obligations should receive the risk asset weighting appropriate to the individual obligor. There is, however, an important and difficult question relating to the size of the exposure that should be weighted.

An approach to off-balance sheet items has been devised that endeavors to convert the credit risk of each instrument into a credit equivalent that can be incorporated into the risk asset framework outlined in this paper. It is recognized that the methodology employed will appear simple and approximate but it provides a logical

[1] The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) disagreed with splitting such securities according to maturity, even as a temporary measure. Optimally, an adjusted capital standard should incorporate an assessment of a bank's exposure to interest rate risk. Specific assets, however, do not necessarily expose a bank to interest rate risk; rather, interest rate risk reflects the relationship within the portfolio between the interest rate structure of assets and liabilities. Isolating a single asset on a bank's balance sheet and making a maturity distinction in order to incorporate interest rate risk into the capital ratio is inappropriate because it fails to take account of the interest rate exposure arising from other loans and securities, off-balance sheet activities, and a bank's liability structure. In the light of this concern, the OCC and FDIC recommended that banks' exposures to interest rate risk be evaluated case by case during examinations, for purposes of assessing capital adequacy, and that all U.S. Treasury securities and agency securities bearing the full faith and credit of the U.S. Government be placed in the 10 percent risk category. The other supervisory authorities agree with the logic that interest rate risk should be addressed on a portfolio, rather than an individual asset, basis but believe that until such risk can be monitored and included in capital adequacy requirements in a more systematic fashion, the proposed maturity split represents a reasonable interim step.

and consistent basis for the calculation of a ratio that encompasses both on- and off-balance sheet business.

Distinctions are made between contingencies, commitments and interest rate and foreign exchange rate contracts and these are discussed separately.

(ii) Contingencies/Contingent Items

Obligations in the form of financial guarantees and equivalents (for example, standby letters of credit having the character of guarantees and, in the United Kingdom, acceptances) effectively involve from the date of the assumption of the obligation the same degree of credit risk as outstanding loans (III 24). There is no action that the bank can take to avoid the full credit risk. The supervisory authorities, accordingly, believe that these obligations should be regarded as direct credit substitutes and be weighted for their full amount, that is, the credit conversion factor is 100 percent of the principal amount. The risk asset weighting is then determined by the category of the counterparty and, where appropriate, the maturity.

Some contingencies (III 25), notably commercial letters of credit, performance bonds and performance-related standby letters of credit, involve a lesser credit risk. The key elements in this judgment are that the counterparty has a strong incentive to meet its obligations if it wishes to remain in business (thus giving these claims a somewhat higher ranking in the counterparty's list of priorities than some other claims); the obligations are often (but not invariably) short-term in maturity; and banks assert that the loss record is favorable. To make allowance for these favorable factors, it is proposed to scale down the nominal exposure by a credit conversion factor of 50 percent, before the exposure is weighted according to the category of the obligor (and where relevant maturity)—for example, the deemed credit risk equivalent of a commercial letter of credit of US$10 million would be US$5 million which in turn would be weighted according to obligor and, some cases, maturity.

Contingencies such as indemnities for lost share certificates and bill endorsements will be excluded from the framework as they do not involve a significant credit risk.

(iii) Commitments

Whereas contingencies (as described above) involve the immediate assumption of a credit risk, commitments generally represent an undertaking to assume a credit risk in the future. It is recognized that this distinction is somewhat difficult to make at the margin and that it is the nature of the obligation which matters rather than the name given to the facility.

Some transactions, for example, sale and repurchase agreements and asset sales with recourse, may involve balance sheet entries and as such will attract a weighting for the full face value. Any other obligation or transaction effectively involving an immediate credit exposure will be treated as if it were on the balance sheet. Where an obligation or transaction clearly has the same effect as a financial guarantee (as, for example, certain asset sales with recourse) it will be treated as such (III 26).

For all other commitments (III 27), it is proposed to take account of maturity in determining the credit conversion factors. In so doing, maturity to some extent serves as a proxy for instrument-type. The category of exposure here giving rise to the greatest concern is the long-term contract that is equivalent in effect to an insurance arrangement in its underlying nature, most notably revolving underwriting facilities. Even if material adverse change clauses are included—and the supervisory authorities do not wish to take any action which will discourage their use—the reality is that the bank is assuming a long-term obligation to provide credit if other lenders are unwilling to do so. At the other end of the maturity spectrum, it is accepted that commitments reviewable—and unconditionally cancellable—at least annually involve less risk and that the credit conversion factor should be much lower. While a bank is at risk from an increase in credit exposures as a result of a higher than average utilization of undrawn lines, the low credit conversion factor reflects the historical stability of the undrawn amount of these lines.

The conversion factors to be applied to these commitments will, therefore, be set as follows in terms of their *original* maturity (for these purposes maturity is defined as the earliest possible time at which the bank may unconditionally cancel the commitment):

One year or less—10 percent
Over one year to five years—25 percent
Over five years—50 percent

For contingencies and commitments, the principal amount is multiplied by the conversion factor and the resulting exposure will carry the appropriate weight for the category of the counterparty (and the maturity).

(iv) Interest Rate and Foreign Exchange Rate Related Transactions

It is the firm intention of the U.S. supervisory authorities and the Bank of England to include the credit equivalent exposure on interest rate and foreign exchange rate related transactions in the risk asset ratio as soon as possible (III 28 and 29). The timing of this step is dependent on reaching final agreement on a method of calculating the credit exposure. As with other off-balance sheet transactions, this will involve estimating a deemed credit equivalent for these instruments that would be incorporated in the general framework on an obligor (and, where appropriate, maturity) basis.

IV. Primary Capital to Weighted Risk Asset Ratio

The U.S. and U.K. authorities intend to set and publish an agreed minimum level of this ratio to be applied to all banks supervised by them. In both countries most institutions will be expected to maintain their ratio at a higher level. The precise figure set for individual banks will remain confidential and will be determined in light of each institution's particular circumstances, for example, the quality and diversification of assets, liquidity, management, internal control systems and other relevant factors. These higher levels will be determined as part of the ongoing supervisory process.

I. Components of Primary Capital

A. Funds Included Without Limit

1. Common stock/equity and premium (United Kingdom), surplus (United States).

2. Retained earnings (including current year earnings).

3. Minority interest in consolidated subsidiaries.

4. General reserves for losses resulting from charges to earnings.

5. Hidden reserves (comprising undisclosed retained earnings)—not applicable in United States, to be phased out in United Kingdom.

B. Funds Included With Limits—Items Included in This Category Must Not Exceed 50 Percent of the Total Items Included in A Above Less Intangible Assets

1. Preferred shares that:

(a) Do not mature; or

(b) Mature on a fixed date *and* have an original maturity of at least 25 years. (Amount included in primary capital would be discounted for prudential purposes as the instrument approaches maturity.)

2. Subordinated debt that:

(a) Can only be converted into primary capital instruments;

(b) Is available at all times to absorb losses; and

(c) Provides that interest payments may be deferred if the issuer does not make a profit in the preceding period and/or pay dividends on common and perpetual preferred stock.

This is intended to include perpetual debt.

Note.—(a) Existing mandatory convertible securities which do not meet the criteria in IB2 (for U.S. banks) and existing property revaluation reserves (for U.K. banks) are to be "grandfathered."

(b) For bank holding companies in the United States, perpetual debt issued by the parent company need not be subordinated. It must, however, be unsecured.

II. Adjustments to Capital for Prudential Purposes

A. Deduction of all intangible assets. (Existing intangibles currently allowed by U.S. regulatory authorities will be "grandfathered.")

B. Deduction of investments in unconsolidated subsidiaries and associated companies including, but not limited to, unconsolidated joint ventures. For the United States, this could include certain consolidated subsidiaries as determined by U.S. regulatory authorities; for the United Kingdom this also includes related securities companies.

C. Deduction of bank holdings of capital instruments of other banking organizations. (In the United States these would be monitored and deducted on a case-by-case basis.)

Category of Risk

Weight Given

0 percent

1. Vault cash—domestic and foreign.

2. All balances with and claims on domestic central bank.

3. Domestic national government guaranteed export and ship-building loans (United Kingdom only).

10 percent

4. For the United States, short-term (remaining maturity of one year or less) claims on the U.S. Government (Treasury) and on U.S. Government agencies (for the United States, national government agencies are defined as those agencies whose debt obligations are backed by the full faith and credit of the U.S. Government). For the United Kingdom, short-term (one year or less) claims on the United Kingdom and Northern Ireland Governments.

5. Short-term (one year or less) claims on discount houses, gilt-edged market makers and Stock Exchange money brokers (United Kingdom only).

25 percent

6. Cash items in process of collection—foreign and domestic.

7. Short-term (one year or less) claims on domestic depository institutions and foreign banks.

8. All claims on domestic local authorities (United Kingdom only).

9. Long-term (over one year) claims on domestic national government (including, for the United Kingdom, Northern Ireland) and all long-term claims on domestic national government agencies. For the United Kingdom, this includes all claims on U.K. public corporations and on the rest of the public sector.

10. All claims (including repurchase agreements) fully collateralized by domestic national government debt and (for the United States) debt of U.S. Government agencies.

Also all claims collateralized by cash on deposit in the lending institution.

11. Federal Reserve Bank stock (United States only).

12. Portions of loans guaranteed by domestic national government or (for the United States) domestic national government agencies.

13. All local currency claims on foreign central governments to the extent funded by local currency liabilities in that foreign country.

50 percent

14. All claims on domestic national government-sponsored agencies (U.S. Government-sponsored agencies are defined as agencies whose debt obligations are not guaranteed by the full faith and credit of the U.S. Government).

15. All claims (including repurchase agreements) that are fully collateralized by domestic national government-sponsored agency debt (United States only).

16. All general obligation claims on domestic state and local governments (United States only).

17. Claims on multinational development institutions in which the domestic government is a shareholder or contributing member.

100 Percent

18. Long-term (over one year) claims on domestic depository institutions and foreign banks.

19. All claims on foreign governments other than local currency claims on foreign central governments funded by local currency liabilities in that foreign country.

20. The customer liability on acceptances outstanding involving standard risk obligors (United States only).

21. Domestic state and local government revenue bonds and industrial development bonds (United States only).

22. All other assets.

23. Net open position in foreign exchange (United Kingdom only).

Off Balance Sheet Items

The face amount of these items would be multiplied by the credit conversion factors shown below, and the resulting amount would be slotted in the appropriate risk category depending upon the identity of the obligor and the maturity of the instrument where appropriate.

24. "Direct credit substitutes" (financial guarantees and standby letters of credit serving the same purpose and, in the United Kingdom, acceptances outstanding)—100 percent credit conversion factor.

25. "Trading contingencies" (for example, commercial letters of credit, bid and performance bonds and performance standby letters of credit)—50 percent credit conversion factor.

26. Sale and repurchase agreements and asset sales with recourse, if not already included on the balance sheet—100 percent credit conversion factor.

27. Other commitments, for example, overdrafts, revolving underwriting facilities (for example, RUFs/NIFs), underwriting commitments, commercial and consumer credit lines. The credit conversion factors are:

10 percent—one year and less original maturity.

25 percent—over one to five years original maturity.

50 percent—over five years original maturity.

Credit Conversion Factor To Be Determined

28. Interest rate swaps and other interest rate contracts.

29. Foreign exchange rate contracts.

Note.—1. Maturity is defined as the earliest possible time at which the bank may unconditionally cancel the commitment.

2. Certain off-balance sheet obligations, for example, indemnities for lost share certificates and bill endorsements, or "holders in due course" obligations, would not be included in capital adequacy requirements.

[FR Doc. 87-3309 Filed 2-18-87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-01-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which would require the modification of the autopilot flight control computers (FCC) and autopilot mode control panel (MCP). This action is prompted by reports of undetected airplane altitude changes caused by uncommanded changes in the altitude select window of the autopilot MCP. This condition, if not corrected, could result in the airplane flying at an unassigned altitude.

DATE: Comments must be received no later than April 13, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (ATTN: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-01-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124; and Sperry Corporation, Aerospace and Marine Group, P.O. Box 21111, Phoenix, Arizona 85036, Attn: Customer Services, Commercial Flight Systems Division. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Habbestad, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-1942. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-01-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been approximately 12 reports of uncommanded altitude changes in the autopilot MCP altitude select window on certain Boeing Model 737-200 series airplanes equipped with Sperry Model SP-177 autopilots. When commanding a −1000 foot change in the selected altitude, the altitude select window has been reported to display a +3000 foot change or a +5000 foot change. With the autopilot engaged, the airplane will attempt to fly to the new altitude. It is estimated that this event will occur approximately once in every 2,500 attempts to reset altitude in the altitude select window. This condition, if undetected, could result in the airplane flying to an unassigned altitude.

The FAA has reviewed and approved Boeing Service Bulletin 737-22-1076, dated November 6, 1986, and Sperry Service Bulletins 21-1141-151 and 21-1141-153 both dated September 18, 1986, which describe installing improved Sperry flight control computers (FCC) and mode control panel (MCP), or modifying the units by changing or adding certain components in each of those units. The modified units incorporate a monitor to detect unselected altitude changes in the altitude window. If such a change occurs, it sets the altitude in the altitude window to 50,000 feet, and activates the visual and aural warnings; the desired altitude in the altitude window can then be reset by using the altitude set knob.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require replacement or modification of the FCC and MCP, in accordance with the service bulletins previously mentioned.

It is estimated that 67 airplanes of U.S. registry would be affected by this AD; that it would take approximately 5 manhours per airplane to replace the units or 52 manhours per airplane to modify the affected components; and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $13,400 to replace the units, or $139,360 to modify the affected components.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737-200 series airplanes, equipped with Sperry Model SP177 autopilot flight control computers (FCC) and mode control panels (MCP), as listed in Boeing Service Bulletin 737-22-1076, dated November 6, 1986, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent undetected changes in airplane altitude caused by uncommanded changes in

the autopilot MCP altitude window, accomplish the following:

A. Within one year after the effective date of this AD:

1. Install improved FCC and MCP described in Boeing Service Bulletin 737-22-1076, dated November 6, 1986, or later FAA-approved revisions; or

2. Modify the FCC and MCP in accordance with Sperry Service Bulletins 21-1141-151 and 21-1141-153, both dated September 18, 1986.

B. An alternate means of compliance or adjustment of compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124; and the Sperry Corporation, Aerospace and Marine Group, P.O. Box 21111, Phoenix, Arizona 85036, Attn: Customer Services, Commercial Flight Systems Division. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on February 11, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-3382 Filed 2-18-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-31-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-81,-82, and -83 Airplanes, Fuselage Numbers 909 through 1208.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amendment to notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This notice proposes to amend an earlier proposed airworthiness directive (AD) that would have required inspection and replacement, as necessary, of main landing gear retainer assemblies on certain McDonnell Douglas DC-9-80 (MD-80) series airplanes. This proposal would revise the applicability statement to include additional affected airplanes and ensure proper inspection of those airplanes.

DATES: Comments must be received no later than March 17, 1987.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-31-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information maybe be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Jerald R. Berube, Aviation Safety Inspector, Manufacturing Inspection Branch, ANM-180L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6343.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-31-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection and replacement, if necessary, of the main landing gear retainer assemblies on McDonnell Douglas Models DC-9-81 (MD-81) and DC-9-82 (MD-82) series airplanes, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on May 8, 1986 (51 FR 17054). The comment period closed on June 30, 1986.

Interested parties have been afforded an opportunity to comment on this proposal. Due consideration has been given to the comments received.

One commenter requested that the applicability of the proposed rule be revised to include all DC-9-83 (MD-83) series airplanes, since these airplanes are equipped with the same design of main landing gear retainer assemblies and would be subject to the same unsafe conditions addressed in the proposal. This commenter suggested that the proposed applicability statement be changed to apply to "all MD-9-80 series airplanes," fuselage numbers 909 through 1208. This commenter also stated that, since issuance of the NPRM, McDonnell Douglas has issued Revision 1 to Alert Service Bulletin A32-206, dated July 18, 1986, which expands the effectivity of the service bulletin to include all airplanes in the DC-9-81, -82, and -83 series.

The FAA has considered this information and has determined that, since the unsafe conditions addressed in the NPRM is likely to exist or develop on other airplanes of the same type design, the proposal must be amended to apply to all DC-9-80 (MD-80) series airplanes from fuselage number 909 through fuselage number 1208, and to reference the lastest revision to the service bulletin. Since this action would expand the scope of the proposed AD, the comment period has been reopened to provide adequate time for public comment.

This proposed revision to the original Notice would not affect any additional airplanes presently on the U.S. register. However, the AD requirements would be applicable to any MD-83 airplanes which may be imported to the U.S. at a future date.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not

have a significant economic impact on a substantial number of small entities because few, if any, Model DC-9-80 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposed to amend § 39.13 of part 39 of the Federal Aviation Regulation 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.

2. By amending the applicability statement and paragraph A. of the Notice of Proposed Rulemaking, Docket No. 86-MN-31-AD, published in the **Federal Register** on May 8, 1986 (51 FR 17054), FR Doc. 86-10255, as follows:

"McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81, -82, and -83 series airplanes, fuselage numbers 909 through 1208, certificated in any category. Compliance required as indicated, unless previously accomplished.

To preclude the potential of main landing gear wheel assembly separation from the airplane, accomplish the following:

A. Within 6 months after the effective date of this airworthiness directive (AD), inspect and replace, as necessary, the main landing gear axle nut retainer in accordance with the accomplishment instructions of McDonnell Douglas Corporation Alert Service Bulletin A32-206, Revision 1, dated July 18, 1986, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

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

Issued in Seattle, Washington, on February 11, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-3383 Filed 2-18-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF EDUCATION

34 CFR Parts 75, 76, 500, and 745

Direct Grant Programs, State-Administered Programs, and Bilingual Education; General Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Education Department General Administrative Regulations (EDGAR) to provide for greater flexibility and to eliminate obsolete and unnecessary regulations. Certain EDGAR provisions would also be transferred to the program regulations to which they apply.

DATE: Comments must be received on or before April 6, 1987.

ADDRESS: All comments concerning these proposed regulations should be addressed to Hazel Fiers, Special Advisor to the Deputy Under Secretary for Management, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 3021, Federal Office Building No. 6), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Hazel Fiers. Telephone: (202) 472-5123.

SUPPLEMENTARY INFORMATION: In reviewing the current EDGAR regulations, the Secretary has identified several provisions that require immediate revision. In some cases, laws passed since EDGAR became effective have made the current regulations obsolete; some sections duplicate existing statutory or regulatory requirements; while still others are not required by statute. In addition, the Secretary believes that the proposed revisions will assist the Department in its efforts to reduce regulatory burden on the public and to streamline and promote more efficient operation of Departmental programs. The Secretary is open to further opportunities to deregulate EDGAR and is interested in public comment on other provisions that may not require immediate revision, but appear to be obsolete or burdensome.

These proposed changes do not include regulatory provisions related to the Office of Management and Budget Circular A-102. The Office of Management and Budget has initiated a separate effort to revise the Circular A-102 requirements.

The specific sections proposed for revisions are as follows:

Sections 75.1 and 76.1—These sections list the programs to which the respective parts apply. Because of changes in legislation, both lists are obsolete. As the Department undertakes new programs and as existing programs are phased out, these lists would require frequent revisions to ensure accuracy. Also, the program regulations for each program to which Part 75 or 76 apply currently list the parts in EDGAR that apply to the program. As a result, the lists in §§ 75.1 and 76.1 are redundant. Because these lists are confusing to the public and costly to the Federal Government, the Secretary proposes to revise both §§ 75.1 and 76.1 by removing the lists of affected programs. Other provisons of Parts 75 and 76 have been revised where necessary to remove references to the lists.

Sections 75.111(d) and 75.111(e)—Under a formula grant program, the Secretary must make an award to an applicant that meets basic eligibility requirements. These sections require an applicant under a formula grant program to submit information that is not relevant to selection under the direct formula grant programs administered by the Department. Under the Office of Management and Budget (OMB) regulations implementing the Paperwork Reduction Act of 1980, the Federal Government may not collect information that is unnecessary to the administration of a program, (5 CFR 1320.4(b)(2) and (d)). The information solicitation requirements in § 75.111(d) and (e) appear inconsistent with this requirement. The provisions are proposed for removal consistent with the requirements of 5 CFR Part 1320, which contain OMB's regulations on clearing information collection requirements, an the General Education Provisions Act (GEPA), section 400A, regarding paperwork control.

Section 75.124 and related sections—The Secretary proposes to remove EDGAR's joint funding simplification procedures because the Act upon which they are based expired on February 3, 1985. These procedures are in §§ 75.124, 75.125(b), 75.219(b), 75.221, 75.250(b), 75.254, and 75.721.

Sections 75.138 through 75.141—At the time EDGAR was drafted, these open meeting requirements applied to numerous programs under the Elementary and Secondary Education Act of 1965. However, as a result of the Education Consolidation and Improvement Act of 1981, these requirements were limited to certain programs. Therefore, the Secretary

proposes to remove these sections from EDGAR and include them in the regulations of the programs to which they apply. The Secretary also proposes to reduce burdens imposed in the regulations by no longer prescribing unnecessarily detailed procedures for local educational agencies to meet the open meeting requirements.

Sections 75.200 through 75.206—Sections 75.202 through 75.206 are deleted and §§ 75.200 and 75.201 are revised to reflect these deletions. When EDGAR was issued, these sections were intended to provide guidance to program managers in establishing criteria to evaluate applications. Experience has shown that while programs generally adhered to the criteria, because of the diversity among programs, some diversity in selection criteria from program to program was found to be essential. Future guidance to program managers on development of selection criteria for regulations, including appropriate language on nondiscriminatory selection of eligible project participants and nondiscriminatory employment practices, will be issued as a Departmental internal directive. Grantees remain subject to applicable statutes and regulations prohibiting discrimination. Those statutes and regulations are currently listed in EDGAR §§ 75.500 and 76.500, and would not be affected in any way by these proposed rules.

Section 75.210—This section establishes general selection criteria that apply to a discretionary grant program only if it does not yet have implementing regulations. Revised selection criteria from §§ 75.202–75.206, currently proposed for deletion, have been incorporated in § 75.210(b) to replace criteria removed from §§ 75.202–75.206. The Secretary intends for the revised criteria to be general in nature and to be flexible enough to meet Congressional intent with regard to different programs of the Department. Proposed § 75.210(b)(3)(v) and (b)(4)(i)(D) contain revised language clarifying the consideration to be given to an applicant's nondiscriminatory selection of participants and employment practices. The Secretary describes the purposes of a new program subject to § 75.210 through an application notice. As a result, the Secretary believes that the general criteria in § 75.210 (b)(1) and (2), under which applicants must respond to the statutory purpose described by the Secretary, should be sufficient to ensure that all eligible beneficiaries are covered under any new program.

Section 75.217—In an effort to be responsive to the various types of programs and clients that the Department serves, the Secretary proposes to revise the application review procedures for discretionary grants. The Secretary can achieve time and costs savings and improve service to grantees by using a review process which can be tailored to meet the needs of the various programs. In most instances, the Secretary would expect to use a group or groups of three or more expert reviewers to evaluate applications. These reviewers would be recognized experts in the program area and would include persons selected from outside the Federal Government. In other instances, the Secretary may use fewer reviewers or may use qualified Department staff to review the applications. Previously, the same review procedure has been used for every program, regardless of the nature or competitiveness of a specific program. For example, recipient eligibility for certain programs is established by legislation and 85–100% of the applicants are being funded. At the other end of the spectrum, certain highly competitive programs make awards to only 8–10% of the applicants. Previous EDGAR review procedures make no provisions for these distinctions. Technical amendments have also been proposed for Section 75.219(c) to reflect the changes proposed in Section 75.217. The Secretary also proposes to add language to clarify that the Secretary may consider information concerning the applicant's use of funds under a previous award under the same Federal program.

Section 75.733—This section establishes specific recordkeeping requirements related to State approval of applications. However, a State is not required by any Federal statute to maintain these records. Therefore, the Secretary has decided to remove this section to reduce burden on States. A State has discretion to establish its own recordkeeping requirements regarding State approval procedures.

Sections 76.101 and 76.301—The requirements in both of these sections, which had to be met on a once only basis, are statutory requirements found in GEPA. The Secretary believes that repeating these requirements is unnecessary and costly and proposes to revise these sections to substitute a cross-reference to the statutory requirement.

Executive Order 12291

The proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. None of the proposed changes will place undue burdens on small entities submitting applications. Many of the proposed changes are technical and will remove obsolete material form the regulations. Some of the proposed changes will reduce burdens imposed by existing regulations. These changes, while not economically significant for individual entities, will be beneficial for all applicants.

Paperwork Reduction Act of 1980

The proposed regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub.L. 96–511).

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, the Secretary invites comment on wehther there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Invitation to Comment

Interested persons are invited to submit comments and recommenations regarding the proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period in Room 3021, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Assessment of Education Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 75

Education Department, Grant programs—education, Grant administration.

34 CFR Part 78

Education Department Grants programs—education, Grant administration, Intergovernmental relations, State-administered programs.

34 CFR Part 500

Adult education, Bilingual education, Education Department, Elementary and secondary education, Grant programs—education, Teachers.

34 CFR Part 745

Education, Government contracts, Grant programs—education, Sex discrimination

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance number does not apply)

Dated: September 29, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Parts 75, 76, 500, and 745 of Title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

1. The authority citation for Part 75 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1), unless otherwise noted.

2. In § 75.1, the tables following this section and the note following paragraph (a) are removed and paragraph (a) is revised to read as follows:

§ 75.1 Programs to which Part 75 applies.

(a) The regulations in Part 75 apply to each direct grant program of the Department of Education.

* * * * *

3. Section 75.50 is revised to read as follows:

§ 75.50 How to find out whether you are eligible.

Eligibility to apply for a grant under a program of the Department is governed by the authorizing statute and implementing regulations for that program.

(Authority: 20 U.S.C. 1221e–3(a)(1))

§75.111 [Amended]

4. In § 75.111, paragraphs (d) and (e) are removed.

§ 75.124 [Amended]

5. Section 75.124 and the heading "Joint Funding Simplification Procedures" preceding § 75.124 are removed.

§ 75.125 [Amended]

6. Section 75.125 is amended by removing paragraph (b) and amending paragraph (a) by removing the paragraph designation.

§§ 75.138, 75.139, 75.140, 75.141 [Removed]

7. Sections 75.138, 75.139, 75.140, and 75.141 and the heading "OPEN MEETING CERTIFICATION UNDER CERTAIN ESEA PROGRAMS" are removed.

8. Section 75.200 is amended by revising paragraphs (b)(3) and (c)(2) to read as follows:

§ 75.200 How applications for new grants are selected for funding.

* * * * *

(b) * * *

(3) If a program does not have regulations, the Secretary uses the selection criteria in §75.210 to select grantees under the program.

(c) * * *

(2) The Secretary applies the program statute and regulations to fund projects under a formula grant program.

(Authority: 20 U.S.C.. 1221e–3(a)(1))

§ 75.201 [Amended]

9. Section 75.201 is amended by removing paragraph (b)(2) and redesignating paragraph (b)(1) as paragraph (b).

§§ 75.202 through 75.206 [Removed]

10. Sections 75.202 through 75.206 are removed.

11. Section 75.210 is revised to read as follows:

§ 75.210 Selection criteria for a discretionary grant program that does not have regulations.

(a) *How this section works.* (1) If a discretionary grant program does not have implementing regulations, the Secretary uses the criteria in this section to evaluate applications for new grants under the program.

(2) The maximum score for all of the criteria in this section is 100 points.

(3) Subject to paragraph (c) of this section, the maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purposes of the statute that authorizes the program, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i)(A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without

regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i)(A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(c) *Weighing the criteria.* (15 points) The Secretary distributes an additional 15 points among the criteria listed in paragraph (b) of this section. The Secretary indicates in the application notice for the program how these 15 points are distributed.

(Authority: 20 U.S.C. 1221e-3(a)(1))

12. Section 75.217 is revised to read as follows:

§ 75.217 How the Secretary selects applications for new grants.

(a) The Secretary selects applications for new grants on the basis of the authorizing statute, the selection criteria, and any priorities or other requirements that have been published in the **Federal Register** and apply to the selection of those applications.

(b)(1) The Secretary may use experts to evaluate the applications submitted under a program.

(2) These experts may include persons who are not employees of the Federal Government.

(c) The Secretary prepares a rank order of the applications based solely on the evaluation of their quality according to the selection criteria.

(d) The Secretary then determines the order in which applications will be selected for grants. The Secretary considers the following in making these determinations:

(1) The information in each application.

(2) The rank ordering of the applications.

(3) Any other information relevant to a criterion, priority, or other requirement that applies to the selection of applications for new grants, including information concerning the applicant's use of funds under a previous award under the same Federal program.

(**Authority:** 20 U.S.C. 1221e-3(a)(1))

13. Section 75.219 is amended by removing paragraph (b), redesignating paragraph (c) as paragraph (b), and revising the redesignated paragraph (b) to read as follows:

§ 75.219 Exceptions to the procedures in § 75.217.

* * * * *

(b)(1) The application was evaluated under the preceding competition of the programs;

(2) The application rated high enough to deserve selection under § 75.217; and

(3) The application was not selected for funding because the application was mishandled by the Department.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§ 75.221 [Removed]

14. Section 75.221 is removed.

§ 75.222 [Amended]

15. Section 75.222 is amended by changing "§ 75.219(c)" wherever it appears in the heading and section to "§ 75.219(b)".

§ 75.250 [Amended]

16. Section 75.250 is amended by removing paragraph (b) and amending paragraph (a) by removing the paragraph designation.

§ 75.254 [Removed]

17. Section 75.254 is removed.

18. In § 75.260, paragraph (a) is revised to read as follows:

§ 75.260 Allotments and reallotments.

(a) Under some of the programs covered by this part, the Secretary allots funds under a statutory or regulatory formula.

* * * * *

19. In § 75.708, paragraph (a) is revised to read as follows:

§ 75.708 Prohibition of subgrants.

(a) A grantee may not make a subgrant under a program covered by this part unless specifically authorized by statute.

* * * * *

§ 75.721 [Removed]

20. Section 75.721 is removed.

§ 75.733 [Removed]

21. Section 75.733 is removed.

PART 76—STATE-ADMINISTERED PROGRAMS

22. The authority citation for Part 76 is revised to read as follows:

(Authority: 20 U.S.C. 1221e-3(a)(1), unless otherwise noted.)

23. In § 76.1, the note following paragraph (a) and the tables following paragraph (b) are removed, and paragraph (a) is revised to read as follows:

§ 76.1 Programs to which Part 76 applies.

(a) The regulations in Part 76 apply to each State-administered program of the Department.

* * * * *

24. In § 76.50, the introductory text in paragraph (a) is revised to read as follows:

§ 76.50 Statutes determine eligibility and whether subgrants are made.

(a) Under a program covered by this part, the Secretary makes a grant—

* * * * *

25. Section 76.100 is revised to read as follows:

§ 76.100 Effect of this subpart.

This subpart establishes general requirements that a State must meet to apply for a grant under a program covered by this part. Additional requirements are in the authorizing statute and the implementing regulations for the program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

26. Section 76.101 is revised to read as follows:

§ 76.101 The general State application.

States that make subgrants to local educational agencies under a program subject to this part shall have on file with the Secretary a general application that meets the requirements of Section 435 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232d.)

27. The cross-reference following § 76.102 is removed.

28. Section 76.301 is revised to read as follows:

§ 76.301 Local educational agency general application.

A local educational agency that applies for subgrants under a program subject to this part shall have on file

with the State a general application that meets the requirements of Section 436 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232d.)

29. In § 76.401, the introductory text in paragraph (a) and paragraph (b) are revised to read as follows:

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) *State agency hearing before disapproval.* Under the following programs the State agency that administers the program shall provide an applicant with notice and an opportunity for a hearing before it may disapprove the application:

* * * * *

(b) *Other programs—hearings not required.* Under other programs covered by this part, a State agency—other than a State educational agency—is not required to provide an opportunity for a hearing regarding the agency's disapproval of an application.

* * * * *

§ 76.563 [Amended]

30. In § 76.563 introductory text, "listed in § 76.1" is removed.

31. The cross-reference following § 76.772 is removed.

PART 500—BILINGUAL EDUCATION: GENERAL PROVISIONS

32. The authority citation for Part 500 continues to read as follows:

(Authority: 20 U.S.C. 3221–3262, unless otherwise noted.)

33. A new center heading "OPEN MEETING CERTIFICATION" is added to Part 500 after the title for Subpart C.

34. A new § 500.15 is added after the new center heading to Subpart C, to read as follows:

§ 500.15 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency (LEA) that submits an application under a program subject to this subpart to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application;

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e.)

35. The authority citation for Part 745 is revised to read as follows:

(Authority: 20 U.S.C. 3341–3348, unless otherwise noted.)

36. A new § 745.12 is added to Subpart A to read as follows:

§ 745.12 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency (LEA) that submits an application under a program subject to this part to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application;

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e.)

[FR Doc. 87–3512 Filed 2–18–87; 8:45 am]

BILLING CODE 4000–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–487, RM–5133]

Radio Broadcasting Services; Fernandina Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Northeast Florida Radio, Inc., which seeks the allotment of Channel 287A to Fernandina Beach, Florida, as a first FM service.

DATES: Comments must be filed on or before April 7, 1987, and reply comments on or before April 22, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Billy G. Hogan, President, Northeast Florida Radio, Inc., Post Office Box 496, Fernandina Beach, Florida 32034.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–487, adopted December 16, 1986, and released February 6, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–3399 Filed 2–18–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–505, RM–5533]

Radio Broadcasting Service; Fort Walton Beach, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Vacationland Broadcasting Company, Inc., licensee of Station WFTW–FM, Fort Walton Beach, Florida,

which seeks to substitute Channel 258C2 for Channel 257A, and to modify its Class A license to the new channel. Petitioner also proposes to surrender for cancellation, the construction permit which it presently holds for Channel 243, if modified to Channel 258C2.

DATES: Comments must be filed on or before April 13, 1987, and reply comments on or before April 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Mr. J. Richard Carr, Dempsey and Koplovitz, 1401 New York Avenue NW., Suite 630, Washington, DC 20005 (Attorney for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–505, adopted December 16, 1986, and released February 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Policy and Rules Division Mass Media Bureau.

[FR Doc. 87–3400 Filed 2–18–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–506, RM–5524]

Radio Broadcasting Services; Washington, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Dennis Daily proposing the allotment of FM Channel 300A to Washington, Indiana, as that community's second FM channel.

DATES: Comments must be filed on or before April 13, 1987, and reply comments on or before April 28, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Mr. Dennis Daily, 1600 North Pierce, Apartment 8, Arlington, Virginia 22209 (Petitioner).

FOR FURTHER INFORMATION CONTACT: D. David Weston, (202) 634–6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–506, adopted December 24, 1986, and released February 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel's allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Mass Media Bureau.

[FR Doc. 87–3398 Filed 2–18–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–508, RM–5593]

Radio Broadcasting Services; Liberal, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Thunderbird Broadcasting, Inc. proposing to allot FM Channel 286C2 to Liberal, Kansas, as the community's fourth FM broadcast channel.

DATES: Comments must be filed on or before April 13, 1987 and reply comments on or before April 28, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Thunderbird Broadcasting, Inc., Box 1511, 21 West 21st Street, Liberal, Kansas 67901 (Petitioner).

FOR FURTHER INFORMATION CONTACT: D. David Weston, (202) 634–6530, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–508, adopted December 24, 1986, and released February 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch Mass Media Bureau.

[FR Doc. 87-3401 Filed 2-18-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-485, RM-5355]

Radio Broadcasting Services; Midland, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Bakcor Broadcasting, Inc., proposing the substitution of Class C Channel 222 for Class C1 Channel 222 at Midland, Texas, in order to provide a wider area coverage station. A site restriction of 15.9 kilometers (9.9 miles) is required. The proposal also requires concurrence by the Mexican government.

DATES: Comments must be filed on or before April 7, 1987, and reply comments on or before April 22, 1987.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Rainer K. Kraus, Esquire, Koteen & Naftalin, 1150 Connecticut Avenue, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-485, adopted December 16, 1986, and released February 6, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rule governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-3395 Filed 2-18-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-488, RM-5537]

Radio Broadcasting Services; Paradise, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by JIBO Broadcasting Corp. proposing the substitution of Channel 278B1 for Channel 224A and modification of the license of Station KRIJ, at Paradise, California.

DATES: Comments must be filed on or before April 7, 1987, and reply comments on or before April 22, 1987.

ADDRESS: Federal Communications Commission, Washington DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: James J. McGillan, Esq., Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey, 1120 Connecticut Ave. NW., Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-488, adopted December 16, 1986, and released February 6, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-3396 Filed 2-18-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-507, RM-5501]

Radio Broadcasting Service; Cape Coral, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Radio cape Coral, Inc., licensee of Station WRCC(FM), Cape Coral, Florida, which proposes to substitute Channel 279C2 for Channel 280A at Cape Coral, and to modify its Class A license to specify the new channel.

DATES: Comments must be filed on or before April 13, 1987, and reply comments on or before April 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: John T. Scott, III, Crowell and Moring, 1100 Connecticut Avenue NW., Washington, DC 20036 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Montrose Tyree, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making MM Docket No. 86-507, adopted December 24, 1986, and released February 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-3402 Filed 2-18-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 87-1; FCC 87-13]

Proposed Amendment of Part 90 to Review the Co-Channel Assignment Standards for Trunked SMR Systems in the Seattle, WA, Area

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Notice of Proposed Rulemaking proposing to amend Part 90 of the rules to revise the co-channel assignment standards for trunked SMR systems in the Seattle, Washington area.

DATES: Comments are due by April 2, 1987 and replies by April 17, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW. Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, PR Docket No. 87-1, adopted January 5, 1987, and released February 9, 1987. The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's Copy Contractor, International Transcription Service, 2100 M Street NW., Washington, DC 20037, telephone (202) 857-3800.

Summary of Notice of Proposed Rulemaking

1. A memorandum from the FCC Seattle District Office has indicated that SMR licensees in the Seattle area are experiencing co-channel interference and suggests an amendment to Part 90 of the rules to increase the minimum 70-mile separation between co-channel systems.

2. The Notice proposes to increase the separation distance between new co-channel SMR systems in the Seattle area. The proposal would provide a 105-mile separation between co-channel mobile relay stations. Further, channels recovered from our take-back program will be offered, where possible, to existing SMR licensees to resolve the current interference problem.

3. This action is taken pursuant to sections 4(l), 303(r), and 331 of Communications Act of 1934, as amended, 47 U.S.C. 154(l), 303(r) and 332.

4. This is a non-restricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contracts.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, an initial regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

6. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and will not increase or decrease burden hours imposed on the public.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419, interested parties may file comments on or before April 2, 1987, and reply comments on or before April 17, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 90

Private land mobile radio.

Federal Communications Commission.

William J. Tricarico

Secretary.

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

§ 90.36 [Amended]

2. Section 90.362 is amended by adding a new paragraph (c)(3) to read as follows:

* * * * *

(c) * * *

(3) The separation between co-channel SMR trunked systems located in the State of Washington north of 46°45'00" north latitude, west of 121°15'00" west longitude, and east of 123°30'00" west longitude shall be 168 km. (105 mi).

3. Section 90.621 is amended by adding a new paragraph (b)(3) to read as follows:

§ 90.621 Selection and assignment of frequencies.

* * * * *

(b) * * *

(3) The separation between co-channel SMR trunked systems located in the State of Washington north of 46°45'00" north latitude, west of 121°15'00" west longitude, and east of 123°30'00" west longitude shall be 168 km. (105 mi).

[FR Doc. 87-3482 Filed 2-18-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered or Threatened Status for Three Granite Outcrop Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine two plants, *Isoetes melanospora* (black-spored quillwort) and *Isoetes tegetiformans* (mat-forming quillwort), to be endangered species under the authority contained in the Endangered Species Act (Act) of 1973, as amended. The Service proposes threatened status for one plant, *Amphianthus pusillus* (little amphianthus). These three species are restricted to granite outcrops in the Piedmont physiographic region in the Southeast and all have their center of distribution in Georgia. *Isoetes melanospora* is presently known from five sites in Georgia; *Isoetes tegetiformans* is extant at ten sites in Georgia; and *Amphianthus pusillus* occurs at 39 sites in Georgia, three sites in Alabama, and three sites in South Carolina. However, only one population of *Isoetes melanospora*, two populations of *Isoetes tegetiformans*, and six populations of *Amphianthus pusillus* are large and vigorous. These species are jeopardized by the continuing destruction of granite outcrops from quarry operations, and habitat modification from dumping, their inclusion in pasture, and heavy recreational use [especially off-road vehicle (ORV) use]. All three species have lost populations through such activities. This proposed rule, if made final, will extend the Act's protection to these three granite outcrop endemics. The Service seeks data and comments from the public on this proposed rule.

DATES: Comments from all interested parties must be received by April 20, 1987. Public hearing requests must be received by April 6, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan at the above address (601/965–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

Amphianthus pusillus, *Isoetes melanospora*, and *Isoetes tegetiformans* are endemic to granite outcrops in the Piedmont physiographic region of the Southeastern U.S. *Amphianthus* is known from Alabama, Georgia, and South Carolina. *Isoetes melanospora* and *Isoetes tegetiformans* occur only in Georgia. These three taxa are the most restricted of the granite outcrop species (Bridges 1986a). Granite outcrops superficially resemble one another but may differ geologically as igneous, quartzitic, gneissic or porphyritic granite (Lester 1938, McVaugh 1943, Wharton 1978). Outcrop supporting populations of all three taxa occur as large isolated domes or as gently rolling "flatrocks." These communities are believed to have long served as active sites for speciation, as evidenced by a high degree of endemism. Speciation is accelerated on outcrops due to the scattered distribution of rock exposures and the harsh environmental conditions (high light intensities, extreme wet/dry periods) to which the species have become adapted (Murdy 1968).

Amphianthus pusillus, *Isoetes melanospora*, and *Isoetes tegetiformans* typically occur in shallow flat-bottomed pools found on the crest and flattened slopes of unquarried outcrops (Lester 1938, Garris 1980, Rury 1985, Rayner 1986). Such pools have been referred to as vernal pools (Kral 1983, Rayner 1986), weathering pits (Bake 1970), depression pits (Murdy 1968) and solution pits (Lester 1938, McVaugh 1943) and are rare in even the best localities. These pools range in size from 0.3 square meter to 10 square meters; the vast majority of these pools range from 0.5–1 meter square. These pools retain water for several weeks following heavy rains and completely dry out with summer droughts. They are usually several meters in diameter and are circular or irregularly-shaped due to the coalescene of adjacent pools (Lunsford 1938, McVaugh 1943). For species occur directly with these taxa due to the aquatic nature of the microhabitat (McVaugh 1943). *Amphianthus* is the most common associate of *Isoetes melanospora* and *Isoetes tegetiformans*. Other plants which may occur in and around the pools include lichens (*Cladonia* sp.), *Diamorpha smallii*, *Arenaria uniflora*, *Arenaria glabra*, *Polytrichum commune*, *Isoetes piedmontana*, *Juncus georgianus*, *Agrostis* sp., *Lindernia monticola*, *Cyperus granitophilus*, *Andropogon scoparius*, and *Selaginella tortipila* (Garris 1980, Kral 1983, Rayner 1986). Two Federal candidate plant species (*Sedum pusillum* and *Draba aprica*) occur with *Amphianthus* and *Isoetes tegetiformans* at several sites in eastern Georgia.

A discussion of the three species proposed for listing herein follows:

Amphianthus pusillus is a diminutive fibrous-rooted annual. It has both floating and submerged leaves. The submerged leaves are lanceolate, less than 1 centimeter (cm) (0.4 inch) in length and appear to be arranged in a basal rosette. The floating leaves are ovate, 4–8 millimeters (mm) (0.16–0.32 inch) long, 3–5 mm (0.12–0.20 inch) wide, oppositely arranged and are attached to the stem near the submerged leaves by long, delicate stems. Its flowers are white, 4–5 mm (0.16–0.20 inch) in length and are borne in the axils of both types of leaves. Floating flowers are chasmogamous (open) and submerged flowers are cleistogamous (closed) except when exposed to air (lungsford 1938, Rayner 1986). *Amphianthus* usually flowers in March or April (depending upon environmental conditions) and produces a capsule, 2–3 mm (0.08–0.12 inch) broad and 1 mm (0.04 inch) long. *Amphianthus* is ephemeral, usually completing its life cycle in a 3-to-4 week period (Garris 1980; Kral 1983; Rayner 1986).

This species was first collected by M.C. Leavenworth in 1836 in Newton County, Georgia (present-day Rockdale County) and later described by John Torrey in 1839 (Pennell 1935). *Amphianthus pusillus* is thought to e a relict species, a monotypic genus of doubtful placement in the family Scrophulariaceae (Pennell 1935, McVaugh 1943, Murdy 1968). It is most similar in flower morphology to *Gratiola* and *Bacopa* but differs from all other southeastern Scrophulariacease by its dimophic leaves and flowers (Pennell 1935, Kral 1983).

Optimal habitat for *Amphianthus* has been consistently described as pools surrounded by a rock rim several centimeters in height and sandy-silty soils 2–5 cm (0.8–2.0 inches) in depth with a low organic matter content (Lunsford 1938, McVaugh 1943, Garris 1980, Miller 1985, Rayner 1986). Most populations occur in such typical pools; however, Garris (1980) and Rayner (1986) have reported several populations from atypical habitats. Most of these atypical pools lacked on intact rim, others were in ecotonal zones or seepage areas.

Amphianthus primarily occurs in Georgia with peripheral populations in Alabama and South Carolina. Status surveys have been conducted throughout its range by Miller (1985) in Alabama, Garris (1980) in Georgia, and Rayner (1981, 1986) in South Carolina. Extensive surveys of granite outcrops in the Piedmont have been conducted by J. Allison since the 1970's (University of Georgia, pers. comm. 1986).

The actual number of individual plants is difficult to determine since *Amphianthus* is an ephermeral annual whose population size and vigor is dependent upon weather conditions (sufficient moisture). This is further complicated by a seed bank of undertermined size and dormancy period (Rayner 1986).

Amphianthus was first reported from Alabama by Harper (1939) in Randolph County. However, this population has not been relocated in years and is believed extirpated. Currently, there are three extent populations in two counties of the State (Randolph and Chambers). All three areas contain limited populations of *Amphianthus*. Two of the sites have fewer than 50 plants confined to a single vernal pool, while the third population consists of several hundred plants in two to three pools (Miller 1985, Allison pers. comm. 1986).

Amphianthus is historically known from 50 sites in Georgia (McVaugh and Pyron 1937, Lunsford 1938, McVaugh 1943, Burbanck and Platt 1964); however 11 of these populations have been destroyed (Garris 1980; Allison pers. comm. 1986; Jones, University of Georgia pers. comm., 1986). Currently, 39 populations are thought extant; with 74% of these are "limited" populations (1–5 pools) and 45% of these contain *Amphianthus* in a single vernal pool; 13% are "moderate" populations (6–14 pools); and 13% are "extensive" population (15–25 pools). Even though *Amphianthus* is known from 17 counties, 12 of these counties (Rockdale, Walton, Douglas, Butts, Putnam, Oglethorpe, Harris, Meriwether, Henry, Pike, Newton, Gwinnett) support only a limited population of *Amphianthus* with eight of these county records confined to a single site. The remaining counties support one to two extensive populations of *Amphianthus* (De Kalb, Greene, Heard, Hancock, and Columbia). The number of individuals in the pools range from as few as a dozen to several thousand, with most pools containing several hundred plants when rainfall is adequate.

Amphianthus occurs at three sites in South Carolina, with seven pools in Lancaster County, one in Saluda County, and four in York County (Rayner 1981, 1986). According to Rayner (1986), during the 1983 or 1984 growing season, six pools supported extensive populations (>200 plants) and six had limited populations (<25 plants) of *Amphianthus*.

Isoetes melanospora was discovered by Canby (1869) on Stone Mountain in De Kalb County, Georgia, and later described by Englemann (1877). Distinguishing characters include a complete velum coverage, dark tuberculate megaspores and short [2–7 cm (0.8–2.8 inches long], spiraled leaves (Boom 1979, 1982). Immature plants of *Isoetes melanospora* may have distichous leaves (Boom 1979, Rury 1978). If frequently hybridizes with *Isoetes piedmontana*, a more common granite outcrop quillwort, which has an incomplete velum coverage, white megaspores and longer leaves [7–15 cm (2.5–5.9 inches long], in habitats which are ecologically intermediate between the two species' typical habitats. Hybrids are intermediate in the above characters (Matthews and Murdy 1969, Boom 1982). Rury (1978) proposed that *Isoetes melanospora* represented a arrested developmental stage of one polymorphic species encompassing *Isoetes melanospora* and *Isoetes piedmontana*. According to Boom (1978, 1982), such confusion regarding *Isoetes melanospora's* taxonomic status stems from the above mentioned hybridization of the two *Isoetes* species and subsequent introgression. C. Taylor and N. Luebke (Milwaukee Public Museum, pers. comm. 1986) maintain that *Isoetes melanospora* and *Isoetes piedmontana* are distinct species. Both species have maintained their morphological distinctiveness while growing in uniform conditions for the last six years, and preliminary electrophoretic data determined the two *Isoetes* to have distinct enzyme profiles. Research by Boom (1980) and Luebke (pers. comm. 1986) demonstrates that reproductive barriers are weak in *Isoetes* and interspecific hybrids are produced readily. *Isoetes melanospora* has been maintained as a distinct taxon in all monographic treatments of the genus (Pfeiffer 1922, Reed 1965, Boom 1979, 1982). Although Evans (1978) synonymized *Isoetes melanospora* in *The Flora of The Carolinas*, he now states that *Isoetes melanospora* will be maintained as a distinct taxon in his treatment of the pteridophytes for the upcoming "Vascular Flora of the Southeastern States" (Evans, University of Tennessee, pers. comm. 1986).

Isoetes melanospora is historically known from 12 sites in central Georgia and one site in South Carolina (Johnson 1938, KcVaugh 1943, Lammers 1958, Burbanck and Platt 1964, Matthews and Murdy 1969, Allison, pers. comm. 1986). Currently, it is thought extant at only five sites in Georgia (De Kalb, Rockdale, and Gwinnett Counties) due to a 54% loss of Georgia populations from habitat destruction. Its status at the South Carolina site is unknown since it has not been observed there since its collection in 1969 (Boom 1979, Rayner, pers. comm. 1986).

Isoetes melanospora occurs with *Amphianthus* at four of its six extant sites in typical habitat as described for *Amphianthus*. At the sixth site, *Isoetes melanospora* is located in several remnant quarry pools. The largest population of *Isoetes melanospora* comprises plants in an estimated 12 pools. Other Georgia populations are confined to one to five pools each.

Isoetes tegetiformans is perhaps the most distincitive species in this genus (Boom 1982). A detailed description of its morphology and anatomy is given by Rury (1978). Distinguishing characters include its distichous, mat-forming growth habit (plants are "rhizomatously" connected), non-dichotomizing roots, and formation of numberous, cauline, adventious buds (Rury 1978, Boom 1979, 1982). Individual plants are most similar to distichous plants of *Isoetes melanospora* with respect to plant size, leaf arrangement and reproductive features (Rury 1978).

Isoetes tegetiformans was described by Rury (1978) from material he collected at Heggie's Rock Preserve in Columbia County, Georgia, from a single vernal pool. Since then, searches of over 120 granite outcrops by J. Allison have resulted in only 10 additional locations (Rury 1985, Allison, pers. comm. 1986). Populations occur in four Georgia counties (Columbia, Hancock, Greene and Putnam) and are confined to porphyritic granite outcrops. Today, *Isoetes tegetiformans* is though extant at all but one site (Allison, pers. comm. 1986, Rury 1986). Seventy percent of the extant sites have only one or two pools with *Isoetes tegetiformans*. At the remaining sites, it has been observed in four to eight pools. Individual pools may contain very few genetic individuals since *Isoetes tegetiformans* is a colony-forming species (Bridges 1986a).

Many of the sites harboring populations of these three granite outcrop endemics have been destroyed or adversely impacted through quarrying, euthrophication from cattle, ORV's, trash dumping, and various forms of vandalism (Garris 1980, Miller 1985, Rayner 1986).

Most populations are on privately-owned lands, including one site

managed by the Nature Conservancy. Four sites are located on public lands, including one owned by the State of Georgia and administered by the Stone Mountain Memorial Association, two owned by De Kalb Country, Georgia, and one by the State of South Carolina (South Carolina Wildlife and Marine Resources Department).

Federal actions involving these species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those 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. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report on the Smithsonian Institution as a petition within the context of section 4(c)(2), now section 4(b)(3)(A), of the Act and of its intention thereby to review the status of those plants. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Amphianthus pusillus* and *Isoetes melanospora* were included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480); *Isoetes melanospora* was included as a Category-2 species (species for which data in the Service's possession indicate listing is probably appropriate, but for which additional biological information is needed to support a proposed rule); *Isoetes tegetiformans* and *Amphianthus pusillus* were included as Category-1 species (species for which data in the Service's possession indicate listing is warranted). On November 28, 1983, the Service published in the **Federal Register** (48 FR 53640) a supplement to the 1980 notice or review. This supplement treated *Isoetes tegetiformans* as a Category-2 species. All three species were included in Category 2 in the September 27, 1985, revised notice of review of plants (50 FR 39526). Status survey reports compiled by Garris (1980), Miller (1985) and Rayner (1986), as well as extensive field searches by Allison (pers. comm. 1986), and pertinent literature (see "References Cited" below), now support all three species' being reelevated to Category 1 and listing as endangered or threatened. The date demonstrated low numbers of plants and contiuning threats to the species.

Section 4(b)(3)(B) of the Endangered Species 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 that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Isoetes melanospora* and *Amphianthus pusillus* because the 1975 Smithsonian report had been accepted 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 these species was warranted, but that listing this species was precluded due to other higher priority listing actions. Publication of the present proposal constitutes the next 1-year finding required on or before October 13, 1986, for these three species which are now among the highest priority species for listing.

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 *Amphianthus pusillus* Torrey (little amphianthus), *Isoetes melanospora* Englemann (black-spored quillwort), and *Isoetes tegetiformans* Rury (mat-forming quillwort) are as follows:

A. The Present of Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

Amphianthus pusillus, Isoetes tegetiformans, and *Isoetes melanospora* are restricted to granite outcrops in the Piedmont physiographic region (see "Background' section for specific distributions). The major threat to these species is the destruction and adverse modification of their habitat. Populations of all three taxa have been lost through quarrying (38% for *Isoetes melanospora, 17% for Amphianthus,* 9% for *Isoetes tegetiformans*) and the fate of several extent populations is tenuous since several areas are active quarry sites. Georgia is the world's largest granite producer (Wharton 1978), so the destruction of outcrops from quarrying is expected to continue. Quarrying companies owned 17.4% of those granite outcrops investigated for *Amphiantus* in Georgia (Garris 1980).

Granite outcrops are popular recreational sites and unfortunately such attention and overuse have resulted in damage to the geologic structures and vegetation (Garris 1980). Many of the pools supporting populations of these three taxa have been directly damaged by vehicular traffic. Vehicular traffic during these species' growing season posed a serious threat by uprooting/crushing live plants, hastening the erosion of the pools' rims and displacing soil from the pools (Bridges 1986a, Rayner 1986). ORV's have decreased the vigor of all the South Carolina *Amphianthus* populations (Rayner 1986) and destroyed one Alabama population (Miller 1985). Pools have been further impacted by such vandalistic activities as fire building and littering (Rayner 1986, Garris 1980). Rearrangement of stones in two pools has caused a decline in two populations of *Amphianthus* and *Isoetes melanospora.*

Granite outcrops are often enclosed in pasture. A concentration of grazing animals on these areas has caused damage to vernal pool vegetation through trampling and added nutrients to the water, which favors the growth of more competitive aquatics (Garris 1980, Bridges 1986b). Such eutrophication of vernal pools has eliminated *Amphianthus* from several pools at one site and caused the decline of *Amphianthus* and *Isoetes tegetiformans* at a second area.

Many of the smaller outcrops are used as local dumps or for storing equipment, and such adverse land use has destroyed two populations of *Amphianthus* and one population of *Isoetes melanospora* in Georgia (Garris 1980, Allison, pers. comm. 1986). Flatrocks in the Southeast are being examined as possible repositories for nuclear waste and this poses a potential threat to their habitat (Rayner 1986). Long term monitoring of all three taxa should be initiated in order to measure fluctuations in population size and vigor.

Such data would be helpful in determining the stability of populations are related to weather conditions and distrubance (Bridges 1986a, Rayner 1986).

B. Overutilization for Commercial, Recreational, Scientific or Educational Purposes

Taking for these purposes may pose a threat to these species, especially *Isoetes melanospora* and *Isoetes tegetiformans*, which are extremely restricted in range and low in numbers. Publicity surrounding the listing of these species could increase interest in all three of these unique species, and the sites are easily accessible.

C. Disease or Predation.

These taxa are not known to be threatened by disease or predation.

D. The Inadequacy of Existing Regulatory Mechanisms.

Amphiantus pusillus and *Isoetes melanospora* are officially listed as endangered by the Georgia Department of Natural Resources and are thereby afforded legal protection in the State under the Wildflower Preservation Act of 1973. *Isoetes tegetiformans* is not protected by Georgia law at the present time. Georgia legislation prohibits taking of plants from public lands (without a permit) and regulates the sale and transport of plants within the State. However, Georgia law does not provide protection against habitat destruction, the major threat to these species, and has been inadequate in preventing the further decline of *Isoetes melanospora* and *Amphiantus pusillus* populations at two publicly-owned sites in De Kalb County (Stone Mountain State Park and Mt. Arabia County Park).

Although these species are unofficially recognized as an endangered or threatened components of their flora, South Carolina and Alabama have no State laws protecting them. The Nature Conservancy owns and manages Heggie's Rock Preserve in Columbia County, Georgia, which supports a moderate population (ten pools) of *Amphiuanthus* and a limited population (on pool) of *Isoetes tegetiformans. Amphianthus pusillus* is also protected at Forty-Acre Rock Preserve in Lancaster County, South Carolina, which is owned by the South Carolina Wildlife and Marine Resources Department. Both preserves have regulations restricting collecting and motorized vehicles. However, these regulations are difficult to enforce and the areas are continuing to be disturbed. The Act would enhance the existing protection, provide Federal protection (see "Available Conservation Measures" below), and encourage active management for these species.

E. Other Natural or Manmade Factors Affecting its Continued Existence

These taxa are rare and vulnerable due to the limited amount of potential habitat and specialized microhabitat requirements. Many of the populations consist of small numbers of individuals confined to only one or two pools (see "Background" section), so local extinction through natural causes is possible. *Amphianthus pusillus, Isoetes melanospora,* and *Isoetes tegetiformans* are susceptible to inadvertent destruction because the pools in which they occur are exposed, and thus unprotected from vehicular traffic. These outcrop endemics are not vigorous competitors (Rayner 1986, Luebke, pers. comm. 1986) and could be eliminated by overcrowding and shading (Lammers 1958, Kral 1983). One population of *Amphiantus* and one of *Isoetes melanospora* have been lost through succession (Allison, pers. comm. 1986); however, natural succession is usually too slow to be a significant problem, and new habitat is constantly being created (Burbanck and Platt 1964). A more serious threat is from accelerated succession caused by excessive siltation from disturbance upslope or from eutrophication of the pools from cattle droppings (Bridges 1986b).

Amphianthus is vulnerable due to its requirements for special environmental conditions (moisture, light) for germination and growth and an unknown dormancy period for the seeds (Lunsford 1938, Garris 1980, Rayner 1986). One factor believed to contribute to the rarity of *Amphianthus* is the lack of adaptation for seed dispersal (Lunsford 1938). Preliminary research by Randall (1986) suggests that the principle mode of reproduction in *Amphianthus* is agamospermy (production of seeds by asexual process) and that this lack of genetic variation threatens its adaptive potential. The genetic integrity of *Isoetes melanospora* is threatened due to its frequent hybridization with *Isoetes piedmontana* and subsequent introgression. Hybrids may competitively displace *Isoetes melanospora,* which requires a more specialized type of microhabitat (Boom, pers. comm. 1986).

The Service has carefuly assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Isoetes tegetiformans* and *Isoetes melanospora* as endangered species and to list *Amphianthus pusillus* as a threatened species. *Isoetes melanospora* has been extirpated over most of its historic range (54% of populations destroyed). Furthermore, populations at four of the five remaining sites are confined to five or fewer pools and have significantly decreased in numbers and vigor at several of these areas. *Isoetes tegetiformans* is restricted to a particular type of outcrop (porphyritic granite) and presently receives no protection under Georgia's Wildflower Preservation Act of 1973. At most sites (80%), *Isoetes tegetiformans* occurs in only one or two pools and two of these areas are active quarry sites. These two plants are in danger of extinction throughout all or significant portions of their ranges and therefore qualify as endangered species under the Act.

Threatened status seems appropriate for *Amphianthus pusillus* which has a wider geographic range and two populations in designated Nature Preserves. However, 21% of the populations of *Amphianthus'* have been destroyed and 76% of the extant sites support only a limited population of this senus. Many of the populations face severe threats and *Amphianthus* could become endangered within the foreseeable future; thus it is a threatened species as defined by the Act. Critical habitat is not being designated for reasons discussed in the following 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 these species at this time. Publication of critical habitat descriptions and maps would increase public interest and possibly lead to additional treats for these species from collecting and vandalism (see threat factor "B" above). Distinctiveness of the outcrops increases their vulnerability since they tower above the surrounding vegetation and most are easily accessible. No benefit can be identified through critical habitat designation that would outweigh these potential threats. All State agencies and counties will be notified of the general location of the sites and of the importance of protecting these species' habitat. Protection of these species' habitat will be addressed through the recovery process and

through the section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for these species at this time.

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, 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 were recently revised 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 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. All presently known sites for these species are on private, State-owned, or county-owned land. Currently, no activities to be authorized, funded, or carried out by Federal agencies are known that would affect these species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 (for endangered), and 17.71 and 17.72 (for threatened) set forth a series of general trade prohibitions and exceptions that apply to all endangered or threatened plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered or threatened 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 to 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 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued, since these species are unknown in cultivation and are uncommon in the wild. 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 as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned government 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 these species;

(2) The location of any additional populations of these 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 these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulation on these 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 Endangered Species Field Supervisor (see **ADDRESSES** section).

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 Cary Norquist (see ADDRESSES section) (601/965–4900 or FTS 490–4900).

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 § 17.12(h) by adding the following, in alphabetical order, 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					
*	*	*	*	*		
Isoetaceae—Quillwort family:						
Isoetes melanospora	Black-spored quillwort	U.S.A. (GA, SC)	E		NA	NA
Isoetes tegetiformans	Mat-forming quillwort	U.S.A. (GA)	E		NA	NA
*	*	*	*	*		
Scrophulariaceae—Snapdragon family:						
Amphianthus pusillus	Little amphianthus	U.S.A. (AL, GA, SC)	T		NA	NA
*	*	*	*	*		

Dated: January 28, 1987.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–3411 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Liatris helleri

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list *Liatris helleri* (Heller's blazing-star), a perennial herb limited to seven populations in North Carolina, as a threatened species under authority of the Endangered Species Act of 1973, as amended (Act). *Liatris helleri* is threatened by recreational development of the high mountain peaks where it grows and by trampling and habitat disturbance due to heavy use by hikers and climbers. This proposal, if made final, would implement Federal protection provided by the Act for *Liatris helleri*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by April 20, 1987. Public hearing requests must be received by April 6, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

Liatris helleri, described by T. C. Porter (1891) from material collected in North Carolina in 1981, is a perennial herb with one or more erect or arching stems arising from a tuft of narrow, pale green basal leaves. The stems reach up to 4 decimeters in height and are topped by a showy spike of lavender flowers 7 to 20 centimeters long. Flowering occurs from July through September with fruits present from September through October (Kral 1983, Radford *et al.* 1964). Although the taxonomy of the genus *Liatris* is complex, *Liatris helleri* can be distinguished from other similar high altitude species of *Liatris* by its much shorter pappus, ciliate petioles, internally pilose corolla tubes, and lower, stockier habit (Gaiser 1946,

Cronquist 1980). Additional work is underway on plants at two of the sites, which may result in their being described as a toxonomically separate entity (Sutter, in preparation). If this is done after *Liatris helleri* (inclusive of these two sites) is added to the List of Endangered and Threatened Plants, an editorial change to the List will be made to reflect this nomenclatural change.

Liatris helleri is a species endemic to a few scattered summits in the northern Blue Ridge Mountains of North Carolina. The species grows on high elevation ledges of granitic outcrops in shallow, acid soils where it is exposed to full sunlight. Nine populations of *Liatris helleri* have been reported historically; seven remain in existence. Four of these populations are in Avery County with one population each remaining in Caldwell, Ashe, and Burke Counties, North Carolina. Five of the remaining populations are located on privately owned lands, and two are located on public land administered by the U.S. Forest Service and the National Park Service. Two additonal populations were historically known for the species, but one site (Watauga County) has since undergone residential development, and the other (Mitchell County) has been subjected to intensive recreational use. *Liatris helleri* has not been relocated at either locality during recent searches. The continued existence of *Liatris helleri* is threatened by trampling and habitat disturbance due to heavy use of its habitat by hikers and other recreational users as well as development for commercial recreation facilities and residential purposes (Massey *et al.* 1980).

Construction of new trails, other recreational improvements, significant increases in intensity of recreational use, or intensive development at any of the sites could further jeopardize this plant. Most of the populations occupy a very small total area with fewer than 20 individual plants at two of the seven sites. Three of the privately owned sites have been developed as commercial recreation facilities; development of a fourth site as a ski slope is currently underway. The fifth privately owned site belongs to The Nature Conservancy and is protected. The two sites in public ownership are located in scenic areas which attract large numbers of visitors annually.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designed as House Document No. 94–51, was presented to Congress on January 9, 1975. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27832) of its acceptence of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) [now section 4(b)(3)] of the Act and of its intention thereby to review the status of the plant taxa named within. *Liatris helleri* was included in the July 1, 1975, Notice of Review. On December 15, 1980, the Service published a revised Notice of Review for Native of Review for Native Plants in the **Federal Register** (45 FR 82480); *Liatris helleri* was included in that notice as a Categorly-1 species. Category 1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened species. On November 28, 1983, the Service published a supplement to the Notice of Review for Native Plants in the **Federal Register** (48 FR 53640); the plant notice was again revised September 27, 1985 (50 FR 39526). *Liatris helleri* was included as a Category-2 species in the 1983 supplement and the 1985 revised notice. Category-2 species are those for which listing as endangered or threatened species may be warranted but for which substantial data on biological vulnerability and threats is not currently known or on file to support proposed rules. Subsequent to that notice the Service received a draft report on the status and taxomony of *Liatris helleri* (Sutter, in preparation). This report and other available information indicate that the addition of *Liatris helleri* to the Federal List of Endangered and Threatened Plant is warranted.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Liatris helleri* because of the acceptance of 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 *Liatris helleri* was warranted but precluded by other listing actions of a higher priority and that additional data on vulnerability and threats was still being gathered. Publication of this proposal constitutes the next one-year finding that is required.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1513 *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 *Liatris helleri* Porter (Heller's blazing star) are as follows:

A. The Present or Threatened Destruction, Modification , or Curtailment of Its Habitat or Range

Seven populations of *Liatris helleri* are known to exist in Caldwell, Avery, Ashe, and Burke Counties, North Carolina. Two other historically known populations have apparently been extirpated due to residential development and heavy recreational use. Only three of the seven extant populations are afforded some protection from human-induced habitat alterations. The four other populations occur on lands which have been or are being developed for commercial recreation use. Of the three partially protected sites, only the one owned by The Nature Conservancy receives full protection from human disturbance. Those on lands administered by the U.S. Forest Service and the National Park Service are subject to heavy recreational use. The greatest damage to *Liatris helleri* in the past has probably come from the commercial development of the open mountain summits where it occurs. The construction of trails, parking lots, roads, buildings, observation platforms, suspension bridges, and other recreational, residential, and commercial facilities has taken its toll on the species either through the actual construction process or by trampling due to hikers and sightseers (Kral 1983). Currently, heavy trampling occurs at two of the locations where *Liatris helleri* is known to survive; however, the high-intensity use and potential impact from increased use and development pose serious threats to all of the small habitats occupied by this species, particularly if additional development occurs (Massey *et al.* 1980). With anticipated increased usage by sightseers, rock climbers, and hikers at six of the remaining seven localities where *Liatris helleri* occurs, significant impact on this species in the form of increased soil erosion, soil compaction, and trampling could occur if protection

is not provided. Likewise, additional development at any of the locales (such as expansion of trails or sidewalks, construction of additional visitor facilities, or residential development) could further threaten the species if proper planning does not occur.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Liatris helleri is not currently a significant component of the commercial trade in native plants; however, other species of the genus are regularly sold in the commercial wild flower trade. *Liatris helleri*, with its attractive lavender flowers, has potential for horticultural use, and publicity could generate an increased demand.

C. Disease or Predation.

Not applicable to this species at this time.

D. The Inadequacy of Existing Regulatory Mechanisms

Liatris helleri is afforded legal protection in North Carolina by North Carolina General Statute, Chapter 106, Article 19–B 202.12–202.19, which prohibits intrastate trade and taking of plants without a State permit and written permission of the landowner. *Liatris helleri* is listed in North Carolina as threatened. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat or unintentional damage from recreational use. The Endangered Species Act will provide additional protection and encouragement of active management for *Liatris helleri*, particularly on Federal lands.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

As mentioned in the "Background" section of this proposed rule, many of the remaining populations are small in numbers of individual stems and in terms of area covered by the plants. Therefore, little genetic variability exists in this species making it more important to maintain as much habitat and as many of the remaining colonies as possible. *Liatris helleri* is an early pioneer species growing on rock ledges in full sun. Depending upon the elevation and suitability of the site for supporting woody vegetation, invasion by ericaceous shrubs and trees may occur, which could eliminate *Liatris helleri* by overcrowding and shading. Since this type of succession is a slow process, this is not considered an immediate threat to survival of the species. However, proper management planning for *Liatris helleri* is needed to address this aspect of the species' biology. Natural rock slides, severe storms or droughts, or other natural events may also eliminate populations of this plant.

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 *Liatris helleri* as threatened. With two of the nine known populations having been extirpated and six of the remaining seven subject to some form of threat, this species warrants protection under the Act. Threatened status seems appropriate because the extirpation of most remaining populations is not imminent. Because the areas occupied by the plant are usually small, it is easily possible for a concerned landowner or developer to preserve the habitat needed for the plants survival. This has been done successfully in the cases of two of the commercial recreation areas where the plant occurs. Critical habitat is not being designated for the reasons discussed below.

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 *Liatris helleri* at this time. With its showy flowers, and with other members of the genus already in commercial trade, the species has high potential for horticultural use. Increased publicity and the provision of specific location information associated with critical habitat designation could result in taking pressures on the species. Although taking of threatened plants from lands under Federal jurisdiction and reduction to possession is prohibited by the Endangered Species Act, taking provisions are difficult to enforce. Publication of critical habitat descriptions would make *Liatris helleri* more vulnerable and would increase enforcement problems for the U.S. Forest Service and the National Park Service. Also, the populations on private lands would be more vulnerable to taking. Increased visits to population locations stimulated critical habitat designation could therefore adversely affect the species. The Federal and State agencies and landowners involved in managing the habitat of this species have been informed of the plant's locations and of the importance of protection. Therefore, it would not be prudent, and no additional benefit would result from the determination of critical habitat.

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, 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. 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 the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Forest Service and the National Park Service have jurisdiction over portions of this species' habitat. Federal activities that could impact *Liatris helleri* and its habitat in the future include, but are not limited to, the following: construction of recreational facilities (including trails, buildings, or maintenance of such facilities), use of aerially-applied retardants in fire fighting efforts, road construction, permits for mineral exploration, and any other activities that do not include planning for this species continued

existence. The Service will work with the involved agencies to secure protection and proper management of *Liatris helleri* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any threatened 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. Seeds from cultivated specimens of thratened 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. With respect to *Liatris helleri*, it is anticipated that few trade permits would ever be sought or issued since this species is not common in cultivation or in the wild. 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 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 proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Liatris helleri;*

(2) The location of any additional populations of *Liatris helleri* 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 subject area and their possible impacts on *Liatris helleri.*

Final promulgation of the regulation on *Liatris helleri* 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, Asheville Endangered Species Field Office (see the "**ADDRESSES**" section).

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).

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Gaiser, L.O. 1946. The genus *Liatris*. Rhodora 48:572–576.

Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the south. Tech. publ. R8–TP–2. USDA—Forest Service. Pp. 1191–1194.

Massey, J., P. Whitson, and T. Atkinson. 1980. Endangered and threatened plant survey of 12 species in the eastern part of Region 4. Report submitted to U.S. Fish and Wildlife Service, Region 4, under contract 14–16–004–78–108.

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Sutter, R. In preparation. Taxonomic analysis of *Liatris helleri*, a North Carolina endemic.

Author

The primary author of this proposed rule is Ms. Nora Murdock, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704–259–0321 or FTS 672–0321).

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 § 17.12(h) by adding the following, in alphabetical order under the family Asteraceae, to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
ASTERACEAE—ASTER FAMILY:						
*	*	*	*	*		
Liatris helleri	Heller's Blazing-star	U.S.A. (NC)	T		NA	NA
*	*	*	*	*		

Dated: January 28, 1987.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–3413 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 26

Public Access, Use and Recreation; Back Bay National Wildlife Refuge, VA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) is revising special regulations concerning public access, use, and recreation on the Back Bay National Wildlife Refuge (NWR), which were published in the **Federal Register** on May 28, 1980 (45 FR 35823), January 13, 1983 (48 FR 1501), and September 1, 1983 (48 FR 39661). This proposed rule relaxes certain limitations on vehicular access through the Back Bay NWR by revising 50 CFR 26.34. It also incorporates the provisions of Pub. L. 98–107, enacted on October 1, 1983. This law amended Pub. L. 96–315 to allow access for "up to 15 additional" permittees, who met specific conditions for access. A notice concerning this law appeared in the **Federal Register** (48 FR 46862) on October 14, 1983.

Actual changes in access rules and other public use regulations which are incorporated into this proposed rule are listed in **Supplementary Information** under the heading "Actions Taken in This Rule."

DATE: Comments must be submitted on or before April 20, 1987.

ADDRESS: Comments may be addressed to Howard N. Larsen, Regional Director, Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158; Telephone (617) 965–5100, ext. 222.

FOR FURTHER INFORMATION CONTACT: Edward S. Moses, (617) 965–5100, ext. 222.

SUPPLEMENTARY INFORMATION: For many years, Back Bay NWR was open to the public for a number of purposes, and free access to the beach by vehicles was permitted. In 1961, less than 10,000 persons used the refuge for various purposes. During the late 1960's, the development of lands south of the refuge for recreational/residential purposes and the increase in availability and popularity of off-road recreational vehicles resulted in sharply accelerated use. By 1970, the number of persons using the refuge had increased to 235,000 and in 1971, to 348,000. All but a small fraction of this increase involved off-road vehicular use across the beach portion of the refuge. By 1969, it became evident that total public use had resulted in environmental degradation to the extent that a serious conflict existed with respect to the administration of the entire refuge for its intended purposes. Following careful analysis it was determined that certain controls of vehicular uses of the beach were required to reverse the trend of refuge habitat destruction.

On January 12, 1972, the Service provided notice in the **Federal Register** (37 FR 447) that the Back Bay NWR would be closed to use by unauthorized vehicles. An Environmental Impact Statement (EIS) assessing the impacts of this restriction was prepared (FES 72–33, 1973). A final rule was published in March 1973 that required authorized users to obtain permits for access. Recreational vehicle traffic was prohibited. Permits were issued property owners in the proposed False Cape State Park area, permanent full-time residents of the Outer Banks in North Carolina and their visitors, commercial fisherman, emergency service vehicles and school buses. Implementation of the rule was followed by legal action in a suit against the Service in the District Court for the Eastern District of Virginia (Coupland, et al. v. Morton, et al.). A final decision was handed down by Judge John Mackenzie on February 26, 1975 (Civil Action No. 145–73–N), fully upholding the authority of the Secretary of the Interior to control vehicular access across the Back Bay NWR. This order was ultimately upheld by the Fourth Circuit Court of Appeals in a decision issued on July 7, 1975.

The matter of regulating beach use at Back Bay NWR continued to be the subject of considerable discussion by the many persons denied vehicular access to recreational properties in North Carolina. On July 29, 1976, following the preparation of an Environmental Assessment (EA), a liberalized rule (41 FR 31537) was issued which provided limited access eligibility to all persons who as of October 6, 1975, owned improved property on the Outer Banks of Currituck County, North Carolina, from the Virginia State line south to and including the village of Corolla, North Carolina, and not just to permanent residents of the area as the previous rule had provided.

In order to mitigate the impact on the beach by these additional permittees, it was necessary to place more restrictions on, and limit the number of round trips per day for, permanent full-time residents living between the south boundary of the refuge and the village of Corolla, North Carolina. Based on the restricted access imposed on the permanent full-time residents by the 1976 regulations (41 FR 22361) and the permit program management experience gained from the 1976 and 1977 (42 FR 23151) regulations, the 1978 rule (43 FR 28413) continued to provide access to qualified permanent full-time and part-time residents. These special regulations provided notice that the refuge beach would be closed to vehicular traffic after December 31, 1979. Subsequently, in an effort to avoid undue hardship on permanent residents who had established residency prior to December 31, 1976, and interim rule was published on December 31, 1979 (44 FR 72161), which provided for access for those permanent residents only. Public comments on this interim rule were invited. All comments submitted by January 31, 1980, were given consideration.

The final rule on Back Bay NWR access, as published on May 28, 1980 (45 FR 35823), provided access for those permanent full-time residents who could provide adequate proof of continuous residency commencing prior to December 31, 1976, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina. The May 28, 1980, rule also denied a petition for rulemaking received from the Outer Banks Civic League and Pacific Legal Foundation to allow access through Back Bay NWR for part-time residents of the Outer Banks and False Cape State Park.

On July 25, 1980, President Carter signed Pub. L. 96–315 which provided that any time regulations limiting access to the refuge are issued, the Secretary of the Interior shall issue to any "eligible applicant" a permit to enable the applicant to commute across the refuge. The term "eligible applicant" was defined to include "all full-time residents who can furnish . . . adequate proof of residency commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina. . . ." The south boundary was defined as a "straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point one thousand and six hundred feet due south of the Currituck Lighthouse." On August 7, 1980 (45 FR 53291), the Back Bay access regulations were modified to reflect the legislation.

On September 18, 1981, the Assistant Secretary for Fish and Wildlife and Parks published in the **Federal Register** (46 FR 46358) a Notice of a Petition for

Rulemaking submitted by the Virginia Wildlife Federation and the Pacific Legal Foundation seeking the extension of access privileges through the refuge to part-time residents of the Outer Banks.

On January 13, 1983, the Service published in the **Federal Register** (48 FR 1501), an extension of the May 28, 1980, regulations governing access. The extension was necessary, until revised rules could be issued, so that orderly management of the Back Bay NWR would not be compromised.

On September 1, 1983, the Assistant Secretary published in the **Federal Register** (48 FR 39661), a proposed rule and denial of petition. The proposed rule included the same changes contained in the **Federal Register** notice of October 14, 1983, outlined below, with the exception of the provision dealing with access essential to maintaining a livelihood. As a result of the passage of Pub. L. 98–107 and the associated **Federal Register** notice (48 FR 46862), finalization of this proposed rule was unnecessary.

On October 14, 1983, the acting Director published in the **Federal Register** (48 FR 46862) a Notice of Rulemaking. This notice incorporated the provisions of Pub. L. 98–107 into the Back Bay NWR access regulations. Public Law 98–107, an amendment to Pub. L. 96–315, stipulates that additional access permits may be issued as follows: "Up to 15 additional permits shall be granted to those persons meeting any one of the following conditions:

(1) A resident as of July 1, 1982, who held a valid fish and Wildlife Service access permit for improved property owners of any time during the period from July 19, 1976, through December 31, 1979.

(2) Anyone in continuous residency since 1976 residing in the area bounded on the north by the refuge boundary and on the south by a straight line passing through a point on the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck County, North Carolina.

(3) Any permanent, full-time resident as of April 1, 1983, not otherwise eligible who can substantiate to the Scretary of the Interior that access is essential to their mantaining a livelihood."

Public comments were solicited on the proposed regulations (48 FR 39661), and 489 written comments were received. Of these, 488 supported additional access and one was opposed. Of the comments in support, 486 were of a form letter/petition type response.

The revisions enacted under this current proposed rule changes the date of "continuous and continuing residency commencing prior to December 31, 1979," to July 1, 1982, with the stipulation that the resident held a valid Fish and Wildlife Service access permit during the period from July 29, 1976, through December 31, 1979. Also, the "south boundary of the area of access consideration" now means a straight line passing thorugh a point on the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck County, North Carolina, and includes anyone in continuous residency since 1976.

A new condition is added which provides access to "permanent full-time residents as of April 1, 1983, not otherwise eligible who can substantiate to the Secretary of the Interior that access is essential to their maintaining a livelihood." Finally, several minor changes have been made to the existing regulations which further clarify eligibility and provide for the needed regulation of access permits.

This proposed rule supplements the general regulations that govern recreation of wildlife refuges as set forth in Title 50 Code of Federal Reguations. The Back Bay NWR, comprising approximately 4,600 acres, is delineated on a map available from either the refuge manager or the Regional Director.

Actions Taken in This Rule

Actual changes in access rules and other public use regulations which are incorporated into this proposed rule include the following:

(A) Access Regulations

(1) The qualification criteria are relaxed in accordance with Federal law, as outlined above.

(2) The section on routes of travel has been modified to incorporate the installation of a key-card operated gate.

(3) The hours of travel have been modified to allow 24 hour access from October 1 through April 30.

(4) Access for commercial service vehicles is reinstated. Verified commercial service needs by permittees will be permitted upon approval of the refuge manager.

(5) Access privileges for commerical fishermen are further defined. The hauling of trailers associated with commercial fishing or other businesses established prior to 1972 is now authorized. Employees of commercial fishermen and businesses are required to provide proof of employment.

(6) Access is authorized via medical access waivers.

(7) The appeals process is redefined.

(8) Permittees are now required to inform the refuge manager of changes which affect their access status in writing within 30 days of the occurrence of such changes.

(9) The towing of trailers by permittees is authorized.

(10) Travel for hire or real estate purposes is prohibited.

(B) General Rules

(1) Entry hours are modified.

(2) Surfing is prohibited.

(3) Swimming and sunbathing are limited to designated areas.

(4) All fires are prohibited.

(5) Dogs are allowed during the fall and winter months only.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended, (16 U.S.C. 668dd), authorizes the Secretary of the Interior to permit the use of any area of the refuge system for any purpose, including access, whenever he determines that such uses are compatible with the major purposes for which the area was established. The Back Bay NWR was established by Executive Order 7907, June 6, 1938, "as a refuge and breeding ground for migratory birds and other wildlife."

The limited use permitted by these regulations is compatible with the major purposes for which the Back Bay NWR was established. This determination is based upon consideration of among other things, the EIS (FES 72–33, 1973), the EA completed December 12, 1975, the Service's final EIS on the proposed State-Federal Land Exchange involving portions of False Cape State Park and Back Bay NWR, and the EA prepared on the proposed rulemaking (September 1, 1983).

Paperwork Reduction Act

Information collection is required for obtaining a vehicular access permit.

The information is necessary to determine eligibility of applicants, and failure to respond may result in permit denial. This information collection has been approved by the Office of Management and Budget (OMB) under number 1018–0014. This rule will not modify the information collection requirements authorized by OMB.

Environmental Effects

EAs have been prepared on previous rules and are available for public inspection at: Back Bay NWR, 4005 Sandpiper Road, P.O. Box 6266, Virginia Beach, Virginia 23456; and Virginia Beach Public Library, Operations Building, Room 300, Courthouse Complex, Virginia Beach, Virginia 23456.

Copies of EAs can also be obtained by addressing Howard N. Larsen, Regional Director, AWR, Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Economic Effect

This rule involves local, private residents only. Small entities will not be significantly affected. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

The policy of the Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, persons may submit written comments, suggestions, or objections regarding this proposed rule to the location identified in the **ADDRESSES** section of this preamble. All relevant comments will be considered by the Service prior to issuance of the final rule.

Edward S. Moses, Fish and Wildlife Service, Newton Corner, Massachusetts 02158; Telephone (617) 965–5100, ext. 222, is the primary author of this rule.

List of Subjects in 50 CFR Part 26

National Wildlife Refuge System, Recreation, Wildlife refuges.

PART 26—[AMENDED]

Accordingly, it is proposed to amend Part 26 of Chapter I of Title 50 of the *Code of Federal Regulations* as set forth below:

1. The authority citation for Part 26 is revised to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. The special regulations governing public access, use and recreation on Back Bay National Wildlife Refuge in § 26.34 are revised to read as follows:

§ 26.34 Special regulations concerning public access, use and recreation for individual National Wildlife Refuges.

Virginia

Back Bay National Wildlife Refuge.

Access

(a) Access qualifications.
(b) Routes of travel.
(c) Number of trips allowed.
(d) Hours of travel.
(e) Medical emergencies.
(f) Military, fire, or emergency vehicles.
(g) Public utility vehicles.
(h) Commercial service vehicles.
(i) False Cape State Park employees.
(j) Commerical fishermen, businesses and their employees.
(k) Suspension or waiver of rules.
(l) Violation of rules.
(m) Other access rules.

General Rules

(n) Entry on foot, bicycle, or motor vehicle.
(o) Beach-oriented uses.
(p) Parking.
(q) Fires.
(r) Pets.
(s) Other general rules.

Access

(a) *Access qualifications.* (1) Permanent full-time residents, who can furnish to the refuge manager, Back Bay National Wildlife Refuge, adequate proof of continuous and continuing residency, commencing prior to July 1, 1982, and who held a valid Fish and Wildlife Service access permit for improved property owners at any time during the period from July 29, 1976, through December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent, full-time residents; or, those persons in continuous residency since 1976, are authorized beach access. The "south boundary of the area for access consideration" means a straight line passing through a point on the east-west prolongation of the centerline of Albacore Street, Whaleshead Club Subdivision, Currituck Country, North Carolina. In addition, any permanent, full-time resident as of April 1, 1983, residing in the area outlined above and not otherwise eligible, who can substantiate to the Secretary of the Interior that access is essential to their maintaining a livelihood; so long as they maintain full-time continuous employment in the Norfolk, Virginia, area, may qualify for access. "Residence" means the place of general abode; a person's principal, actual dwelling place in fact, without regard to intent. A "dwelling" means a residential structure occupied on a year-round basis by the permit applicant and shall not included seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied. The burden of proof in showing that the prospective permittee meets these criteria shall be on the applicant by presentation of appropriate documentation.

(2) Only one permit will be issued per family. All permits issued will be terminated in the event that alternate access is provided during the permit period.

(3) Permits are issued for the purpose of providing ingress and egress across the refuge to the permittee's residence. Personal access is limited to permittees, their families, relatives and guests. "Personal access" means private, non-commercial use.

(4) All vehicle occupants must provide positive identification upon the request of any refuge official.

(b) *Routes of travel.* Access to, and travel along, the refuge beach by motorized vehicles may be allowed between the dune crossing at the key card operated gate near the refuge headquarters, and the south boundary of the refuge only after a permit has been issued or authorization provided by the refuge manager. Travel along the refuge beach by motorized vehicle shall be below the high tide line, within the intertidal zone, to the maximum extent practicable.

(c) *Number of trips allowed.* Permittees and members of their immediate families residing with them are limited to a total of two round trips per day per household.

(d) *Hours of travel.* Travel along the designated route is permitted 24 hours/day from October 1 through April 30. Travel is restricted to the hours of 5:00 am to 12:00 midnight from May 1 through September 30.

(e) *Medical emergencies.* Private vehicles used in a medical emergency will be granted access. A "medical emergency" means any condition that threatens human life or limb unless medical treatment is immediately obtained. The vehicle operator is required to provide the refuge office with a doctor's statement confirming the emergency within 36 hours after the access has occurred.

(f) *Military, fire, or emergency vehicles.* Military, fire, emergency or law enforcement vehicles used for emergency purposes may be granted access. Vehicles used by an employee/agent of the Federal, State or local government, in the course of official duty other than for emergency purposes, may be granted access upon advance request to the refuge manager.

(g) *Public utility vehicles.* Public utility vehicles used on official business will be granted access. A "public utility vehicle" means any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(h) *Commercial service vehicles.* (1) Commercial service vehicles on business calls during the hours of 8 am—5 pm, Monday through Friday will be granted access, only upon prior

approval of the refuge manager when responding to a request from a permittee. Such requests may be verbal or in writing. Weekend and emergency access by commercial service vehicles will be granted only after all other reasonable alternatives to access have been exhausted.

(2) "Commercial service" means any vehicle owned or operated by or on behalf of an individual, partnership, or corporation that is properly licensed to engage entirely in the business of furnishing emergency repair services, including but not limited to plumbing, electrical, and repairs to household appliances.

(i) *False Cape State Park employees.* False Cape State Park employees who are residents in the Park will be considered as permanent, full-time residents as defined in § 26.34(a)(1) with access privileges identical to those of other permittees.

(j) *Commercial fishermen, or other businesses and their employees.*(1) Commercial fishermen who have verified that their fishing operations on the Outer Banks of Virginia Beach, Virginia, or Currituck County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge are granted permits for access. Travel through the refuge by commercial fishermen from Currituck County, North Carolina, will be permitted only when directly associated with commercial fishing operations. Drivers and passengers on trips through the refuge are limited to commercial fishing crew members. A "commercial fisherman" means one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

(2) Other businesses who have verified that their business operations on the Outer Banks of Currituck County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge will be granted permits for access.

(3) Each commercial fisherman or other business may be granted a maximum of five designated employees to travel the refuge beach for commercial fishing or other business related purposes. Commercial fishing employees may carry only other commercial fishing employees as passengers. Other business employees may carry only other employees of that business. The hauling of trailers associated with the conduct of commercial fishing or other business activities is authorized.

(4) Employees of commercial fishermen and/or other businesses shall provide adequate documentation of their employment ot the refuge manager in order to be considered an employee for the purposese of this section of the regulations. The prospective permittee shall have the burden of proof of showing, be presentation of appropriate documentation to the satisfaction of the refuge manager, that these criteria have been met.

(k) *Suspension or waiver of rules.* (1) In an emergency, the refuge manager may suspend any or all of the foregoing restrictions on vehicular travel and announce each suspension by whatever means are available. In the event of adverse weather conditions, the refuge manager may close all or any portion of the refuge to vehicular traffic for such period as deemed advisable in the interest of public safety.

(2) The refuge manager may make exceptions to access restrictions if they are compatible with refuge purposes for qualified permittees who have demonstrated to the satisfaction of the refuge manager a need for additional access relating to health or livelihood.

(3) The refuge manager may grant one-time use authorization for vehicular access through the refuge to individuals, not otherwise qualified above, who have demonstrated to the satisfaction of the refuge manager that there is no feasible alternative to the access requested. Authorization for access under this provision will not be based on convenience to the applicant.

(4) The Regional Director may grant access to non-eligible permanent residents and improved property owners who can show proof that their physical health is such that life-threatening situations may result from more arduous travel conditions. The submission of substantiating medical records is required to be considered for a medical access waiver.

(l) *Violation of rules.* Violators of these special regulations pertaining to Back Bay National Wildlife Refuge are subject to legal action as prescribed by 50 CFR 25.43 and 50 CFR Part 28, including suspension or revocation of all permits issued to the violator or responsible permittee. The refuge manager may deny access permits to applicants, who during the two years immediately preceding the date of application, have been formally charged and successfully prosecuted for three or more violations of these or other regulations in effect at Back Bay National Wildlife Refuge. Individuals whose vehicle access privileges are suspended, revoked, or denied may within 30 days file a written appeal of the action to the Assistant Regional Director-Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, in accordance with 50 CFR 25.44(c).

(m) *Other access rules.* (1) No permit will remain in effect beyond December 31 of the year in which it was issued. Permits may be renewed upon the submission of updated information of vehicle drivers and a signed, notarized statement that conditions of the previous permit have not changed. In the event of any changes under which the permit is granted, the permittee shall notify the refuge manager in writing within 30 days. Failure to report changes may result in suspension/revocation of the permit.

(2) Vehicles shall be operated on the refuge beach only by the permittee or other authorized drivers. Permit holders shall not tow vehicles owned by nonpermit holders through the refuge. Non-commercial permit holders may tow utility and boat trailers when being used for their personal use only. Any towed vehicle shall have advance approval from the refuge manager prior to being brought through the refuge. This access privilege is not to be used for any commercial purpose.

(3) The refuge manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

(4) A magnetic card will be issued to each authorized driver only for his or her operation of the computer controlled gate. Only one vehicle will be permitted to pass for each gate opening. Unauthorized use of the magnetic card may result in suspension of the permit. A fee of $20.00 will be charged to replace lost or misplaced cards. Malfunctioning cards will be replaced at no charge.

(5) Access is granted for the purpose of travel to and from the permittee's residence and/or place of business. Access is not authorized for the purposes of transporting individuals for hire, or for the transport of prospective real estate clients to or from the Outer Banks of North Carolina.

General Rules

(n) *Entry on foot, bicycle or motor vehicle.* Entry on foot, bicycle, or by motor vehicle on designated routes is permitted one-half hour before sunrise to one-half after sunset for the purposes of nature study, wildlife observation, photography, hiking, surf fishing, and bicycling.

(o) *Beach-oriented uses.* Access for swimming and sunbathing is permitted only on the northern one-quarter mile of refuge beach, in the area designated as

open by signs. Surfing is prohibited. No lifeguards are provided. Swimming will be at the visitor's own risk. Entry is by foot travel only via the city-owned ramp on the refuge's north boundary.

(p) *Parking.* Limited parking at the refuge office/contact station is permitted only in designated spaces. Parking is available on a first-come, first-serve basis for persons engaged in wildlife/wildlands oriented recreation including, but not limited to nature study, wildlife observation, photography, hiking, surf fishing and bicycling.

(q) *Fires.* All fires are prohibited.

(r) *Pets.* Dogs and other pets, on a hand-held leash not exceeding 10 feet in length, are permitted.

(s) *Other general rules.* (1) Pedestrians and vehicular traffic in the sand dunes are prohibited.

(2) Registered motor vehicles and motorized bicycles (mopeds) are permitted on the paved refuge access road and parking lot at refuge headquarters. All other motorized vehicular use is prohibited except as specifically authorized pursuant to this rule.

(3) The information collection requirement contained in this interim rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* and has been assigned the clearance number 1018–0014. The information being collected is used to determine eligibility for issuing a vehicular access permit and a response is required to obtain a benefit.

Dated: January 21, 1987.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–3412 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 52, No. 33
Thursday, February 19, 1987

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committees on Adjudication, Administration, Regulation, and Special Committee on Financial Services; Public Meetings

Committee on Adjudication

Date: Friday, February 27, 1987.
Time: 9:30 a.m.
Location: Administrative Conference of the United States Library, 2120 L Street NW., Suite 500 Washington, DC.
Agenda: The Committee will meet to discuss ACUS consultant Eugene R. Fidell's study on federal whistleblower statutes that provide protection for private sector employees.
Contact: Deborah Ross, 200–254–7065.

Committee on Administration

Date: Wednesday, March 4, 1987.
Time: 1:30 p.m.
Location: Department of Commerce, 14th & Constitution Avenue NW., Room 5859, Washington, DC.
Agenda: (1) Professor Harold Bruff's study of constitutional issues in federal agency use of various alternative means of dispute resolution; (2) Professor Marianne Smythe's study of innovative dispute resolution processes at the CFTC; (3) Akin, Gump, Strauss, Hauer & Feld's project on agency use of settlement judges; and (4) Professor Martin White's study of agency implementation of the Debt Collection Act.
Contact: Charles Pou, Jr., 202–254–7065.

Committee on Regulation

Date: Friday, February 27, 1987.
Time: 2:00 p.m.
Location: Offices of Steptoe & Johnson, 1330 Connecticut Avenue NW. (4th Floor), Washington, DC.
Agenda: Discussion of (1) the Administrative Conference project on federal user fees (including draft reports and potential recommendations); and (2) the status of other Committee projects.
Contact: Michael W. Bowers, 202–254–7065.

Special Committee on Financial Services

Date: February 26, 1987.
Time: 2:00 p.m.
Location: 2120 L Street NW., Suite 500, Washington, DC 20037.
Agenda: This newly-established Special Committee will focus the efforts of the Administrative Conference to study selected procedural and other administrative aspects of the government's regulation of banks, savings institutions, securities brokers and underwriters, commodities futures traders, financial exchanges, and other financial services institutions or industries. The Committee has the following members: Kenneth J. Bialkin (Chairman), Judge Stanley Sporkin (Vice Chairman), Messrs. Warren Belmar, Michael Bradfield, C. Boyden Gray, Harvey Lloyd Pitt and Mark Sullivan III, and Judge John Walker, Jr. Administrative Conference Chairman Marshall J. Breger is also an *ex officio* member of this Committee. At its February 26th meeting, the committee will hear verbal reports from and give guidance to consultants who are studying the procedures used by the Board of Governors of the Federal Reserve System in administering the Bank Holding Company Act and related statutes, and the procedures used by the banking agencies in saving or taking over failing banks and savings institutions. The Special Committee will aslo consider what other projects it may wish to initiate.
Contact: Stephen L. Babcock, 202–254–7020.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463).

Jeffrey S. Lubbers,
Research Director.
February 12, 1987.
[FR Doc. 87–3387 Filed 2–18–87; 8:45 am]
BILLING CODE 6110–01–M

ACTION

National Volunteer Advisory Council Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given of a meeting of the National Volunteer Advisory Council.

Date, time and place: March 4, 1987, 9:00 a.m., the Mayflower Hotel, 1127 Connecticut Avenue, NW., Washingon, D.C.

Purpose: To select nominees for the President's Volunteer Action Awards for 1987 and hold the regular Council meeting.

In accordance with the determination of the Director of ACTION, this meeting will be partially closed to the public from 9:30 a.m. until 1:00 p.m., pursuant to subsection (c)(9)(B) of section 552b of Title 5, United States Code. The determination of the Director of ACTION is available for public inspection at 806 Connecticut Avenue, NW., Washington, DC 20525, during regular working hours of 8:30 a.m. to 5:30 p.m.

Publication of notice less than fifteen days prior to the meeting is due to coordination and scheduling difficulties.

For further information contact: Loni Hagerup, Executive Secretariat, at (202) 634–9380.

Signed this 17th day of February, 1987, in Washington, D.C.

Donna M. Alvarado,
Director of ACTION.
[FR Doc. 87–3641 Filed 2–18–87; 8:45 am]
BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 13, 1987

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404—W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Agricultural Marketing Service

7 CFR Part 56, Regulations for Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs PY–100, PY–157, and PY–206; On occasion; Monthly; Semi-annually; Annually; Daily; State or local governments; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 31,553 responses; 5,200 hours; not applicable under 3504(h); Merlin J. Nichols, Jr. (202) 447–3506.

New

• Food and Nutrition Service

Study of Use of Food Stamps by the Homeless to Purchase Low-Cost Prepared Meals; Twice: before and after the new provisions are implemented; Individuals or households; State or local governments; Federal agencies or employees; Non-profit institutions; 4,894 responses; 1,888 hours; not applicable under 3504(h); Linda Esrov (703) 756–3115.

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 87–3526 Filed 2–18–87; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Whiskeytown-Shasta-Trinity National Recreational Area; Shasta and Clair Engle-Lewiston Units, Shasta and Trinity Counties, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for a review and revision of the operation and development plan for the two units of the Whiskeytown-Shasta-Trinity National Recreation Area (NRA) that lie within the Shasta-Trinity National Forests boundary and are managed by the Forest Service.

The Whiskeytown-Shasta-Trinity NRA was designated by Congress in 1968 (Pub. L. 89–336). Of the three units within the NRA, the Shasta and Clair Engle-Lewiston Units are managed by the Forest Service; the Whiskeytown Unit is managed by the Department of the Interior, National Park Service. An operation and development plan for the two units under Forest Service management was developed in 1976 in conjunction with an environmenal impact statement (EIS) that explored alternatives for all aspects of NRA management. A scheduled review of the plan in 1982 resulted in major adjustments that were categorically excluded from documentation under the National Environmental Policy Act. The Shasta-Trinity National Forests are now conducting a second scheduled review, and are considering potentially significant changes from the direction contained in the original plan and analyzed in its EIS.

A range of alternatives for NRA operation and development will be considered, including alternative allowable numbers of overnight vessels, vessel management systems and fee structures, degrees of management for safe boating, and degrees of additional commercial development. The alternative of continuing present management unchanged will be considered. The alternatives for changing management will respond to identified issues and concerns.

Federal, State, and local agencies; holders of special use authorizations within the NRA; and other organizations and individuals who may be affected by or interested in the decision have been invited to participate in the scoping process. This process includes:

1. Identification of potential issues.

2. Identification of significant issues to be examined in depth.

3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

Public scoping for this proposal began in December, 1986, with the generation of a mailing list of affected and interested parties and the mailing of background material and a response form to parties on the mailing list. More than 1000 scoping packets have been distributed. A news release announcing the scoping process and inviting public involvement was widely distributed. As the decision to prepare an environmental impact statement (rather than an environmental assessment) has been made since the scoping process began, the original deadline for public responses has been extended to accommodate responses to this Notice of Intent.

Zane G. Smith, Regional Forester, Pacific Southwest Region, is the responsible official.

The analysis is expected to take about ten months. The draft environmental impact statement is scheduled to be available by January, 1988. The final environmental impact statement should be completed by May, 1988.

Written comments and suggestions concerning the analysis should be sent to: Robert R. Tyrrel, Forest Supervisor, Shasta-Trinity National Forests, 2400 Washington Avenue, Redding, California 96001. Comments must be postmarked by March 20, 1987.

Questions about the proposed action and environmental impact statement should be directed to Pam Gardiner, EIS Team Leader, Shasta Lake Ranger District, 6543 Holiday Road, Redding, California 96003, phone (916) 275–1587.

Dated: February 12, 1987.

Robert R. Tyrrel,

Forest Supervisor, Shasta-Trinity National Forests.

[FR Doc. 87–3414 Filed 2–18–87; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Soliciting Competitive Applications Under the Minority Business Development Center (MBDC) Program; District of Columbia

February 11, 1987.

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $628,118 for the project performance of July 1, 1987 to June 30, 1988. The MBDC will operate in the Washington, DC., Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $533,900 in Federal Funds and a minimum of $94,218 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for applications is March 20, 1987. Applications must be postmarked on or before March 20, 1987.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Room 6711, Washington, DC 20230, 202/377-8280.

FOR FURTHER INFORMATION CONTACT: Willie J. Williams, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Willie J. Williams,

Regional Director

February 11, 1987

[FR Doc. 87-3524 Filed 2-18-87; 8:45 am]

BILLING CODE 3510-21-M

Solicitation of Competitive Applications Under the Minority Business Development Center (MBDC) Program; Virginia

February 11, 1987.

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $194,118 for the project performance of July 1, 1987 to June 30, 1988. The MBDC will operate in the Richmond, VA, Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $165,000 in Federal Funds and a minimum of $29,118 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for applications is March 20, 1987. Applications must be postmarked on or before March 20, 1987.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Room 6711, Washington, DC 20230, 202/377-8280.

FOR FURTHER INFORMATION CONTACT: Willie J. Williams, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

Willie J. Williams,

Regional Director, Washington Regional Office.

February 11, 1987

[FR Doc. 87-3523 Filed 2-18-87; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Approval of Bristol Bay, AK, Coastal Management Program

ACTION: Bristol Bay, Alaska, Approval of Coastal Management Program.

The Office of Ocean and Coastal Resource Management (OCRM), pursuant to the provisions of the Coastal Zone Management Act (CZMA) 16 U.S.C. 1451 *et seq.*, approved the Bristol Bay Coastal Management Program as an amendment to the Alaska Coastal Management Program on February 6, 1987. The Federal consistency provisions of section 307 of the CZMA shall apply to the BBCMP on February 17, 1987, the date that the BBCMP is filed with the Lieutenant Governor of the State of Alaska. Copies of the Final Findings of Approvability for the BBCMP and response to comments on the environmental assessment of the BBCMP may be obtained by contacting: James Burgess, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 673-5158.

Dated: February 13, 1987.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council's Shrimp Management Committee will convene a public meeting, February 24, 1987, at the New Orleans Aviation Board Room, New Orleans International Airport, Suite 316, Kenner, LA, to review proposed studies to evaluate the effect of the 1987 seasonal closure to shrimping off Texas.

For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL 33609; telephone: (813) 228-2815.

Dated: February 12, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-3485 Filed 2-18-87; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagic Species Plan Monitoring Team will convene a public meeting, February 24, 1987, at 1 p.m., at the Western Pacific Council's Conference Room 1605 (address below). The Team will: (1) Review the annual report requirements of the Pelagic Species Fishery Management Plan (FMP), and allocate responsibilities for preparing the annual report; (2) review the criteria and mechanisms for triggering area closures to foreign longliners in the fishery conservation zone around Hawaii and Guam; (3) review recordkeeping requirements for foreign longline fishermen; (4) discuss research needed to improve the Pelagic Species FMP, as well as discuss other Team business.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: February 12, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-3486 Filed 2-18-87; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

The Western Pacific Fishery Management Council's Bottomfish and Seamount Groundfish Plan Monitoring Team will convene a public meeting, February 19, 1987, at 1 p.m., at the Western Pacific Council's Conference Room 1605 (address below). The Team will: (1) Discuss annual reporting requirements: scheduling and division of labor; (2) discuss Amendment # 1 for bringing American Samoa and Guam within the fishery management plan framework for limited entry purposes, as well as extend the annual report date; (3) prioritize the top three projects in the bottomfish and seamount groundfish section of the Council's *1987 Narrative and Summary of Data and Research Needs;* (4) discuss the summary of the public record on the Council's limited entry proposal for the Northwestern Hawaiian Islands; (5) disucss issues for Council action and Plan Monitoring Team recommendations on the limited entry proposal, as well as discuss any other Team business.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 546-8923.

Dated: February 12, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-3487 Filed 2-18-87; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

Receipt of Application for General Permit to Incidentally Take Marine Mammals

Notice is hereby given that the following application has been received to take marine mammals incidental to commercial fishing operations within the U.S. exclusive economic zone (EEZ) during 1987 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Anavar Asociacion, Puerto Pesquero, VIGO, Spain has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to eight (8) small cetaceans and up to eight (8) pinnipeds in the North Atlantic Ocean.

In 1985, Spanish vessels took 4 cetaceans in the U.S. EEZ under a general permit.

The application is available for review in the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC 20235.

Dated: February 13, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-3525 Filed 2-18-87; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 1 to Permit No. 349]

Marine Mammal Permit Modification; Alaska Department of Fish and Game (P66E)

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 349 issued to the Alaska Department of Fish and Game, P.O. Box 3–2000, Juneau, Alaska 99802, on August 24, 1981 (46 FR 43481), is modified as follows:

Section B.7 is replaced by:

"7. This permit is valid with respect to the taking authorized herein until December 31, 1987."

The effective date of this modification is December 31, 1986.

Documents submitted in connection with the above modification and Permit are available for review in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC 20235; and

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: February 12, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–3488 Filed 2–18–87; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit to National Marine Fisheries Service, National Marine Mammal Laboratory (P77#22)

On November 7, 1986, notice was published in the **Federal Register** (51 FR 40474) that an application had been filed by the National Marine Mammal Laboratory, Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Notice is hereby given that on February 12, 1987 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, N.W., Room 805 Washington, DC; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Cloucester, Massachusetts 01930;

Director, Alaska Region, National Marine Fisheries Service, 709 9th Street, Federal Building, Juneau, Alaska 99802.

Dated: February 12, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87–3489 Filed 2–18–87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Egypt

February 12, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 31, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on February 19, 1987. For further information contact Kathy Davis, International Trade Specialist, Office of Textile and Apparel, U.S. Department of Commerce, Washington, DC., (202 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Background

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 establishes specific limits for carded and combed yarn in Category 300/301, sheeting in Category 313, and twills and sateens in Category 317, produced or manufactured in Egypt and exported during the six-month period which began on January 1, 1987 and extends through June 30, 1987. Flexibility in the form of swing is available for application to these categories, except that there will be no swing between the sublimits of Categories 300/301, which are Categories 300 and 301. Charges in excess of the 1986 level of restraint for category 313 will fill the limit and embargo the category on the date the attached directive to Customs becomes effective.

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 (1987).

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

February 12, 1987

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (17 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton Textile Agreement of December 7 and 28, 1977, amended and extended, between the Governments of the United States and the Arab Republic of

Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 19, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in the following categories, produced or manufactured in Egypt and exported during the period which began on January 1, 1987 and extends through June 30, 1987, in excess of the following levels of restraint:

Category	6-Mo. restraint limit
300/301	4,797,853 pounds of which not more than 4,126,153 pounds shall be in Category 300 and not more than 671,699 pounds shall be in Category 301.
313	7,549,685 square yards.
317	4,046,632 square yards.

The 1987 restraint limits are subject to adjustment in the future, as applicable, according to the provisions of the bilateral agreement of December 7 and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt which provide, in part, that: specific limits may be exceeded by designated percentages to account for swing, except that no swing will be available between the sublimits of Categories 300/301, which are Categories 300 and 301, provided that a corresponding reduction in equivalent square yards is made in another specific limit during the same agreement year. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Egypt, which have been exported to the United States on and after January 1, 1986 and extending through December 31, 1986, shall, to the extent of any unfilled balances, be charged against the levels established for that twelve-month period. To the extent levels established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 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 (1987).

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.

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-3407 Filed 3-18-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee Meeting

This is to give notice, purusant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a) and 41 CFR 101-6.1016(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting on March 11, 1987, at the Harris Bank in Chicago, Illinois. the meeting will be held between 10:00 a.m. and 3:30 p.m., in the bank's Assembly Room, which is on the eighth floor of the east building, at 111 West Monroe Street. The agenda will consist of:

1. Discussion of the Committee's study of the hedging definition with emphasis on its applicability to financial futures and options.

2. Discussion of issues related to off-exchange trading in derivative instruments.

3. Discussion of issues related to equity index contracts.

4. Other Committee business:

a. Discussion of agenda items and scheduling for future Committee meetings; and

b. Any other business that may properly come before the Committee.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on financial products issues. The purposes and objectives of the Advisory Committee are more fully set forth at 50 FR 21332 (May 23, 1985).

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Robert R. Davis, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the pubic who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Maureen A. Donley-Hoopes, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, to be received prior to the date of the meeting. Members of the public who wish to make oral statements should also inform Ms. Donley-Hoopes in writing at the above address at least three days prior to the meeting. Provision will be made, if time permits, for an oral presentation of reasonable duration.

Issued in Washington, DC, the 12 day of February, 1987 by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 87-3409 Filed 2-18-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 9, 1987.

The USAF Scientific Advisory Board Operational Test and Evaluation Advisory Group will meet at the Air Force Operational Test and Evaluation Center, Kirtland Air Force Base, NM, March 10 and 11, 1987, from 8:00 A.M. to 4:30 P.M. each day.

The purpose of this meeting is to receive briefings on, to discuss, and to advise the Commander, Air Force Operational Test and Evaluation Center, on the Ground Wave Emergency Network operational testing program.

This meeting will involve discussions of classified defense matters listed in section 552b(c) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-3448 Filed 2-18-87; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

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 Medical Research and Development Center (NMRDC) Review Team of the Naval Research Advisory Committee Panel on Laboratory Oversight will meet on March 5-6, 1987,

at the Naval Medical Research and Development Command, Bethesda, Maryland. The meeting will commence at 8:00 A.M. and terminate at 6:00 P.M. on March 5–6, 1987. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NMRDC. The agenda for the meeting will consist of executive sessions during which the review team will begin to draft a report of their findings and recommendations. 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 classifed 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 No. (202) 696–4870.

Dated: Feb. 11, 1987.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 87–3516 Filed 2–18–87; 8:45 am]

BILLING CODE 3810-AE-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 25, 1987 beginning at 1:30 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:30 a.m. at the same location.

The subjects of the hearing will be as follows:

Proposed Amendments to the Comprehensive Plan and Water Code of the Delaware River Basin. Notice was given in the January 16, 1987 **Federal Register**, Vol. 52, No. 11, pp. 1930–1932, that the Commission would hold a public hearing on February 25, 1987 to receive comments on two proposed amendments to its Comprehensive Plan and Water Code in relation to leak detection and repair and service metering. The proposed leak detection and repair amendment would require all purveyors in the Basin distributing water supplies in excess of 100,000 gallons per day (gpd) during any 30-day period to undertake leak detection and repair. The proposed service metering amendment, which would apply to the same group of purveyors, would expand current Commission policy on service metering to cover existing connections. The latter proposal calls for a grace period of ten years for retroactive installation of service meters at existing connections.

Current Expense and Capital Budgets. A revised proposed current expense budget for the fiscal year beginning July 1, 1987, in the aggregate amount of $2,261,000 and a capital budget for the same period in the amount of $1,173,400 in revenue and $737,100 in expenditures. Copies of the current expense and capital budget are available from the Commission on request. This hearing continues that of December 23, 1986.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Philadelphia Electric Company (PECO) D–69–210 CP Final: Revisions 5 and 6.* Applications to extend through December 31, 1987 the Delaware River Basin Commission (DRBC) temporary approvals granted by DRBC Dockets No. D–69–210 CP (FINAL) (Revision No. 5) and D–69–210 CP (FINAL) (Revision No. 6). Revision No. 5 provided for the substitution of dissolved oxygen limitations in place of the temperature restriction and allowed the transfer of existing authorized consumptive use from Cromby Unit 2 and Titus Units 1, 2 and 3, to the Limerick Unit 1 facility. Revision No. 6 provided temporary authorization for consumptive use at Limerick regardless of other constraints in original Docket No. D–69–210 CP (FINAL) whenever the consumptive use has been replaced in equal volume by water released from Still Creek and/or Owl Creek Reservoirs. The facilities and reservoirs are located in Montgomery and Schuylkill Counties, Pennsylvania.

2. *Tarkett, Inc. D–77–32 (Revised).* An application to modify an industrial waste treatment process at a previously approved treatment facility at the applicant's manufacturing plant in Whitehall Township, Lehigh County, Pennsylvania. The plant, which manufactures substrate for vinyl flooring, was previously owned by G.A.F. Corporation and has been purchased by the applicant. The manufacturing process has been modified to eliminate the use of asbestos and this has led to increased TSS and BOD_5 concentrations in the waste water. Effluent discharges to the Lehigh River.

3. *North Penn Water Authority D–80–71 CP (RENEWAL).* An application for the renewal of a ground water withdrawal project to supply up to 4.32 million gallons (mg)/30 days of water from Well No. NP 54. Commission approval on January 27, 1982 was limited to five years. Due to legal problems related to title clearance the well has not been used since it was approved in 1982. Now that title clearance has been resolved, the applicant requests renewed approval for the total withdrawal of 4.32 mg/30 days from Well No. NP 54. The project is located in Skippack Township, Montgomery County, in the Ground Water Protected Area of Southeastern Pennsylvania.

4. *Matamoras Municipal Authority D–81–78 CP (RENEWAL).* An application for the renewal of a ground water withdrawal project to supply up to 7.5 mg/30 days of water to the applicant's distribution system from Well No. 8. Commission approval on June 23, 1982 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells be increased from 7.5 mg/30 days to 9 mg/30 days. The project is located in Matamoras Borough. Pike County, Pennsylvania.

5. *Meter Services Company D–85–35 CP.* A ground water withdrawal project to supply the first phase of a proposed 972 unit housing development named "The Village of Buckingham Springs" in Buckingham Township, Bucks County, Pennsylvania. The combined withdrawal rate from Well No. 1 (standby) and No. 2 (primary source) will be 60,000 gallons per day (gpd). The wells are located south of Route 413 between the villages of Pineville and Buckingham and are in the Southeastern Pennsylvania Ground Water Protected Area.

6. *Delaware Valley Industrial Sewage Company, Inc. D–85–63.* A sewage treatment project to supplement existing treatment facilities, serving the Fort Washington Industrial Park and portions of Upper Dublin Township, operated by the Delaware Valley Industrial Sewage Company, Inc., in Upper Dublin Township, Montgomery County,

Pennsylvania. Extended aeration, flow equalization, and chlorination equipment will be added to the existing plant to increase treatment capacity from 0.60 mgd to 0.85 mgd. This will enable the applicant to provide treatment for 0.25 mgd of sanitary sewage from Upper Dublin Township. Treated effluent will continue to discharge to Pine Run, a tributary to Wissahickon Creek.

7. *Tioga Leasing Company, Inc. (Mountain Village Mobile Home Park) D–85–71.* Approval is sought for an expansion of the Mountain Village Mobile Home Park sewage treatment facility located in Longswamp Township, Berks County, Pennsylvania. Existing plant design capacity is 28,000 gpd. The maximum flow rate currently is 41,000 gpd. The expanded plant is designed to treat 64,000 gpd. The applicant plans to expand the plant to treat 0.16 mgd in the near future. The treated effluent would continue to be discharged to an unnamed tributary of Perkiomen Creek.

8. *Evesham Municipal Utilities Authority D–86–36 CP.* An application for a sewage treatment plant expansion project. The applicant's existing 1.25 mgd facility requires an additional 0.25 mgd flow capacity to serve the projected future growth in the service area. The Woodstream Sewage Treatment Plant provides tertiary treatment for a portion of Evesham Township, Burlington County, New Jersey. The expanded plant is designed to serve residential and commercial users, amounting to an equivalent population of approximately 15,000 persons, through the year 2000. Treated effluent will continue to discharge to South Branch Pennsauken Creek at River Mile 105.4–3.4–10.2.

9. *Hercules Incorporated D–86–45.* An application for approval of an existing ground water withdrawal not previously approved by the DRBC and seven new ground water withdrawal wells. The increased withdrawal and additional wells are required as part of a ground water decontamination project. Related treatment plant modifications are included in this project. The former 0.072 mgd biological wastewater treatment plant is now designed to process an additional 0.288 mgd of contaminated ground water that will be pumped from beneath the Higgins Plant site. The treatment plant effluent will continue to be discharged to the Delaware River in Water Quality Zone 4 through outfall 001. The treatment plant also processes the sanitary waste from 50 employees. The project is located in Greenwich Township, Gloucester County, New Jersey.

10. *City of Philadelphia D–86–56 CP.* An application for approval of pier modification and dredging operations in order to modify the docking facilities to serve as the applicant's wastewater treatment plant sludge loading and receiving terminals. Both piers are located in Philadelphia, Pennsylvania. Sludge from the Northeast STP will be pumped to the proposed loading terminal (Pier 217N) where it will be loaded onto one of two proposed one million gallon barges. These barges will convey the sludge down the Delaware River and up the Schuylkill River to one of the two proposed receiving terminal piers. The sludge will be off-loaded and processed at the proposed sludge processing facility. The 44,000 cubic yards of dredgings will be disposed at an approved site.

11. *Hilltown Township Water and Sewer Authority D–86–60 CP.* An application for approval of a ground water withdrawal project to supply up to 4.05 mg/30 days of water to the applicant's public water system from new Well No. 2. The project is located in Hilltown Township, Bucks County, Pennsylvania and is in the Southeastern Pennsylvania Ground Water Protected Area.

12. *City of Coatesville D–86–63 CP.* An application for a wastewater treatment plant upgrade project to serve the City of Coatesville plus portions of Caln and Valley Townships in Chester County, Pennsylvania. The proposed modifications will improve nitrogen-ammonia treatment without expanding the 3.85 mgd (design average flow) plant. The high quality secondary treatment plant effluent will continue to be discharged to the West Branch Brandywine Creek through the existing outfall at River Mile 70.73–1.5–20.00–15.5.

13. *Historical Developers of Pennsylvania, Inc. D–86–73.* A revised application by the project developers to reduce the flood damage potential for the Union Mills condominium project which was rejected by the Commission on December 23, 1986. The applicant has revised the project plans which incorrectly identified the 100 year base flood elevation as 68.25 feet. The 100 year flood elevation established in the Flood Insurance Study for the Borough of New Hope, Pennsylvania is 67.0 feet (NVGD), making DRBC's flood protection elevation 68.0 feet (NGVD). The first floor of Building "A" is at elevation 67.0. The applicant proposed to flood-proof these five units in Building "A" to the 68.0 foot flood protection elevation and has raised the first floor level in all other residential buildings to elevation 69.0 feet (NGVD). The applicant also proposed to provide the condo owners with an upgraded facility to withdraw water from the Delaware River, and treat a daily average of 13,000 gallons for domestic water supply.

14. *AT&T Technology Systems D–86–79.* An application for approval of a ground water withdrawal project to supply up to 22.3 mg/30 days of water to the applicant's manufacturing facility from existing Well No. 1 not previously approved by the Commission. The project is located in Muhlenberg Township, Berks County, Pennsylvania.

15. *Lehman-Pike Development Corporation D–86–80.* An application for a sewage treatment plant modification at the Stoney Hollow and Saw Creek Village Treatment Facility in Lehman Township, Pike County, Pennsylvania. The 0.05 mgd two stage treatment plant can be operated as a single stage 0.1 mgd plant when necessary. The secondary treatment facility is designed to serve 2000 persons through the year 1990. Treatment plant effluent discharges to Saw Creek approximately one mile north of its confluence with Bush Kill.

16. *Willingboro Municipal Utilities Authority D–87–1.* An application for a rerating of the 4.2 mgd Willingboro Municipal Utilities Authority Wastewater Treatment Plant to a design flow of 4.812 mgd. The facility is located in the township of Willingboro, Burlington County, New Jersey. The plant will continue to provide secondary treatment of sewage for the Townships of Burlington, Edgewater Park, and a portion of Westampton. Treated wastewater will continue to discharge to Rancocas Creek at River Mile 111.06–4.4 in Zone 2 of the Delaware River Basin.

17. *Montgomery County Sewer Authority D–87–6 CP.* An application for the expansion of Oaks Wastewater Treatment Plant, located off Brower Road, in Upper Providence Township, Montgomery County, Pennsylvania. The existing 3.7 mgd modified activated sludge plant provides secondary treatment. The applicant proposes to expand the plant to treat a design average flow of 8.5 mgd. The project is designed to serve an equivalent population of over 75,700 persons through the year 2005. Treatment facilities will continue to serve all, or portions of Upper Providence, Lower Providence, Perkiomen, Skippack, Lower Frederick, Worcester, and Limerick Townships, plus Collegeville, Trappe, Royersford, and Schwenksville Boroughs, all within Montgomery County. After secondary treatment, the effluent will be discharged to the Schuykill River through the existing outfall.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are

available in single copies upon request. Please contact David B. Everett concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: February 10, 1987.

Susan M. Weisman,

Secretary.

[FR Doc. 87-3436 Filed 2-18-87; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

[CFDA 84-133A and 84.133D]

Extension of Closing Date for Applications for Research and Demonstration Projects and Knowledge Dissemination and Utilization Projects Under the National Institute on Disability and Rehabilitation Research (NIDRR) for Fiscal Year 1987

Purpose: On January 12, 1987, NIDRR (formerly the National Institute of Handicapped Research), published a notice in the **Federal Register** at 52 FR 1286 establishing March 13, 1987 as the closing date for the transmittal of applications for new awards under the Research and Demonstration and Knowledge Dissemination and Utilization Programs.

Because application packages were not readily available, NIDRR is extending the closing date to permit potential applicants more time to prepare their applications. Applications will be accepted only in response to the priorities which were published in that same issue of the **Federal Register** at 52 FR 1282-86. NIDRR intends to fund these projects through grants or cooperative agreements; the estimated funding levels in this notice are estimates for each year of the award.

Deadline for Transmittal of Applications: April 20, 1987.

Applications Available: January 20, 1987.

Available Funds: $2,875,000.

CFDA No.	Title of priority	Available funds	Est. average award	Est. of awards	Anticipated project period (monthly)
84.133A	Supported employ. in traumatic brain injury	$150,000	$75,000	2	36
84.133A	Supported employ. for chronically mentaly ill	75,000	75,000	1	36
84.133A	Model projects for traumatic brain injury	1,200,000	300,000	4	60
84.133A	New rehab. strategies for traumatic brain injury	200,000	100,000	2	36
84.133A	Personal assistance services	200,000	100,000	2	36
84.133A	Traumatic brain injury in young children	100,000	100,000	1	36
84.133D	Public educ. in traumatic brain injury	150,000	150,000	1	24
84.133D	Least restrict. env./deaf students	150,000	150,000	1	36
84.133D	Demographic data analysis	200,000	200,000	1	36
84.133D	Database network/independent living centers	250,000	85,000	3	24
84.133D	International exchange/experts	200,000	200,000	1	36

Applicable Regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, (b) National Institute on Disability and Rehabilitation Research Regulations, 34 CFR Parts 350, 351, and 355, and (c) the final funding priorities for this program when they become effective.

For Applications or Information Contact: National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Building, Room 3070, Washington, DC 20202. Telephone: (202) 732-1207; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

Program Authority: 29 U.S.C. 760-762.

Dated: February 13, 1987.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 87-3511 Filed 2-18-87; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No: 84.101 C]

Invitation for Applications for New Awards Under the Vocational Education Program for Hawaiian Natives for Fiscal Year 1987

Purpose: To provide assistance to any organization, recognized by the Governor of Hawaii, and primarily serving and representing Hawaiian natives to plan, conduct, and administer vocational educational projects or portions of projects benefiting Hawaiian natives.

Deadline for Transmittal of Applications: April 13, 1987.

Deadline for Intergovernmental Review Comments: June 12, 1987.

Applications Available: February 20, 1987.

Funds Available: $1,912,873.

Estimated Average Size of Award: $1,912,873.

Estimated Number of Awards: 1.

Project Period: 12 months.

Applicable Regulations: (a) The Vocational Education Indian and Hawaiian Natives Program Regulations, 34, CFR Part 410, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79.

Criteria for Evaluating Applications: The Secretary assigns the fifteen points, reserved in 34 CFR 410.30(b), to the Selection Criterion (b)—Plan of Operation—in 34 CFR 410.31(b) for a total of 35 points for the criterion.

For Applications or Information Contact: Ronald Castaldi, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 519, Reporters Building, Washington, DC 20202. Telephone: (202) 732-2359.

Program Authority: 20 U.S.C. 2313.

Dated: February 12, 1987.

John K. Wu,

Acting Assistant Secretary for Vocational and Adult Education.

[FR Doc. 87-3420 Filed 2-18-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Continued Assistance to State Legislatures in Their Consideration of Radioactive Waste Repository Siting Issues in the Implementation of the Nuclear Waste Policy Act of 1982

AGENCY: Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for cooperative agreement award number DE-FC01-87RW00119 with National Conference of State Legislatures (NCSL).

SUMMARY: The United States Department of Energy (DOE), Office of Civilian Radioactive Waste Management, announces that pursuant to 10 CFR 600.7(b) it intends to award, on a restricted eligibility basis, a Cooperative Agreement to the NCSL to continue to provide guidance and

assistance to state legislatures regarding DOE's implementation of the Nuclear Waste Policy Act of 1982. Under the proposed Cooperative Agreement NCSL would continue assistance to state legislatures in their consideration of high-level radioactive waste repository siting and related issues.

Eligibility—NCSL has a special and unique institutional relationship with its member state legislatures, which makes the NCSL the single appropriate entity with which to negotiate the proposed Cooperative Agreement.

The period of this Cooperative Agreement will be sixty months with an estimated cost of $1,443,072.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Calvin Lee, MA–453.2, 1000 Indepedence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC, on February 12, 1987.

Arnold A. Gjerstad,

Acting Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 87–3453 Filed 2–8–87; 8:45 am]

BILLING CODE 6450-01-M

Publication of Finding of No Significant Impact, Remedial Action at the Tuba City Uranium Mill Tailings Site, Tuba City, AZ

AGENCY: Department of Energy.

ACTION: Finding of No Significant Impact.

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (DOE/EA–0317) on the proposed remedial action at the inactive uranium milling site located in Tuba City, Arizona. Based on the analyses in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). Therefore, the preparation of an Environmental Impact Statement (EIS) is not required.

Background

On November 8, 1978, the Uranium Mill Tailings Radiation Control Act (UMTRCA), Pub. L.95–604, was enacted in order to address a Congressional finding that uranium mill tailings located at inactive processing sites may pose a potential health hazard to the public. On November 8, 1979, DOE designated 24 inactive processing sites for remedial action under Title I of the UMTRCA including the inactive mill tailings site at Tuba City, Arizona (44 FR 74892).

UMTRCA charges the Environmental Protection Agency (EPA) with the responsibility for promulgating remedial action standards for inactive mill sites. The purpose of these standards is to protect the public health and safety and the environment from radiological and nonradiological hazards associated with residual radioactive materials at the sites. The final standards (40 CFR Part 192) were published on January 5, 1983, and became effective on March 7, 1983. On September 3, 1985, the United States Tenth Circuit Court of Appeals set aside the EPA water protection standards 40 CFR Part 192.20(a) (2)–(3), and the EPA has not yet reissued modified standards.

Under UMTRCA, all remedial actions must be selected and performed with the concurrence of the Nuclear Regulatory Commission (NRC). The DOE has proposed to continue to apply the general standards, and NRC has concurred in this plan noting that its concurrence is conditioned on further review against EPA's final ground-water protection standards. When EPA issues revised standards, DOE will review its decision about ground-water restoration and will make every reasonable effort to ensure that water resources are adequately protected.

Also under UMTRCA, the DOE, the Navajo Nation, and the Hopi Tribe entered into a cooperative agreement, effective March 29, 1985, for remedial action at the Tuba City designated site. Under the agreement, the Navajo Nation and the Hopi Tribe must concur with the remedial action plan to be developed for the site. The DOE will provide 100 percent of the engineering and construction costs.

Project Description

The Tuba City mill tailings site is located in northeastern Arizona, in Coconino County. The closest town is Tuba City which includes Moencopi Village, six miles to the west. Flagstaff is about 86 miles southwest of the site.

The 105-acre Tuba City site, as designated by the DOE, is located in Sections 17 and 20, Township 32 North, Range 12 East, Gila and Salt River Meridian, at 36 degrees 8 minutes 30 seconds north latitude and 111 degrees 8 minutes 6 seconds west longitude.

The mill was built in 1956 by the Rare Metals Corporation of America, who operated the mill from 1956 to 1962. In 1962, the Rare Metals Corporation merged with the El Paso Natural Gas Company which operated the mill until 1966.

In 1968, the El Paso Natural Gas Company, in cooperation with the U.S. Bureau of Mines, applied a chemical stabilizer to the pile. By 1974, the chemical stabilization had disintegrated and was ineffective due to human and livestock intrusion onto the surface of the tailings pile.

The total designated site covers 105 acres. This includes the tailings pile (built in three segments), three former emergency spill ponds (approximately 35 acres), mill and office buildings, several concrete pads and foundations, and buried conduits including electrical and water lines.

The tailings pile covers 25 acres to an average depth of 17 feet. The eastern portion of the pile consists of acid tailings; alkaline tailings from the carbonate leach circuit are in the center and the western portions of the pile. The tailings site has been fenced with a hogwire type fence.

The mill building was dismantled and placed on the site by DOE during February, 1986. All of this material will be consolidated with the tailings as described below.

Proposed Action

The proposed action is to stabilize the Tuba City tailings pile at its present location. All contaminated materials from around the pile would be covered with compacted earth to inhibit radon emanation and water infiltration. A rock erosion barrier would be placed over the pile to inhibit wind and water erosion and discourage animal and human intrusion. These actions will result in compliance with the EPA standards.

The stabilized pile would be roughly triangular in shape. The tailings and contaminated materials would be covered with compacted earth and graded rock for erosion protection. The stabilized tailings pile would have maximum sideslopes of 20 percent and a topslope of two to three percent. The average height of the pile above the surrounding terrain would be approximately 33 feet.

The rock erosion barrier on top of the pile would tie into a layer of rock armoring on the south side of the pile and into rock-armored drainage channels on the north, east, and west sides of the pile. A drainage ditch would divert surface runoff around and away from the pile. Posts with warning signs would be placed around the pile.

The stabilized tailings pile would occupy an area of 48 acres situated entirely within the designated site boundary. The entire disposal area after remedial action would cover 60 acres. After remedial action, disturbed areas surrounding the stabilized tailings pile would be restored to a condition

compatible with the surrounding terrain by recontouring to promote surface-water drainage and revegetating as required for erosion control. Approximately 45 acres of the present site would be released for any use consistent with local land use controls following the completion of remedial action.

Alternatives to the proposed action were analyzed in the EA. These included no action and disposal of the tailings at the Fivemile Wash alternate disposal site, located approximately 16 miles southwest of the site.

Finding

The DOE has considered the concerns expressed during public meetings and cooperating agency reviews about the environmental and health impacts from the purposed remedial action. In general, concerns relate to the impacts based on the design of the stabilized pile, impacts from radiation released during remedial action, impacts on the ground water, impacts from the contaminated ground water, and air quality impacts.

The EA discusses the environmental impacts resulting from the proposed remedial action and identifies mitigation measures that will be implemented to assure that these effects are insignificant. The Finding of No Significant Impact for stabilization-in-place at the Tuba City site is based on the following findings which are supported by the information and analyses in the EA:

• Radiation release—The increased exposure above background levels to the general population during the remedial action will be extremely low. The estimated excess health effects were projected to be 0.01 additional cancer deaths due to radiation from the tailings during a 12-month remedial action period. With no action, these projections would increase to 0.02 per year. The projected excess health effects for remedial action workers were 0.005 per year.

The DOE will closely monitor the release of radon and particulates during the remedial action. The release of radon and contaminated particulates will be reduced by dampening contaminated material with water or chemical dust suppressants, by limiting contaminated material-handling operations during adverse weather conditions, and by using trucks with tight-fitting tailgates and covers when the material is to be moved. Drainage controls and waste-water retention ponds will be constructed to prevent contaminated water from leaving the site.

Human exposure to residual radioactive material will be reduced further by restricting access, by providing worker training programs, and by the use of necessary monitoring and protective equipment by the remedial action workers.

The long-term total excess health effects after remedial action for stabilization-in-place and the no action alternatives are 0.0005 and 0.02 per year, respectively. The calculations for the no action alternative do not consider the dispersal of the tailings by natural erosion or by man; thus, the actual total excess health effects may be greater.

On this basis, it was determined that the radiation impacts from the proposed action are insignificant.

• Air Quality—Dispersion modeling indicated that combustion emissions from construction equipment will not exceed Federal primary or secondary standards for carbon monoxide, hydrocarbons, sulfur dioxide, and total suspended particulates (TSP). The nitrogen oxides emission would exceed the EPA significant level of 40 tons per year; however, Prevention of Significant Deterioration regulations are not applicable for temporary emission sources such as those from remedial action.

Fugitive dust emissions estimated through the use of a computer simulation model indicated that activities at the site and along the transportation route would exceed the Federal primary standards.

However, the modeling used is conservative and overpredicts potential impacts. The parameters that would tend to overpredict impacts are the assumption of light winds blowing persistently for six consecutive hours from the exact same direction, the assumption of stable meteorological conditions during the same six-hour period, and the assumption of maximum equipment emissions and average wind erosion emissions under the meteorological scenario assumed above. On this basis it was determined that the air quality impacts of the proposed action will be temporary and will not be significant.

• Surface-water quality—Impacts from surface runoff from the tailings pile during remedial action would be minimal because of water retention facilities and erosion control measures.

After remedial action, surface runoff created by excessive rainfall would be controlled by features incorporated into the remedial action design to prevent erosion of the stabilized pile. The sideslopes of the pile would be limited to five horizontal to one vertical (20 percent) and the top of the pile would be gently sloped (two to three percent) to promote drainage from the pile with non-erosion flow velocities. A combination of ditches and other hydraulic facilities would be constructed to direct surface runoff around and away from the pile. On this basis, it was determined that the impacts on surface-water resources would not be significant.

• Ground-water quality—The proposed remedial action would reduce the amount of precipitation which percolates through the pile. The stabilized pile would be covered with low-permeability materials which would present a barrier to infiltration. In addition, the pile would be sloped so that precipitation would run off instead of collecting in depressions. Therefore, stabilization-in-place would reduce the long-term amount of ground-water contamination produced by the pile.

There is presently no use of ground water that is contaminated and that may become contaminated as the contaminant plume migrates southeastward. The proposed action would have no effect on the existing water use and contaminant plume. The contaminants would continue to move down-gradient toward Moenkopi Wash.

There are no floodplains of prennial streams, wetlands, endangered or threatened species, or archaeological resources in the areas that would be affected by the remedial action.

Based on the above, it was determined that the impacts on groundwater resources would not be significant.

In summary, based on the analyses in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). Therefore, the preparation of an EIS is not required.

Single copies of the EA are available from: James R. Anderson, Project Manager, U.S. Department of Energy, UMTRA Project Office, 5301 Central Avenue, NE., Suite 1720, Albuquerque, New Mexico 87108, (505) 844–3941.

FOR FURTHER INFORMATION, CONTACT: Dr. Carolyn Osborne, Office of NEPA Project Assistance, Office of the Assistant Secretary for Environment, Safety and Health, Room 3G–092, Forrestal Building, Washington, DC 20585, (202) 586–4600.

Issued at Washington, DC, October 28, 1986.

Grover A. Smithwick,

Principal Deputy Assistant Secretary, Environment, Safety and Health.

[FR Doc. 87-3393 Filed 2-18-87; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Issuance of Proposed Remedial Order to LaJet, Inc., LaJet Petroleum Company and Texas NAPCO, Inc., and Opportunity for Objection

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of proposed remedial order.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the U.S. Department of Energy ("DOE") hereby gives notice of a Proposed Remedial Order ("PRO") which was issued to the following firms on January 22, 1987:

LaJet, Inc., 14190 E. Evans Avenue, Aurora, Colorado 80014

LaJet Petroleum Company, 3130 Antilley Road, Abilene, Texas 79606

Texas Napco, Inc., 3130 Antilley Road, Abilene, Texas 79606

The PRO charges that the Refiners Monthly Reports filed on behalf of LaJet, Inc. ("LaJet") understated LaJet's crude oil receipts by erroneously reporting that certain crude oil was processed by LaJet for the account of another refiner. The PRO finds that the substance of the transactions shows that the crude oil was processed for the account of LaJet. As a result of LaJet's misreporting, in violation of the requirements of 10 CFR 211.66(h), the Entitlements Program suffered a loss in the amount of $5,558,048 before interest. The PRO further charges that LaJet's activities circumvented and contravened the DOE's entitlements regulations, 10 CFR 211.67, in violation of 10 CFR 205.202.

The violation period is May through September 1977. The impact of the violations was spread nationwide through the Entitlements Program. LaJet Petroleum Company, successor to LaJet's refining business, and Texas Napco, Inc., former parent of LaJet, are named in the PRO as jointly and severally liable along with LaJet.

A copy of the PRO may be obtained from the Freedom of Information Public Reading Room, U.S. Department of Energy, 1000 Independence Avenue, SW., Room IE-190, Washington, DC 20585.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the PRO. If a Notice of Objection is not filed in accordance with Section 205.193, the PRO may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, DC on the 6th day of February 1987.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-3389 Filed 2-18-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to McAlister Enterprises, Inc. (Formerly Questor Petroleum Corp.) and Kyle S. McAlister

AGENCY Economic Regulatory Administration. DOE.

ACTION Notice of proposed remedial order.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration ("EPA") of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to McAlister Enterprises, Inc. (Formerly Questor Petroleum Corp.) and Kyle S. McAlister of 1150 Highway 46 South, New Braunfels, Texas. This Proposed Remedial Order alleges violations in the amount of $42,539,059.30, plus interest resulting from violations of 10 CFR 212.186, 10 CFR 205.202 and 10 CFR 210.62(c) during the period July 1979 through November 1980. The effect of the alleged violations is nationwide.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 6F-078, 1000 Independence Avenue, SW., Washington, DC 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

and upon:

Marshall A. Staunton, Acting Solicitor, Economic Regulatory Administration, U.S. Department of Energy, Room 3H-017, RG-40, 1000 Independence Avenue, SW., Washington, DC 20585

Issued in Washington, DC on February 3, 1987.

Marshall A. Staunton,

Acting Solicitor, Economic Regulatory Administration.

[FR Doc. 87-3392 Filed 2-18-87; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order Issued to: Murphy Oil Corp., Murphy Oil USA, Inc., Ocean Drilling and Exploration Co., and ODECO Oil and Gas Co.

AGENCY Economic Regulatory Administration, DOE.

ACTION Notice of proposed Remedial Order.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA), Department of Energy, hereby gives Notice of a Proposed Remedial Order which was issued on December 15, 1986 to Murphy Oil Corporation and Murphy Oil USA, Inc., 200 Peach Street, El Dorado, Arkansas 71730, and ODECO Oil & Gas Company (formerly known as ODECO One Thirteen, Inc. and Ocean Production Company) and Ocean Drilling & Exploration Company, 1600 Canal Street, New Orleans, Louisiana 70112, (collectively referred to as "the Companies"). The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning the Companies' pricing, in excess of maximum lawful prices, of first sales of crude oil produced and sold in the United States. Such pricing was in violation of the Phase IV Petroleum Price Regulations, formerly at 6 CFR Part 150, and the Mandatory Petroleum Price Regulations as they appeared in 10 CFR Parts 210, 211, and 212. These regulations were in effect prior to January 28, 1981. The amount of overcharges by the Companies on properties the ERA audited, during the period September 1, 1973 through

December 31, 1979, and interest thereon through October 31, 1986, totals not less than $37,888,769. The impact of the alleged violations is nationwide.

A copy of the Proposed Remedial Order may be obtained from: Office of Freedom of Information, Reading Room, Room 1E–190, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be determined to have admitted the findings of fact and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by 10 CFR 205.193, the Proposed Remedial Order may be issued as a final order. Such Notice of Objection shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order, shall state the person's intention to file a Statement of Objections, and shall be filed in duplicate with: Office of Hearings and Appeals, U.S. Department of Energy, Room 6F–078, 1000 Independence Avenue, SW., Washington, DC 20585.

Pursuant to 10 CFR 205.193, a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Edward W. Gass, Associate Solicitor, Office of the Solicitor, Economic Regulatory Administration, U.S. Department of Energy, RG–43, Room 3F–070, 1000 Independence Avenue, SW., Washington, DC 20585

and upon:

John G. Wesner, Computer Service and Litigation Support Group, Economic Regulatory Administration, U.S. Department of Energy, 1403 Slocum, Dallas, Texas 75207

Issued in Washington, DC, this 3rd day of February, 1987.

Marshall A. Staunton,

Acting Solicitor, Office of the Solicitor, Economic Regulatory Administration, U.S. Department of Energy.

[FR Doc. 87–3391 Filed 2–18–87; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Annual Report on Natural and Supplemental Gas Supply and Disposition

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Energy Information Administration (EIA), as required by the Paperwork Reduction Act of 1980, conducts a consultation program to provide the general public with an opportunity to comment on proposed and continuing report forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assesed.

At this time, EIA solicits comments on the extension of its Natural Gas Program Package. The forms which cover natural gas supply and disposition are described in the Supplementary Information Section of this Notice. They are the "Annual Report of Natural and Supplemental Gas Supply and Disposition, "EIA–176; "Underground Gas Storage Report," EIA–191; "Annual Quantity and Value of Natural Gas Report," EIA–627; "Monthly Report of Natural Gas Purchases and Deliveries to Consumers," EIA–857; and "Survey of Surplus Natural Gas Supplies," IE–400. Interested persons are asked to review these forms and provide comments to the contact person described below.

DATE: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESS: Comments should be sent to Mr. James W. McCarrick, EI–441, Reserves and Natural Gas Division, Office of Oil and Gas, Energy Information Administration, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone (202) 586–6198.

FOR FURTHER INFORMATION OR COPIES OF FORMS AND INSTRUCTIONS: To obtain additional information or copies of the proposed forms, contact James W. McCarrick at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In accordance with provisions of the Department of Energy Organization Act (Pub. L. 95–91), the Energy Information Administration (EIA) is responsible for carrying out comprehensive national energy data programs including the compilation and dissemination of economic and statistical information. EIA's Natural Gas Program Package forms are designed to provide information for use by the Congress, Federal and State agencies, industry, and other interested parties on the status of natural gas supply and disposition. In keeping with its responsibilities, EIA is planning to request a 3-year extension of the forms used to gather information for this program.

The Form EIA–176, "Annual Report of Natural and Supplemental Gas Supply and Disposition," is designed to collect data on natural, synthetic, and other supplemental gas supplies, disposition, and certain costs and revenues by State. Form EIA–191, "Underground Gas Storage Report," collects data on the location, ownership, capacity, and operations of all active underground storage facilities operated by intrastate companies. Form EIA–627, "Annual Quantity and Value of Natural Gas Report," collects information from the appropriate State agencies which collect data concerning natural gas production, the value of marketed natual gas and the number of producing gas wells, in order to provide an annual measure of these elements. Form EIA–857, "Monthly Report of Natural Gas Purchases and Deliveries to Consumers," collects information on the delivered cost of natural gas to distribution systems and the quantity and prices of natural gas consumed, by the market sector, on a current monthly basis by State and Region. Form IE–400, "Survey of Surplus Natural Gas Supplies," collects information from a group of gas companies (producers, pipelines and distribution companies) to enable the Department of Energy (DOE) to monitor the availability of surplus natural gas supplies.

II. Current Action

EIA proposes to make no major substantive changes to the EIA–627 and IE–400. Forms EIA–176, 191, and 857 will be updated to reduce respondent burden and to improve the quality of the data collections.

For the EIA–176, EIA is proposing to reduce respondent burden by eliminating Part VII, Supplemental Sheet (Receipts and/or deliveries of more than 1,000,000 Mcf from or to individual companies), in the absence of a convincing rationale for its continuation. EIA is also proposing a shortened version of the form for filing by certain distribution companies with limited activities as a means of reducing confusion and also reducing their respondent burden. The addition of one line item to provide for reporting of gas transported to commerical consumers is proposed. On the EIA–191, EIA is proposing to eliminate the mid-month filings for the months of December

through March, and to extend the monthly filing deadlines by 5 days. This action is being taken in conjunction with an identical revision by the Federal Energy Regulatory Commission (FERC) to Form FERC–8, "Underground Gas Storage Report," which is filed by jurisdictional natural gas companies that operate underground gas storage facilities. Proposed changes to the EIA–857 include changing from reporting on an equity basis to reporting on a physical custody basis. The changes will require the addition of one line item to the form, to provide for reporting of gas transported to commerical customers and minor changes to reporting instructions.

III. Request for Comments

EIA invites the public to comment on these proposals within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses. When commenting, please indicate the form(s) to which your comments apply.

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, would you require to complete and submit the required form(s)?

E. What is the estimated cost of completing the form(s), including the direct and indirect costs associated with the data collection? Direct cost should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form(s) be improved?

G. Do you know other Federal, State, or local agencies that collect similar data? If you do, specify the agency, the data elements, and the means of collection.

As a Potential Data User

A. Can you use data at the levels of detail indicated on the form(s)?

B. For what purposes would you use the data? Be specific.

C. How could the form(s) be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the collection of the information contained in these forms.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of these data surveys; they also will become a matter of public record.

Statutory Authority: Sections 5(a) and (b), 13(a) and (b), and 52 of Pub. L. 93–275, Federal Energy Administration Act of 1974, as amended (15 U.S.C. 764(a) and (b), 772(a) and (b), and 790(a).

Issued in Washington, DC on February 11, 1987.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 87–3390 Filed 2–18–87; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 4359–003 et al.]

Hydroelectric Applications (Gem Irrigation District et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Amendment of License.

b. Project No.: 4359–003.

c. Date Filed: September 3, 1986.

d. Applicant: Gem Irrigation District, et al.

e. Name of Project: Owyhee Tunnel No. 1.

f. Location: Owyhee River in Malheur County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Harry P. Hosey, Hosey & Associates Engineering Company, 2820 Northup Way, Suite 190, Bellevue, WA 98004, (206) 827–8661.

i. Comment Date: March 16, 1987.

j. Description of Project: The project as licensed consists of: (a) the 3.5-mile-long, 16.6-foot-diameter Tunnel No. 1 from the U.S. Bureau of Reclamation's 417-foot-high Owyhee Dam; (b) a 15-foot-diameter bifurcation at elevation 2,573 feet; (c) a 120-foot-long, 11-foot-diameter steel pipe; (d) a 120-foot-long, 7-foot-diameter bypass pipe; (e) a powerhouse containing one generating unit rated a 5 MW; (f) an 80-foot-long tailrace; (g) an energy dissipating structure; (h) the 4.16-kV generator leads and the 5.5–MVA, 4.16/69-kV, 3-phase, step-up transformer; and (i) a 500-foot-long, 69-kV transmission line.

As amended the project would consist of: (a) a bifurcation on the existing Tunnel No. 1; (b) a 12-foot-square, 95-foot-long reinforced concrete-lined penstock; (c) an underground powerhouse containing a generating unit rated at 8.0 MW under a design head of 64 feet and a design flow of 1,600 cfs; (d) a 16.6-foot-diameter by 110-foot-long horseshoe-shaped concrete-lined tailrace conduit connecting back into the existing Tunnel No. 1; (e) the 13.8-kV generator leads; (f) a 0.5-mile-long, 13.8 kV line; (g) a 13.8/69-kV, 7.5/10-MVA transformer; and (h) a 100-foot-long, 69-kV transmission line.

An energy dissipator would be installed at the Owyhee siphon of the north canal to return powerplant discharges to the Owyhee River during the non-irrigation season.

The applicant estimates the average energy generation to be 23.8 GWh. The estimated cost of the project is $20.3 million.

k. Purpose of Project: Project power would be used by the applicants.

l. This notice also consists of the following standard paragraphs: B, C and D1.

2 a. Type of Application: Transfer of License.

b. Project No.: 5376–004.

c. Date Filed: December 18, 1986.

d. Applicant: Boise Cascade Corporation and Horseshoe Bend Hydroelectric Company.

e. Name of Project: Horseshoe Bend.

f. Location: On the Payette River in Boise County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person:

Mr. J.R. Ayre, Boise Cascade Corp., One Jefferson Square, P.O. Box 50, Boise, ID 83728

Mr. Ralph G. Peinecke, Horseshoe Bend Hydroelectric Co., c/o Boise Cascade Corp., One Jefferson Square, P.O. Box 50, Boise, ID 83728

i. Comment Date: March 16, 1987.

j. Description of Project: On July 30, 1986, a major license was issued to Boise Cascade Corporation (licensee) for the construction, operation, and maintenance of the Horseshoe Bend Project No. 5376. It is proposed to transfer the license to Horseshoe Bend Hydroelectric Company (transferee). The purpose of this proposed transfer is to facilitate financing of the project.

The licensee certifies that it has fully complied with the terms and conditions of the license and that it will pay all annual charges accrued under the license at the date of transfer. The transferee accepts the terms and conditions of the license and agrees to

be bound thereby to the same extent as though it was the original licensee.

k. This notice also consists of the following standard paragraph: B and C.

3 a. Type of Application: Preliminary Permit.

b. Project No.: P–10120–000.

c. Date Filed: October 20, 1986.

d. Applicant: Adirondack Hydro Development Corporation.

e. Name of Project: Independence River Project.

f. Location: On the Independence River in Lewis County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Darryl F. Caputo, Adirondack Hydro Development Corporation, SeaComm Plaza—Market Street, Potsdam, NY 13676, (315) 265–8090.

i. Comment Date: April 6, 1987.

j. Description of Project: The proposed project would consist of: (1) A proposed 350-foot-long, 16-foot-high masonry dam; (2) a reservoir having a surface area of 5 acres, with negligible storage, and a normal water surface elevation of 970 feet msl; (3) a proposed intake structure; (4) a proposed 10,000-foot-long, 7-foot-diameter steel penstock; (5) a proposed powerhouse containing two generating units with a total installed capacity of 3,420 kW; (6) a proposed 100-foot-long tailrace; (7) a proposed 7,000-foot-long, 115-kV transmission line; and (8) appurtenant facilities. The Applicant estimates that the average annual generation would be 15,000,000 kWh. The applicant intends to acquire all necessary property rights from the numerous property owners.

All project energy generated would be sold to the Niagara Mohawk Power Corporation. The Applicant estimates that the cost of the work to be performed under the preliminary permit would be $120,000.

k. This notice also consists of the following standard paragraph: A5, A7, A9, A10, B, C, D2.

4 a. Type of Application: Preliminary Permit.

b. Project No.: P–10121–000.

c. Date Filed: October 20, 1986.

d. Applicant: Balance One Inc.

e. Name of Project: Silk Mill and Circular Dam Project.

f. Location: On the Charles River, Middlesex and Norfolk Counties, Massachusetts.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. John Benjamin, Balance One Inc., 55 Rutland Square, Boston, MA 02118, (617) 266–7173.

i. Comment Date: April 6, 1987.

j. Description of Project: The proposed project would consist of the following two developments.

(A) Silk Mill Development:

(1) The existing 60-foot-long, 14-foot-high Silk Mill Dam;

(2) An impoundment having a surface area of 48 acres, with negligible storage, and a normal water surface elevation of 84.3 feet msl; (3) a proposed 200-foot-long reinforced concrete penstock; (4) a proposed powerhouse containing a generating unit having an installed capacity of 275 kW; (5) a proposed 50-foot-long tailrace; (6) a proposed 220-foot-long transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 106,000 kWh. The existing Silk Mill Dam is owned by the Metropolitan District Commission.

(B) Circular Dam Development:

(1) The existing 70-foot-long, 11-foot-high Circular Dam;

(2) An impoundment having a surface area of 5 acres, with negligible storage, and a normal water surface elevation of 70.4 feet msl; (3) a proposed intake structure; (4) a proposed 170-foot-long reinforced concrete penstock; (5) a proposed powerhouse containing a generating unit having an installed capacity of 275 kW; (6) a proposed 50-foot-long tailrace; (7) a proposed 100-foot-long transmission line; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 106,000 kWh. The existing Circular Dam is owned by the Metropolitan District Commission.

All project energy generated would be sold to the Boston Edison Company. The Applicant estimates that the cost of the work to be performed under the preliminary permit would be $100,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 10129–000.

c. Date Filed: October 22, 1986.

d. Applicant: Cranberry Creek Hydro, Inc.

e. Name of Project: East Fork Nookachamps Creek.

f. Location: On the East Fork Nookachamps Creek near the town of Big Lake, Skagit County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Larry L. Kitchel, President, Cranberry Creek Hydro, Inc., P.O. Box 95, Coupeville, WA 98239, (206) 675–0101.

Comment Date: April 6, 1987.

j. Description of Project: The proposed project would consist of: (1) A reinforced concrete diversion weir approximately 5 feet high and 65 feet long at an approximate elevation of 1,780 feet msl; (2) a steel penstock 7,200 feet long and 2 feet long and 2 feet in diameter leading to; (3) a reinforced concrete powerhouse containing two turbine/generator units having an installed total capacity of 3,000 kW operating at 1,300 feet of hydraulic head; and (4) a 2.7-mile-long, 15-kV transmission line. The applicant estimates that the average annual energy generation would be 12 GWh. The cost of the studies under the permit would be $25,000.

k. Purpose of project: The applicant intends to sell the power generator at the proposed facilities to Puget Power.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6 a. Type of Application: Preliminary Permit.

b. Project No.: 10130–000.

c. Date Filed: October 24, 1986.

d. Applicant: East Calais Hydroelectric Company, Inc.

e. Name of Project: East Calais.

f. Location: On Kingsbury Branch Winooski River, near town of Calais, in Washington County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Houghton M. Cate, P.O. Box 33, East Calais, VT 05650, (802) 456–8833.

Comment Date: April 6, 1987.

j. Description of Project: The proposed project would consist of: (1) A new 6-foot-high diversion structure at the head of the existing cascade;' (2) a new 3-foot-diameter, 260-foot-long penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 100 kW; and (4) 700-foot-long, 7.2-kV transmission line connecting to the existing Green Mountain Power Corporation line.

The estimated average annual energy production is 306,000 kWh. The project power would be sold to Green Mountain Power Corporation. The Applicant estimates that the cost of the work to be performed under the preliminary permit would be $5,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

7 a. Type of Application: Preliminary Permit.

b. Project No.: 10131–000.

c. Date Filed: October 24, 1986, and supplemented November 18, 1986.

d. Applicant: Shohola Associates.

e. Name of Project: Penn Hydro III Project.

f. Location: On Shohola Creek near Shohola, Pike County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Matthew Gillan, 61 Beechwood Road, Oradell, NJ 07649, (201) 670–3415.

Comment Date: April 6, 1987.

j Description of Project: The proposed project would consist of: (1) A new dam approximately 1,000 feet long and 60 feet high; (2) a proposed reservoir with a storage capacity of 20,188 acre-feet at maximum surface elevation of 660 feet msl; (3) a proposed 10-foot-diameter steel penstock approximately 100 feet long; (4) a new powerhouse housing one 1,170-kW generator and one 445-kW generator for a total installed capacity of 1,615 kW; (5) a new tailrace; (6) a proposed 12-kV transmission line approximately 250 feet long; and (7) appurtenant facilities. The applicant estimates that the average annual generation would be 3.4 GWh. All power generated would be sold to Pennsylvania Power and Light Company. There are no U.S. lands within the proposed project boundry.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

8 a. Type of Application: Preliminary Permit.

b. Project No.: 10132–000.

c. Date Filed: October 24, 1986 and supplemented November 18, 1986.

d. Applicant: Bridge Associates.

e. Name of Project: Penn Hydro II Project.

f. Location: On Shohola Creek near Greeley, Pike County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Matthew Gillan, 61 Beechwood Road, Oradell, NJ 07649, (201) 670–3415.

i. Comment Date: April 6, 1987.

j. Description of Project: The proposed project would consist of: (1) A new dam approximately 500 feet long and 50 feet high; (2) a new reservoir with a storage capacity of 20,668 acre-feet at maximum surface elevation of 780 feet msl; (3) a new 10-foot-diameter steel penstock; (4) a concrete powerhouse housing one 3,150-kW generator and one 1,200-kW generator for a total installed capacity of 4,350 kW; (5) a new tailrace; (6) a new 7.2-kV transmission line approximately 150 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual generation would be 3.4 GWh. All power generated would be sold to Pennsylvania Power and Light Company. There are no U.S. lands within the proposed project boundary.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

9 a. Type of Application: Preliminary Permit.

b. Project No.: 10133–000.

c. Date Filed: October 26, 1986 and supplemented November 18, 1986.

d. Applicant: State Associates.

e. Name of Project: Penn Hydro I Project.

f. Location: On the Sholola Creek near Greeley, Pike County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)—825(r).

h. Contact Person: Mr. Matthew Gillan, 61 Beechwood Road, Oradell, NJ 07649, 201–670–3415.

i. Comment Date: April 6, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam approximately 34-foot-high and 800-foot-long; (2) a 1,137-acre reservoir with 19, 618 acre-feet storage capacity at a surface elevation of 1,154 feet msl; (3) a proposed 12-foot-wide, 24-foot-deep, and 30-foot-high intake structure; (4) a proposed one-mile-long steel pipe line leading to a 32-foot-high surge tank at elevation 1,120 feet msl; (5) a new one-half-mile-long steel penstock approximately 6 feet in diameter; (6) a new powerhouse housing one 3,150-kW generator and one 1,200-kW generator for a total installed capacity of 4,350 kW; (7) a new tailrace; (8) a proposed 7.2-kV transmission line approxiamtely 1,000 feet long; and (9) appurtenant facilities. The Applicant estimates the average annual generation would be 9.24 GWh. All power generated would be sold to Pennsylvania Power and Light Company. There are no U.S. lands within the proposed project boundary.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No.: P–10140–000.

c. Date Filed: October 27, 1986.

d. Applicant: Adirondack Hydro Development Corporation.

e. Name of Project: Emerson Mill Project.

f. Location: On the Schroon River in Warren County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Mr. Darryl Caputo, Adirondack Hydro Development Corporation, SeaComm Plaza—Market Street, Potsdam, NY 13676, (315) 265–8090.

i. Comment Date: April 6, 1987.

j. Description of Project: The proposed project would consist of: (1) A proposed 150-foot-long, 10-foot-high dam; (2) an impoundment having a surface area of 5 acres with negligible storage and a normal water surface elevation of 670 feet msl; (3) a proposed intake structure; (4) a proposed 40-foot-long, 20-food-wide reinforce concrete open flume; (5) a proposed powerhouse containing a generating unit with an installed capacity of 595 kW; (6) a proposed tailrace; (7) a proposed 100-foot-long, 13.2-kV transmission line; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 4,450,000 kWh. The Applicant intends to acquire all the necessary property rights from the various property owners. All project energy generated would be sold to the Niagara Mohawk Power Corporation. The Applicant estimates the cost of the work to be performed under the preliminary permit would be $70,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

11 a. Type of Application: Preliminary Permit.

b. Project No: 10153–000.

c. Date Filed: October 30, 1986.

d. Applicant: Stillaguamish River Hydro.

e. Name of Project: Jim Creek.

f. Location: On Jim Creek in the Snoqualmie-Mt. Baker National Forest in T31N, R7E, near Oso in Snohomish County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th N.W., Redmond, WA 98052, (206) 885–3986.

i. Comment Date: April 6, 1987.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 36-inch-wide concrete inlet structure in the streambed at elevation 2,400 feet; (2) a 16,000-foot-long, 36-inch-diameter penstock; (3) a powerhouse containing one generating unit with a rated capcity of 375 kW; and (4) a 1-mile-long transmission line. Applicant estimates the average annual energy production to be 19.75GWh. The applicant estimates that the cost of the work to be performed under the preliminary permit would be $40,000.

l. Purpose of Project: The power produced is to be sold to the local power company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

12 a. Type of Application: License (Major).

b. Project No.: 8080–001.

c. Date Filed: June 13, 1986.

d. Applicant: High Rock Hydro Partners.

e. Name of Project: High Rock Hydroelectric Project.

f. Location: On West Branch Feather River near Stirling City, in Butte County,

California, in Sections 28, 33, and 34, T25N, R4E; Sections 3, 4, 9, 16, 21, 28, 31, 32, and 33, T24N, R4E; and Sections 5, 6, 7, 8, 18 and 19, T23N, R4E, M.D.M.&B.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Mr. Jeffery E. Twitchell, Independent Hydro Developers, 1225 Eighth Street, Suite 465, Sacramento, CA 95814, (916) 447–6600.

i. Comment Date: April 2, 1987.

j. Description of Project: The proposed project would consist of: (1) an intake structure located at elevation 4,350 feet msl consisting of an excavated side channel to the main stream; (2) a 21,500-foot-long water conveyance system consisting of a 3,300-foot-long by 8-foot horseshoe tunnel, and an 18,200-foot-long, 60-inch-diameter pipelines; (3) an inverted siphon; (4) a powerhouse at elevation 3,320 feet msl containing an impulse type generating unit rate at 10.5 MW operated at a gross head of 1,030 feet and at a flow range between 15 cfs and 150 cfs with flows being returned to the West Branch Feather River; and (5) an 11.5-mile-long, 60-kV transmission line interconnecting the project to an existing Pacific Gas and Electric Company transmission line. Applicant estimates the project's annual generation at 28.6 GWh.

k. Purpose of Project: Project power will be sold to Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

13 a. Type of Application: Minor License.

b. Project No.: 9920–000.

c. Date Filed: February 21, 1986.

d. Applicant: The Village of St. Johnsville.

e. Name of Project: Scudder Falls.

f. Location: On the Zimmerman Creek in Montgomery County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Persons:

Ms. Mae Warn, Village Clerk-Treasurer, The Village of St. Johnsville, 16 Washington Street, St. Johnsville, NY 13452, (518) 568–2221

Mr. Wilfred Y. Kraft, Mayor, The Village of St. Johnsville, 16 Washington Street, St. Johnsville, NY 13452, (518) 568–2221

Mr. Richard A. Armstrong, Morrell Vrooman Engineers, 21 Main Street, Gloversville, NY 12078, (518) 725–7111

i. Comment Date: April 1, 1987.

j. Description of Project: The proposed project would consist of: (1) A 1-foot-high diversion structure across ¾ of Zimmerman Creek, 30 feet from the edge of the top of a ledge rock falls; (2) a 300-foot-long, 30-inch-diameter steel penstock; (3) a 12-foot by 12-foot masonry powerhouse housing one semi-axial flow turbine with a 150 kW generator, and located 160 feet from the base of the falls; (4) the 0.48–kV generator leads; (5) the 0.48/13.2–kV transformer; (6) the 1,320-foot-long, 13.2–kV transmission line; and (7) appurtenant facilities. The applicant estimates that the average annual generation would be 600,000 kWh. The existing dam is owned by the applicant.

k. Purpose of Project: Project power would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

14 a. Type of Application: Exemption (5MW or Less).

b. Project No.: 9996–000.

c. Date Filed: May 22, 1986.

d. Applicant: Northwest Discovery Joint Venture.

e. Name of Project: Rediscovery Lodge Hydroelectric Project.

f. Location: In the Tongass National Forest, on Bell Creek, Bell Island, Alaska. Township 68S and Range 90E.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. Starkey A. Wilson, Thanksgiving Tower, Suite 990, 1601 Elm, Dallas, TX 75201–4713, (214) 880–0080.

i. Comment Date: March 12, 1987.

j. Description of Project: The proposed project would consist of: (1) An intake structure with an approximate inlet elevation of 180 feet msl; (2) a penstock 1,000 feet long and 18 inches in diameter leading to; (3) a powerhouse containing two turbine/generator units with a total installed capacity of 115 kW operating at 111 feet of hydraulic head; (4) a tailrace; and (5) a 2,500-foot-long transmission line. The applicant estimates the average annual energy production to be 200,000 kWh.

k. Purpose of Project: Applicant intends to sell the power generated at the proposed facility to the Hot Springs Resort.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D3a.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 10057–000.

c. Date Filed: August 4, 1986.

d. Applicant: JDJ Energy Company.

e. Name of Project: Remmel Dam Unit 4.

f. Location: On the Ouachita River Near Jones Mill, Hot Spring and Garland Counties, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Doyle W. Jones, P.O. Box 225, Jones Mill, AR 72105, (501) 337–4904.

i. Comment Date: April 2, 1987.

j. Description of Project: The applicant proposes to develop the currently unutilized capacity of the Remmel Development of the Carpenter-Remmel Project, licensed as part of Project No. 271 to Arkansas Power and Light Company (AP&L). AP&L's license for the Remmel Development consists of: (1) The existing dam and reservoir; (2) an integral intake and powerhouse structure containing an installed capacity of 9,300 kW; and (3) appurtenant facilities.

The proposed Remmel Dam Unit 4 project would consist of: (1) Proposed trash racks; (2) proposed stop logs; (3) a proposed concrete structure, constructed adjacent to the north end of the existing powerhouse, about 60 feet wide and 140 feet long housing a 19,700-kW hydropower unit; (4) a proposed tailrace; (5) a proposed 34.5–kV transmission line about 600 feet long; and (6) appurtenant facilities. The applicant estimates that the average annual energy generation would be 22.5 GWh and that the cost of the work to be performed under the preliminary permit would be $20,000. The project energy is proposed to be sold to AP&L.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

16 a. Type of Application: 5MW Exemption.

b. Project No.: P–10167–000.

c. Date Filed: November 12, 1986.

d. Applicant: Stonybrook Hydroelectric Company.

e. Name of Project: Stonybrook.

f. Location: On the Stony Brook in Oxford County, Maine.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2709.

h. Contact Person: Mr. Vincent S. George, RD #1 Box 504, South Paris, ME 04281, (207) 743–8174.

i. Comment Date: March 13, 1987.

j. Description of Project: The proposed project would consist of: 1.) A proposed inlet with trash rack; 2.) an existing small pool at elevation 700 feet m.s.l. of negligible size and storage capacity; 3.) two proposed 12-inch-diameter and 600-foot-long penstocks; 4.) an existing concrete powerhouse to contain one turbine/ generator unit with an installed capacity of 35 kw; 5.) a new 240-volt transmission line 300 feet long; and 6.) appurtenant facilities. The estimated average annual energy produced by the

project would be 180,000 kWh operating under a net hydraulic head of 56 feet. The proposed project facilities are owned by the applicant.

k. Purpose of Project: Project power will be sold to the Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

17 a. Type of Application: Preliminary Permit.

b. Project No: 10175–000.

c. Date Filed: November 20, 1986.

d. Applicant: Adirondack Hydro Development Corporation.

e. Name of Project: Natural Bridge Hydro.

f. Location: On the Indian River in Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Malcolm M. Preston, President, Wilbur W. Krueger, Executive Vice President, Darryl F. Caputo, Project Development Manager, Adirondack Hydro Development Corporation, SeaComm Plaza, Market Street, Potsdam, NY 13676, (315) 265–8090.

i. Comment Date: April 3, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 6-foot-high, approximately 40-foot-long, dam; (2) an existing ½-acre reservoir which will be increased to a ¾-acre reservoir by the proposed installation of 2-foot-high flashboards; (3) a proposed 300-foot-long, 6-foot-diameter penstock; (4) a proposed powerhouse to contain a 500-kW generating unit; (5) a 100-foot-long tailrace; (6) a proposed 50-foot-long, 4.16-kV transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual energy generation to be 2,738 MWh.

k. Purpose of Project: The Applicant intends to sell the power produced at the site to the Niagara Mohawk Power Corporation. Applicant estimates the cost of the studies under the permit would be $70,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

18 a. Type of Application: Relicense (Over 5MW).

b. Project No: 2677–002.

c. Date Filed: August 29, 1986.

d. Applicant: City of Kaukauna, Wisconsin.

e. Name of Project: Badger-Rapide Croche Project.

f. Location: On the Fox River near Kaukauna, Outagamie County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ernest J. Mullen, General Manager, Kaukauna Electric and Water Department, 777 Island Street, Kaukauna, WI 54130, (414) 766–5721.

i. Comment date: March 23, 1987.

j. Description of Project: The existing run-of-river project utilizes two existing U.S. Corps of Engineers (Corps) dams, the U.S. Dam and the Rapide Croche Dam, and consists of three hydro plants—Old Badger, New Badger, and Repide Croche. The project works consist of: (1) A 2,100-foot-long, 100-foot-wide power canal conveying water to the Old Badger and New Badger plants from the Corps, U.S. Dam; (2) the Old Badger powerhouse containing two 1,000-kW generators for a total installed capacity of 2,000 kW; (3) the New Badger powerhouse containing two 1,800-kW generators for a total installed capacity of 3,600 kW; (4) the Rapide Croche powerhouse located on the south end of the Corps' Rapide Croche Dam approximately 4.5 miles downstream from the Badger plants, and containing four 600-kW generators for a total installed capacity of 2,400 kW; (5) a 12-kV transmission line approximately 6 miles long; and (6) appurtenant facilities. The Badger-Rapide Croche project has a combined generating capacity of 8,000 kW and a total average annual generation output of 48.7 GWh. Energy produced at the project is used in the applicant's distribution system. The project works are owned and operated by the applicant. There are no U.S. lands within the project boundary. Project No. 2677 would not be subject to federal takeover under sections 14 and 15 of the Federal Power Act.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

19 a. Type of Application: Surrender of License.

b. Project No: 3036–004.

c. Date Filed: November 17, 1986.

d. Applicant: The Municipal Energy Agency of Mississippi.

e. Name of Project: North Mississippi Flood Control Water Power Project.

f. Location: (1) On Coldwater River near Arkabutla, Desoto County, Mississippi; (2) on Little Tallahatchie River near Sardis, Panola County, Mississippi; (3) on Yocona River near Enid, Yalobusha County, Mississippi; (4) on Yalobusha River near Grenada, Grenada County, Mississippi.

g. Filed pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Richard M. Webster, Jr., Chairman, Municipal Energy Agency of Mississippi, P.O. Box 1408, Greenwood, MS 38930, (601) 624–9058.

i. Comment Date: March 23, 1987.

j. Description of Project: On April 15, 1983; a license was issued to the Municipal Energy Agency of Mississippi to construct, operate, and maintain the North Mississippi Flood Control Water Power Project No. 3036. The project would consist of:

(1) Arkabutla Development consistiang of: (1) 16-foot by 18.25-foot horseshoe shaped steel plate lined concrete penstock 448 feet in length; (2) a bifurcation and gate structure at the existing conduit outlet: (3) a 14.7-foot-diameter, 180-foot-long steel penstock; (4) a powerhouse located at the north side of the existing outlet works near the south dam abutment containing a single turbine-generator with a total rated capacity of 7.7 MW: (5) a 34.5-foot-wide, 29-foot-deep, 260-foot-long tailrace channel; (6) the 13.8-kV generator leads; (7) the one-mile length of 15-kV underground cable; (8) the 13.8/115-kv, 10 MVA, three-phase main step-up transformer; (9) the 12-mile, 115-kV, 1/0 ACSR single-circuit overhead transmisison line connecting this plant to the existing MP&L Walls-Tunice 115-kV transmission line; and (10) appurtenant facilities.

(2) Sardis Development consisting of: (1) A 16-foot by 18.25-foot horseshoe shaped steel plate lined concrete penstock 612 feet in length; (2) a bifurcation and gate structure at the existing conduit outlet; (3) a 21.0-foot-diameter, 140-foot-long steel penstock bifurcating into; (4) two 14.7-foot-diameter 70- and 80-foot-long steel penstocks; (5) a powerhouse located on the north side of the existing outlet works near the south dam abutment containing two turbine-generators with a total rated capacity of 16.0 MW; (6) a 79-foot-wide; 30-foot-high, 260-foot-long tailrace channel; (7) the 13.8-kv generator leads; (8) the 1.8 mile, 15-kV underground cable; (9) the 13.8/115-kV, 20 MVA, three-phase main step-up transformer; (10) the 7.5-mile 115-kV, 1/0 ACSR single-circuit overhead transmission line connecting this plant to the existing MP&L Sardis Substation; and (11) appurtenant facilities.

(3) Enid Development consisting of: (1) One of two 11-foot-diameter, 459-foot-long steel plate lined concrete penstocks; (2) a bifurcation and gate structure at the end of the existing conduit outlet; (3) a 14.7-foot-diameter,

200-foot-long steel penstock; (4) a powerhouse located on the south side of the existing outlet works near the north dam abutment containing a single turbine-generator with a total rated capacity of 7.5 MW; (5) a 34.5-foot-wide, 19-foot-deep, 260-foot-long tailrace channel; (6) the 13.8-kV generator leads; (7) the 0.2-mile, 15-kV underground cable; (8) the 13.8/115-kV, 10 MVA, three-phase main step-up transformer; (9) the 0.9-mile, 115-kV, 1/0 ACSR single-circuit overhead transmission line connecting this plant to the existing MP&L Tillatoba-Enid 115-kV line; and and (10) appurtenant facilities.

(4) Grenada Development consisting of: (1) A 17-foot-diameter, 474-foot-long steel plate lined concrete penstock; (2) a bifurcated gate structure at the end of the existing conduit outlet; (3) a 21-foot-diameter, 140-foot-long steel penstock bifurcating into (4) two 14.7-foot-diameter steel penstocks 70 and 90 feet in length; (5) a powerhouse located on the north side of the outlet works, and near the south dam abutment, containing two turbine-generators with a total rated capacity of 13.2 MW; (6) a 79–foot-wide, 28-foot-deep, 300-foot-long tailrace channel; (7) the 13.8-kV generator leads; (8) the 0.2-mile, 15-kV underground cable; (9) the 13.8/115-kV, 15 MVA, three-phase main step-up transformer; (10) the six-mile long, 115-kV, 1/0 ACSR single-circuit overehead transmission line connecting this plant to the existing MP&L South Grenada Substation; and (11) appurtenant facilities.

Licensee states that, because of declines in forecasts of load growth, and because alternative energy price have stabilized and in some cases declined, the project is no longer economically feasible.

k. Anyone desiring to be heard or to make any protest about this action should file a motion to intervene or a protest with the Federal Energy Regulatory Commission in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214 (1985). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 385.211 for protests. To become a party, or to participate in any hearing that might be held, a person must file a motion to intervene in accordance with the Commission's Rules. The Commission's address is: 825 North Capitol Street NE., Washington, DC 20426.

20 a. Type of Application: Minor License.

b. Project No.: 8632–001.

c. Date Filed: November 10, 1986.

d. Applicant: City of Kankakee, Illinois.

e. Name of Project: Kankakee Hydro Project.

f. Location: On the Kankakee River near Kankakee, Kankakee County, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard A. Schultz, City Hall Building, 385 East Oak Street, Kankakee, IL 60901, 815–933–0440.

i. Comment Date: April 10, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 10-foot-high and 440-foot-long concrete dam with additional 12-inch-high flashboards installed during the summer season for recreational purposes; (2) an existing reservoir with a gross storage capacity of approximately 2,400 acre-feet at normal maximum water surface elevation of 595 feet msl; (3) a new powerhouse housing four 300-kW generators for a total installed capacity of 1,200 kW; (4) a new 12.5-kV transmission line approximately 110 feet long; and (5) appurtenant facilities. The Applicant estimates that the average annual generation would be 8,700 MWh. The existing project dam is owned by Illinois Department of Conservation. Project energy would be transmitted directly both to the Applicant's wastewater treatment center and to the Commonwealth Edison Company substation adjacent to the project site. The Applicant is the Permittee for Project No. 8632.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

21 a. Type of Application: Preliminary Permit.

b. Project No.: 10250–000.

c. Date Filed: January 15, 1987.

d. Applicant: F & T Services Corporation.

e. Name of Project: DeQueen Lake Dam.

f. Location: On Rolling Fork River near DeQueen, Sevier County, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Vincent A. Forte, F & T Services Corporation, P.O. Box 64844, Baton Rouge, LA 70896, (504) 927–9321.

i. Comment Date: April 13, 1987.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers, DeQueen Lake Dam and reservoir and would consist of: (1) A proposed steel penstock six feet in diameter and 250 feet long; (2) a proposed powerhouse housing a 2,000-kW hydropower unit; (3) a proposed tailrace 15 feet wide, 6 feet deep, and 75 feet long; (4) a proposed 34.5-kV transmission line approximately three miles long; and (5) appurtenant facilities. The applicant estimates that the average annual energy generation would be 10.2 GWh, and that the cost of the studies to be performed under the permit would be $25,000. The project energy would be sold to SWEPCO or local municipalities.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

22 a. Type of Application: Preliminary Permit.

b. Project No.: 10251–000.

c. Date Filed: January 15, 1987.

d. Applicant: F & T Services Corporation.

e. Name of Project: Dierks Lake Dam.

f. Location: On the Saline River near Dierks, Howard and Sevier Counties, Arkansas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Vincent A. Forte, F & T Services Corporation, P.O. Box 64844, Baton Rouge, LA 70896, (504) 927–9321.

i. Comment Date: April 13, 1987.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Dierks Lake Dam and reservoir and would consist of: (1) A proposed steel penstock six feet in diameter and 250 feet long; (2) a proposed powerhouse housing a 2,000-kW hydropower unit; (3) a proposed tailrace 15 feet wide, 6 feet deep, and 75 feet long; (4) a proposed 34.5-kV transmission line 500 feet long; and (5) appurtenant facilities. The applicant estimates that the average annual energy generation would be 10.2 GWh, and that the cost of the studies to be performed under the permit would be $25,000. The project energy would be sold to SWEPCO or local municipalities.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

23 a. Type of Application: New Major License.

b. Project No.: 1394–004.

c. Date Filed: March 31, 1986.

d. Applicant: Southern California Edison Company.

e. Name of Project: Bishop Creek Water Power Project.

f. Location: On Bishop Creek, South and Middle Forks Bishop Creek, McGee Creek, and Birch Creek, near town of Bishop, within the Inyo National Forest, in Inyo County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Bury, Vice President and General Counsel, Southern California Edison Company,

2244 Walnut Grove Avenue, Rosemead, CA 91770.

i. Comment Date: March 23, 1987.

j. Description of Project: the existing Bishop Creek Water Power Project with a total rated capacity of 26.27 MW consists of:

A. South Lake Dam comprising: (1) The South Lake Reservoir with a storage capacity of 12,883 acre/feet and a surface area of 173 acres at elevation 9,751 feet msl; (2) an 81.5-foot-high, 645-foot-long rockfill dam; (3) a 5-foot-wide, 7-foot-high, 1,900-foot-long unlined outlet tunnel; and (4) a 2-foot-diameter, 250-foot-long penstock.

B. Green Creek Diversion Dam comprising: (1) A 2-foot-high, 3-foot-long wooden head-gate; (2) a 9-foot-high, 51-foot-long rockfill dam; (3) a 1-foot-deep, 12.5-foot-wide spillway; and (4) a 16-foot-diameter steel intake.

C. South Fork diversion Dam comprising: (1) A 10-foot-high, 65-foot-long concrete dam; (2) a 6-foot-deep, 40-foot-wide spillway; (3) a 39-inch-diameter steel pipe intake; (4) a 38 inch-diameter, 4,057-foot-long steel pipeline to connect South Fork Diversion Dam to Intake No. 2 reservoir.

D. Sabrina Dam comprising: (1) The Sabrina Lake Reservoir with a storage capacity of 7,350 acre-feet and a surface area of 195 acres at elevation 9,132 feet; (2) a 70-foot-high, 900-foot-long rockfill dam; (3) a 6-foot-deep, 40-foot-long spillway; and (4) a 24-inch-diameter outlet piepline.

E. Intake No. 2 Dam comprising: (1) The Intake No. 2 reservoir with a storage capacity of 78 of acre-feet and a surface area of 12 acres at elevation 8,099 feet; (2) a 41-foot-high, 443-foot-long earthen dam; (3) a 40-foot-long, 5-foot-deep spillway; (4) a 48-inch-diameter steel pipe intake; (5) a 54-inch-diameter, 8,876-foot-long wooden pipeline; and (6) a 48-inch-diameter, 2,628-foot-long penstock.

F. Longley Dam comprising: (1) The McGee Lake Reservoir with a storage capacity of 178 acre-feet and a surface area of 11 acres at elevation 10,706 feet; (2) a 27-foot-high, 120-foot-long earthen dam; (3) an 8-inch-diameter steel pipeline outlet; and (4) a 4.5-foot-diameter, 3,335-foot-long penstock.

G. McGee Creek Diversion comprising: (1) A 6-foot-high, 22-foot-long concrete dam; (2) a 12-foot-long, 1-foot-deep spillway; (3) a 18-inch-diameter steel pipe outlet; (4) a 225-foot-long open ditch; (5) a 225-foot-long steel pipeline; and (6) a 2,774-foot-long, 18-inch-diameter tapering to 12-inch-diameter pipeline.

H. Birch Creek Diversion West comprising: (1) A 6-foot-high, 22-foot-long concrete dam; (2) a 3-foot-foot-long, 6-inch-deep spillway; (3) a 24-inch-diameter steel pipe intake; and (4) a 2-foot-diameter, 9,513-foot-long steel pipeline.

I. Birch Creek Diversion East comprising; (1) A 5-foot-high, 17-foot-long concrete dam; (2) a 12-inch-diameter intake pipeline; (3) a 1-foot-diameter, 2,770-foot-long pipeline; (4) a Powerhouse No. 2 with a total installed capacity of 7,320 kW; (5) a 55-kV, 6.9-mile-long transmission line; and (6) appurtenant facilities.

J. Intake No. 3 Dam comprising: (1) A 20-foot-high, 225-foot-long concrete dam; (2) a 40-foot-long, 3.5-foot-deep spillway; (3) a 5-foot-diameter steel pipe intake; (4) a 5-foot-diameter, 6,421-foot-long steel pipeline; (5) a 5-foot-diameter, 6,209-foot-long wooden pipeline; (6) a powerhouse No. 3 with a total installed capacity of 6,600 kW; (7) a 115-kV, 3.7-mile-long transmission line; and (8) appurtenant facilities.

K. Intake No. 4 Dam comprising: (1) A 28-foot-high, 323-foot-long concrete arch dam; (2) a 50-foot-long, 5-foot-deep spillway; (3) a 5-foot-diameter steel pipe intake; (4) a 5-foot-diameter, 6,242-foot-long steel pipeline; (5) a 2.5-foot-diameter, 5,314-foot-long steel penstock No. 1; (6) a 2.5-foot-diameter, 5,665-foot-long steel penstock No. 2; (7) a powerhouse No. 4 with a total installed capacity of 7,250 kW; (8) a 115-kV, 0.7-mile-long transmission line; and (9) appurtenant facilities.

L. Intake No. 5 Dam comprising: (1) A 20-foot-high, 275-foot-long concrete dam; (2) a 60-foot-long, 3-foot-deep spillway; (3) a 5-foot-diameter steel pipe intake; (4) a 5-foot-diameter, 2,933-foot-long wooden pipeline; (5) a 5-foot-diameter, 540-foot-long concrete pipeline; (6) two 3.5-foot-diameter, 4,800-foot-long penstocks; (7) a powerhouse No. 5 with a total installed capacity of 3,500 kW; (8) a 55-kV, 1,000-foot-long transmission line; and (9) appurtenant facilities.

M. Intake No. 6 Dam comprising: (1) A 26-foot-high, 320-foot-long concrete dam; (2) a 60-foot-long, 6-foot-deep spillway; (3) a 5-foot-diameter steel pipe intake; (4) a 5-foot-diameter, 3,000-foot-long steel pipeline; (5) a 4.5-foot-diameter, 4,360-foot-long steel penstock; (6) a powerhouse No. 6 with a total installed capacity of 1,600 kW; (7) a 55-kV, 1.3-mile-long transmission line; and (8) appurtenant facilities

The Applicant estimates the average annual generation of 164.2 GWh. The Applicant does not propose to construct any new project facilities. The Applicant proposes to provide some recreational facilities to the project. the Applicant would utilize the project energy to meet the load demands of its service area.

k. this notice also consists of of the following standard paragraphs: A3, A9, B and C.

24 a. Type of Application: Preliminary Permit.

b. Project No.:10201-000.

c. Date Filed: December 2, 1986.

d. Applicant: Margaret Jordan.

e. Name of Project: Wynantskill.

f. Location: On the Wynantskill Creek in Rensselaer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Ms. Margaret Jordan, 432 Whiteview Road, Wynantskill, NY 12198,(518) 235–8610.

i. Comment Date: April 13, 1987.

j. Description of Project: The proposed project would consist of: (1) An existing 10-foot-high, 100-foot-long concrete gravity dam; (2) a reservoir with a surface area of 7 acres, a storage capacity of 50-acre-feet, and a normal water surface elevation of 177.0 feet m.s.l.; (3) a new concrete intake structure; (4) a new 42-inch-diameter, 2,800-foot-long steel penstock; (5) a new concrete powerhouse containing one generating unit with a capacity of 225 kW and one generating unit with a capacity of 475 kW for a total installed capacity of 700 kW; (6) a new transmission line, 150 feet long; and (7) appurtenant facilities. The applicant estimates the average annual generation would be 1,533,000 kWh. The existing dam is owned by the City of Troy, New York. The applicant estimates that the cost of the studies under permit would be $36,000.

k. Purpose of Project: Project power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due

date for filing competing applications or notices of intent. In accordance with the commission's regulations, any competing development applications, must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (10) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specifiy the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) A preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

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 Rule 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 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.

D1. *Agency Comments*—Federal State, and local agencies that reeceive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's

comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: February 13, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3419 Filed 2-18-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C187-266-000 et al.]

Exxon Corp., et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates[1]

February 13, 1987.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be herd or to make any protest with reference to said applications should on or before March 2, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure base
C187-266-000(CI61-158), B, Feb. 3, 1987.	Exxon Corp., P.O. Box 2180, Houstion, Tx 77252-2180.	Tennessee Gas Pipeline Co., North Magnolia City Field, Jim Wells, County, TX.	[1]	
C187-268-000 (CI69-888), B, Feb. 2, 1987.	.....do.....	Transcontinental Gas Pipe Line Corp., Fire Island Field, Vermilion Parish, LA.	[2]	
C187-264-000 (CI81-48-000), B, Jan. 30, 1987.	Amoco Production, Co., P.O. Box 3092, Houston, TX 77253.	Florida Gas Transmission Co., Natural Gas Compressor Facility, Jefferson Davis Parish, LA.	[3]	
C187-269-000 (G-5664), B, Feb. 2, 1987.	.....do.....	Tennessee Gas Pipeline Co., Lucky Field, Matagorda County, TX.	[4]	
C187-270-000 (CI71-446), B, Feb. 2, 1987.	.....do.....	Transcontinental Gas Pipe Line Corp., Luby and Petronilla Fields, Nueces County, TX.	[5]	
C187-271-000 (G-4901), B, Feb. 2, 1987.	.....do.....	.....do.....	[6]	
C187-272-000 (CI63-1263), B,.	.....do.....	Valley Gas Transmission, Inc., Luby and Petronilla Fields, Nueces County, TX.	[7]	
C187-273-000 (CI81-501-000), B, Feb. 3, 1987.	.....do.....	Transcontinental Gas Pipe Line Corp., White Kitchen Field, LaSalle County, TX.	[8]	
C161-1429-008 D, Feb. 2, 1987.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, TX 75221-2880.	El Paso Natural Gas Co., Jalmat Field, Lea County, NM.	[9]	
C162-1111-002, D, Nov. 21, 1986.	.....do.....	ANR Pipeline Co., Mocane-Laverne Field, Harper County, OK.	[10]	
C162-1251-004, D, Feb. 2, 1987.	.....do.....	Arkansas-Louisiana Gas Co., Red Oak Field, Latimer County, OK.	[11]	
C162-1251-005, D, Feb. 2, 1987.	.....do.....	Arkla Energy Resources, Kinta Field, Haskell County, OK.	[12]	
C166-470-009, D, Feb. 2, 1987.	.....do.....	Arkansa-Louisiana Gas Co., Red Oak Field, Le Flore County, OK.	[26]	

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure base
C187-256-000, B, Jan. 1, 1987.	Dallas McCasland, P.O. Box 206, Eunice, NM 88231.	El Paso Natural Gas Co., Scarborough Yates Field, Lea County, NM.	[19]	
C187-257-000, B, Jan. 28, 1987.	.....do.....	.....do.....	[19]	
C187-258-000, B, Jan. 28, 1987.	.....do.....	El Paso Natural Gas Co., Jalmat Field, Lea County, NM.	[19]	
C187-291-000, D, Jan. 27, 1987.	Chandler & Associates, Inc., 1400 Lincoln Tower Bldge., 1860 Lincoln Street, Denver, CO 80203.	Mountain Fuel Resources, Inc., Nitchie Gulch Field, Sweetwater County, WY.	[13]	
C187-246-000, F, Jan. 28, 1987.	Odeco Oil & Gas Co. (Succ. in Interest to Shell Offshore Inc.), P.O. Box 61780, New Orleans, LA 70161.	Truckline Gas Co., South Timbalier Block 86 Field, Gulf of Mexico, Offshore Louisiana.	[15]	
C187-253-000, B, Jan. 1, 1987.	Stanwood Corp., P.O. Box 301, Houma, LA 70361.	United Gas Pipe Line Co., Hollywood Field, Terrebonne Parish, LA.	[16]	
C187-255-000, F, Jan. 29, 1987.	Cities Service Oil and Gas Corp., Tulsa, OK 74102.	Transcontinental Gas Pipe Line Corp., Egan Field, Acadia Parish, LA.	[17]	
C187-267-000, (CI85-222) B, Feb. 3, 1987.	Oxy Cities Service NGL Inc., P.O. Box 300, Tulsa, OK 74102.	Bridgeline Gas Distribution Co., Maysville Plant Residue, Garvin County, OK.	[18]	
C187-262-000, B, Jan. 29, 1987.	Har-Ken Oil Co., P.O. Box 626, Owensboro, KY 42302.	Texas Gas Transmission Corp., Zeigler Coal & Coke Co. Well No. 5, Tract E, Muhlenberge County, KY.	[20]	
C187-263-000, B, Feb. 3, 1987.	.....do.....	Texas Gas Transmission Corp., Homer Thomas No. 1, Tract E, Muhlenberg County, KY.	[21]	
C187-G10179-000, D, Feb. 5, 1987.	ARCO Oil and Gas Co., Division of Atlantic Richfield Co., P.O. Box 2819, Dallas, TX 75221.	Trunkline Gas Co., San Carlos and East Edinburg Fields, Hidalgo County, TX.	[22]	
C167-055-001, D, Jan. 29, 1987.	.....do.....	ANR Pipeline Co., Lovedale Field, Harper County, OK.	[23]	
C181-486-002, Jan. 20, 1987 D, 1987.	ODECO Oil & Gas Co., P.O. Box 61780 New Orleans, LA 70161.	ANR Pipeline Co., Eugene Island Block 26,Offshore Louisiana.	[24]	
C187-288-000 (CI63-461), B, Feb. 4, 1987.	Union Texas Petroleum Corp., P.O. Box 2120, Houston, TX 77252-2120.	Lone Star Gas Co., East Durant Field, Brayan county, OK.	[25]	
C187-74-000, D, Dec. 8, 1987.	ARCO Oil and Gas Co., Division of Atlantic Richfield Co..	Transco Gas Supply Co., Eugene Island Blocks 242 and 243, Offshore Louisiana.	[27]	

[1] The contract involved covered two leases: The M. A. Evetts Lease and the Nina Adams Estate Lease. The last well on the M.A. Evetts Lease was plugged and abandoned on 5-23-68 and the lease expired. Shallow rights in the Nina Adams Estate Lease were assigned to Houston Oil & Minerals on 1-1-73, and while the deep righs are held by shallow production, Exxon plans no further development of the area.

[2] The four wells committed to Gas Sales Contract dated 3-4-69 have been plugged and abandoned. The Exxon Fee Well Nos. 1, 2, and 3 were plugged and abandoned in 1974; the S. L. 6939 was plugged and abandoned in 1979.

[3] Amoco's warranty obligations to Florida Gas Transmission Company ended in December 1986, and gas is no longer being delivered to Florida Gas Transmission Company through the subject Compressor Facility.

[4] J. E. Thompson Lease sold effective 8-1-86 to RenRag, Inc., Nix, Reynolds, Thiltgen JVI and Energy Partners.

[5] J. T. Gillett "A" and "D", Robert LaPrelle, W. M. Spessard Leases and Luby Gasoline Plant sold effective 9-1-86 to Kamlok, Inc.

[6] J. T. Gillett "B" and "C" Leases sold effective 9-1-86, to Kamlok, Inc. Gas Sales Contract was cancelled by purchaser effective 10-1-85.

[7] Gillett 8.000' Unit, J. T. Gillett "A" and "D", Robert LaPrelle, G H. McCann, Katherine L. Shaffer/B/ and W. M. Spessard Leases Sold effective 9-1-86 to Kamlok, Inc.

[8] M. A. Beckman Lease sold effective 12-1-86 to Chilton Energy.

[9] Property No. 639814 sold effective 10-1-84 to Doyle Hartman.

[10] Property No. 546420 sold effective 10-2-84 to Champlin Petroleum Company.

[11] Property No. 539161 sold effective 9-1-86 to Amoco Production Company.

[12] Property No. 882348 sold effective 11-1-86 to Samson Resources Company.

[13] Uneconomical. By Agreement dated 10-12-73, Sohio farmed out its interest in Lot 4, T22N-R103W, Sweetwater County, Wyoming to Chandler & Associates, Inc. In order to sell the gas attributable to Lot 4 to Mountain Fuel pursuant to the Mountain Fuel Agreement, Chandler would have to lay approximately one mile of pipeline and install compression facilities at an approximate cost of $142,500. Alternatively, Chandler proposes to sell the gas attributable to Lot 4 to Stauffer Chemical Company of Wyoming pursuant to its Gas Sales Agreement dated 8-1-85.

[14] Not used.

[15] Shell Offshore Inc., assigned all of its right, title and interest in certain acreage to Odeco Oil & Gas Company, effective 8-26-86.

[16] Contract expired by its own terms on 8-16-86.

[17] Applicant is filing under Gas Purchase Contract dated 2-9-70.

[18] The subject rate schedule was terminated effective 12-31-86, pursuant to Partial Release Agreement dated 9-17-84, which provided for a term of the lesser of two years from the date of abandonment approval or the date underage of NGA gas is balanced. Gas sales for NGA gas were balanced during December 1986.

[19] Volume in excess of El Paso's market demand. Wells shut in since July 1986 due to lack of market demand.

[20] Applicant states the pipeline is purchasing the well to convert it into an observation well.

[21] Applicant states it was required to abandon the well due to coal mining stripping operations in the area.

[22] Partial Assignment dated 2-9-86 ARCO assigned its interest in certain acreage to Vernon E. Faulconer, Inc.

[23] Assignment effective 8-1-86 ARCO assigned its interest in certain acreage to Donald C. Slawson.

[24] Assigned the N/2 of the N/2 of the S/2 of Block 26 Eugene Island to Texaco USA Inc.

[25] Effective 8-1-85 Seller conveyed a portion of the acreage dedicated to Rate Schedule 72 to Combined Resources Corporation. Effective 9-1-86 Seller conveyed the remaining acreage dedicated to Rate Schedule 72 to Combined Resources Corporation.

[26] Property No. 873484 sold effective 9-1-86 to Amoco Production Company.

[27] A portion of ARCO's interest was assigned to Cities Service Oil and Gas Corporation effective 6-1-86.
Filing Code: A—Intial service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total succession, F—Partial succession.

[FR Doc. 87-3491 Filed 2-18-87 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST86-2691 et al.]

Delhi Gas Pipeline Corp.; Notice of Staff Panel

February 12, 1987.

In the matter of Docket Nos. ST86-2691-000, ST86-2692-000, ST86-2698-000, ST86-2705-000, ST82-356-000 and ST82-359-000, and ST86-2685-000 and ST84-803-000.

Pursant to the Commission's orders* in the above-captioned dockets, a Staff Panel (Panel) shall be convened to allow opportunity for written comments and for the oral presentation of views, data, and arguments regarding Delhi's facilities in Kansas and in east Oklahoma. The Panel will not be a judicial or evidentiary-type hearing and there will be no cross-examination of persons presenting statements. Members participating on the Panel before whom the presentations are made may ask questions. If time permits, Panel members may also ask such relevant questions as are submitted to them by participants. Other procedural rules relating to the Panel will be announced at the time the proceeding commences.

The Staff Panel will be held on Monday, February 23, 1987 at 10:30 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Any questions regarding these proceedings should be directed to J. Bradford Ramsay, Esquire at (202) 357-9158. All interested persons and staff may attend the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3492 Filed 2-18-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-87-002]

Mountain Fuel Resources, Inc.; Tariff Filing

February 12, 1987.

Take notice that on February 9, 1987, Mountain Fuel Resources, Inc. (MFR) filed revised tariff sheets to its FERC Gas Tariff, Original Vlume No. 1-A, in compliance with the Commission's February 4, 1987 order in Docket No. RP86-87-000.

MFR states that the use-it-or-lose-it clause and the provision for delivery point flexibility have been deleted from Volume No. 1-A, as directed by the February 4th order. In addition, minor typographical errors have been corrected.

MFR requests that the Commission grant waiver of any Commission rules or regulations deemed necessary to allow the tendered tariff sheets to become effective February 4, 1987.

MFR states that copies of this filing have been served on all parties of record in Docket No. RP86-87-000.

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. All such motions or protests should be filed on or before February 20, 1987. 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. 87-3493 Filed 2-18-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-136-003]

National Fuel Gas Supply Corp.; Proposed Tariff Changes

February 12, 1987.

Take notice that on February 5, 1987, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Substitute Seventh Revised Sheet No. 4 to become effective January 1, 1987, in compliance with a Commission order issued January 27, 1987 in this proceeding. 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 February 6, 1987.

National states the purpose of Second Substitute Seventh Revised Sheet No. 4 is to correct demand and commodity purchase gas cost levels in the footnote.

National also filed Substitute First Revised Sheet No. 9 superseding First Revised Sheet No. 9 to correct a pagination error which originated in Docket No. CP86-351. In this regard, National requests Third Revised Sheet No. 9, which was tendered on December 31, 1986, be deemed withdrawn.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware, and New Jersey.

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 February 20, 1987. 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. 87-3494 Filed 2-18-87; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CI87-247-000 and CI87-248-000]

Texaco Inc. and Texaco Gas Marketing Co.; Applications for Permanent Abandonment and Limited-Term Abandonment and Limited-Term Certificates With Pregranted Abandonment

February 13, 1987.

Take notice that on January 29, 1987, Texaco Inc. and Texaco Gas Marketing Company (together Applicants) 1111 Rusk Street, Houston, Texas 77002, filed applications requesting: (1) Permanent abandonment in Docket No. CI87-248-000 of certain sales made to Texas Gas Transmission Corporation (Texas Gas) and (2) blanket certificates with pregranted abandonment in Docket No.

*See Delhi Gas Pipeline Corp., 38 FERC ¶ 61,121 (1987) and 38 FERC ¶ 61,117 (1987).

CI87-247-000 for a period of three-years to make sales for resale in interstate commerce without market restrictions of the gas subject to the requested permanent abandonment. Applicants state that Texas Gas agreed to support the abandonment of sales made from the Tiger Shoal and Lighhouse Point Fields, Offshore Louisiana, covered under a contract dated December 15, 1980, on file as Texaco Inc. FERC Gas Rate Schedule No. 343, and from the South Marsh Island Area, Block 219 (reserves from well no. 75) and Vermilion Area, Block 31, Offshore Louisiana, covered under a contract dated December 12, 1978, and on file as Texaco Inc. FERC Gas Rate Schedule No. 582, as part of a comprehensive settlement agreement between Applicants and Texas Gas executed on November 10, 1986.

Under the settlement agreement, Applicants and their subsidiaries waived any and all past take-or-pay obligations of Texas Gas under all contracts between Texas Gas and Applicants' companies. Pending the receipt and acceptance by Applicants of abandonment authorization, and as part of the settlement agreement, Applicants are granting Texas Gas substantial relief from rice and take-or-pay provisions in the contracts constituting Texaco Inc. FERC Gas Rate Schedule Nos. 343 and 583. However, Applicants state they are not required by the settlement agreement to extend such relief beyond December 1, 1987, if abandonment authorization has not been granted by the Commission and accepted by Applicants. Applicants are not required to accept abandonment authorization which is other than complete and permanent or which contains any conditions unacceptable to Texaco.

Although the contracts that comprise Texaco Inc. FERC Gas Rate Schedule Nos. 343 and 582 will be terminated once the necessary abandonment authorization is received and accepted by Applicants, thirty-two other contracts between Applicants' companies and Texas Gas will remain in effect. As part of the settlement agreement, Applicants state they enrolled those contracts in Texas Gas' Least Cost Plan (LCP) for a term lasting at least until December 1, 1987. In effect, the LCP suspends the contract price terms and replaces them with a lower LCP target price which Texas Gas may adjust each quarter. The LCP also suspends take-or-pay provisions contained in the contracts.

The settlement agreement addressed Applicants' concern that they have a reliable and long-term means of transporting the abandoned gas to new markets they hope to find for that gas. Texas Gas agreed to apply for a certificate of public convenience and necessity to transport gas for Applicants, their subsidiaries and affiliates, on terms that were negotiated by Texas Gas and Applicants as part of the settlement agreement. Texas Gas filed its application on January 28, 1987, in Docket No. CP87-178-000.

Applicants state that the settlement agreement also resolved a dispute about the price of gas Applicants already have sold to Texas Gas under Texaco Inc. FERC Gas Rate Schedule No. 343. Applicants agreed to accept certain cash payments from Texas Gas in full satisfaction of amounts Applicants claimed to be due for the volumes delivered to Texas Gas through September 30, 1986. Texas Gas agreed to drop its appeal of Commission orders which had upheld Applicants' position in the dispute. Applicants further state that the settlement agreement serves the interests of Texas Gas and its customers. Because of the settlement, the gas in Texas Gas' system supply will be lower-priced, and the exposure of Texas Gas' customers to take-or-pay costs associated with Applicants' gas sales contracts will be greatly reduced. Therefore, Applicants state that pursuant to §§ 2.77(a)(2) of the Commission's Rules, review of its applications on an expedited basis is appropriate.

Texaco Inc. states that the following is an estimate of the current daily deliverability of certificated gas under each of the Gas Rate Schedules involved herein:

	NGPA category	Deliverability (MMcf)
Rate Schedule No. 343	109	143
Rate Schedule No. 582	102(d)	84.6
	109	37.7

Applicants request that the Commission waive Part 154 of its regulations as to the establishment and maintenance of rate schedules, and also request permission to automatically collect the appropriate monthly adjustments under the Commission's wellhead ceiling price regulations without the filing of blanket affidavits pursuant to §§ 154.94(h). In addition, to the extent Applicants may qualify for collection of any applicable allowances under section 110 of the NGPA and Subpart K, Park 271 of the Commission's Regulations, they request permission to collect such allowances without the filing of affidavits pursuant to § 154.94(k).

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, respectively, 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 protest 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 to the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-3495 Filed 2-18-87; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and state	File No.	MM docket No.
A. Mary L. Smith d/b/a Radio Roswell, Roswell, NM.	BPH-850712OW	38-12
B. Shiela Roe, Roswell, NM.	BPH-850712OX	
C. Mid-America Gospel Radio Network, Inc. Roswell, NM.	BPH-850711NR	(Dismissed)

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986.

The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issued Heading and Applicant(s)

1. Air Hazard, A, B
2. Comparative, A, B
3. Utimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–3403 Filed 2–18–87; 8:45 am]

BILLING CODE 6712-01-M

Information Collection Requirements Approval by Office of Management and Budget

February 9, 1987.

The following information collection requirement has been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632–7513.

OMB No.: 3060–0065

Title: Application for New or Modified Radio Station Authorization Under Part 5 of FCC Rules—Experimental Radio Services (Other than Broadcast)

Form No.: FCC 442

A revised application form FCC 442 has been approved for use through 12/31/89. The March 1986 edition with an expiration date of 1/31/87 will remain in use until revised forms are available.

Federal Communication, Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–3404 Filed 2–18–87; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

February 9, 1987.

The February Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of this submission may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, or telephone (202) 857–3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395–4814. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632–7513.

OMB No.: 3060–0062

Title: Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to Assign or Transfer Such Station(s)

Form No.: FCC 330

Action: Revision

Estimated Annual Burden: 288 Responses; 1,967 Hours. Required when applying for authority to construct or make changes in ITFS, response, or low power relay station. The data are used to determine if applicant is qualified, meets basic statutory requirements, and whether the proposal will serve the public interest.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–3408 Filed 2–18–87; 8:45 am]

BILLING CODE 6712-10-M

[Report No. CF–4]

Application for Vacant FM Broadcast Allotment(s)

Released: February 6, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment(s) listed below may be submitted for filing during the period beginning on the date of release of this public notice and ending March 10, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

Channel—232 A
Fairmont, WV

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–3405 Filed 2–18–87; 8:45 am]

BILLING CODE 6712-01-M

[Report No. CF–5]

Filing of FM Broadcast Application; Tulia, TX

Released: February 11, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment(s) listed below may be submitted for filing during the period beginning on the date of release of this public notice and ending March 13, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

CHANNEL— 285 A
TULIA, TX

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–3484 Filed 2–18–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1987–3]

Filing Dates for California Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice for filing dated for California special elections.

SUMMARY: Committees required to file reports in connection with the special election to be held on April 7, 1987, must file a 12-day pre-election report by March 26, 1987, and if there is a majority winner, a 30-day postelection report by May 7, 1987. In the event no candidate achieves a majority vote in the special election, the 30-day post-election report would not be required. Rather, a second election would be held on June 2, 1987, and the committees required to file reports in connection with the special general election would be required to file a 12-day pre-election report due on May 12, 1987, and a 30-day post-election report due on July 2, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street NW, Washington, DC 20463, Telephone (202) 376–3120, Toll free: (800) 424–9530.

Notice of Filing Dates for Special Elections, 5th Congressional District, CA

All principal campaign committees of candidates in the special election and all other political committees not filing monthly, which support candidates in the special election shall file a 12-day pre-election report due on March 26, 1987, with coverage dates from last report filed through March 18, 1987. Political committees that have not previously filed a financial report should report all financial activity through March 18, 1987. If one candidate receives a majority of votes cast, a 30-day post-election report due on May 7, 1987, with coverage dates from March 19, 1987, through April 27, 1987, must be filed by the above committees.

In the event that no candidate achieves a majority vote in the special election, the 30-day post-election report would not be required. Rather a second special election would be held on June 2, 1987. Committees involved in this special election would be required to file a 12-day preelection report due on May 21, 1987, with coverage dates from March 19, 1987, through May 13, 1987 and a 30-day post-election report due on July 2, 1987, with coverage dates from May 14, 1987, through June 22, 1987.

Committees only involved in the first special election would be required to file only the report due on March 26, 1987.

All committee will be required to file the mid-year report due on July 31, 1987, and to resume filing on a semiannual basis.

Scott E. Thomas,

Chairman, Federal Election Commission.

Dated: February 13, 1987.

[FR Doc. 87-3506 Filed 2-18-87; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-768-DR]

Puerto Rico; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA-768-DR), dated July 10, 1986, and related determinations.

DATED: February 11, 1987.

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 Commonwealth of Puerto Rico, dated July 10, 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 July 10, 1986:

The Municipality of Santa Isabel for Public Assistance.

The Municipalities of Quebradillas and Isabela for Public Assistance limited to the Guajataca Dam and its discharge channel.

The Municipalities of Adjuntas and Toa Alta for Public Assistance limited to the Department of Transportation and Public Works.

(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. 87-3416 Filed 2-18-87; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-003040-005.

Title: Oakland Terminal Agreement.

Parties: City of Oakland (Port), Kawasaki Kisen Kaisha, Ltd. (K-Line).

Synopsis: The proposed amendment would establish the prorated minimum compensation to be paid by K-Line to the Port for the portion of the final contract year of the agreement prior to July 15, 1986.

Agreement No.: 202-010977-003.

Title: Hispaniola Discussion Agreement.

Parties: United States Atlantic and Gulf/Hispaniola Steamship Freight Association, Zim-American Israeli Shipping Co., Inc., Overseas Transport Internationl Corp., Seaboard Caribe Ltd.

Synopsis: The proposed amendment would add R.B. Kirkconnell & Bro. Ltd. as a party to the agreement. The parties have requested a shortened review period.

Agreement No.: 224-011065.

Title: Portland Terminal Agreement.

Parties: The Port of Portland (Port), Western Transporation Co. (Western).

Synopsis: The proposed agreement would establish the basis for the sharing of marine terminal revenues from dockage, wharfage and the service and facilities charges between the Port and Western.

Agreement No.: 217-011066.

Title: Shipping Corporation of New Zealand Limited/Hoegh Line (U.S.A.) Inc. Space Charter Agreement.

Parties: Shipping Corporation of New Zealand Limited, Hoegh Line (U.S.A.) Inc.

Synopsis: The proposed agreement would permit the parties to charter space on one another's vessels and to interchange containers and related equipment in the trade between Pacific Coast ports of North America and ports in Australia.

Dated: February 13, 1987.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87-3451 Filed 2-18-87; 8:45 am]

BILLING CODE 6730-01-M

Charleston Terminal Agreement; Erratum

[Agreement No. 224-011060]

The **Federal Register** Notice of February 2, 1987, (Vol. 52, No. 21 Page 3169) incorrectly identified the above named agreement as Agreement No. 224-010990-001. The agreement should have been Noticed as Agreement No. 224-011060.

Dated: February 13, 1987.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87-3452 Filed 2-18-87; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Report to Congress on the Costs of Operating Privately Owned Vehicles

The Travel Expense Amendments Act of 1975 (Pub. L. 94–22, May 19, 1975) requires the periodic investigation of the operating costs of privately owned vehicles (automobiles, motorcycles, and airplanes) to employees while engaged on official business. Further, the Act requires that the results of these investigations be reported to the Congress and published in the Federal Register.

The following is being published to comply with the requirements of the Act.

Dated: February 2, 1987.

T.C. Golden,

Administrator of General Services.

Report to Congress

The Travel Expense Amendments Act of 1975 (Pub. L. 94–22, May 19, 1975), 5 U.S.C. 5707(b)(1), requires that the Administrator of General Services, in consultation with the Comptroller General of the United States (GAO), the Secretaries of Defense and Transportation (DOD and DOT), and representatives of Government employee organizations, conduct periodic investigations of the cost of operating privately owned vehicles to Government employees while engaged on official business and report the results to the Congress at least once a year. The Act further requires that a determination of the average, actual cost per mile be made based on the results of the investigations.

The General Services Administration (GSA) conducted its 1985 cost investigations, prepared a draft of preliminary findings in November 1985, and subsequently consulted with representatives of employee organizations, GAO, DOD, and DOT.

The 1985 cost investigations revealed an average cost of 27 cents and 80 cents per mile for operating a privately owned motorcycle and a privately owned airplane, respectively. Although the costs of operation increased for both motorcycles and airplanes, the current regulatory allowances of 20 cents and 45 cents per mile, respectively, are already set at the statutory ceilings and cannot be increased administratively. While the statutory maximum rates are well below the operating costs estimated in the cost investigations, there have been no complaints of inadequacy.

With respect to the average cost per mile of operating privately owned automobiles, the preliminary findings of the November 1985 cost investigation indicated that the reimbursement rate should be increased from 20.5 cents to 21 cents per mile. This fact was reported to the representatives of employee organizations, GAO, DOD, and DOT. However, during the process of reporting the study results to the Congress and revising the Federal Travel Regulations, the Internal Revenue Service (IRS) advised GSA that due to rapidly declining gasoline and oil prices, it was possible that the standard mileage rate for 1986 tax purposes would be reduced from 21 cents to 20.5 cents. IRS was concerned that GSA's 1986 increase in the reimbursement rate for automobiles could coincide with IRS' decrease in the 1986 mileage rate applicable for income tax purposes, thus creating a burden on both agencies and individual employees. Agencies would be subject to IRS income reporting requirements for employees who received excess reimbursement and employees would be subject to taxation on the excess amount unless it could be offset by documented actual expenses.

To avoid the anticipated burden on both agencies and employees, GSA, through a second consultation, notified representatives of employee organizations, GAO, DOD, and DOT of its intent to make no immediate change in the regulatory reimbursement rate for automobiles until new data is received for the 1986 cost investigations. The consensus was that no action should be taken to increase the automobile mileage rate of 20.5 cents at that time.

GSA is currently conducting its 1986 investigations into the operating costs of privately owned vehicles. You will be advised of the results as soon as the final determinations are made.

[FR Doc. 87–3432 Filed 2–18–87; 8:45 am]
BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health, National Center for Health Services Research and Health Care Technology Assessment; Reassessment of Adult Liver Transplantation

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating a reassessment of what is known of the safety and clinical effectiveness of liver transplantation as a treatment for end-stage liver disease in adults. OHTA previously coordinated a PHS assessment of liver transplantation (47 FR 20205; 48 FR 19938) resulting in a recommendation to the Health Care Financing Administration (HCFA) that the procedure be considered a therapeutic intervention when performed in pediatric patients suffering from extra-hepatic biliary atresia and other forms of end-stage liver disease. This reassessment intends to address the medical and surgical indications for the procedure when performed in adults with congenital or acquired liver disease.

For the purpose of this announcement, liver transplantation is defined as the surgical replacement of a patient's irreversibly diseased liver with one obtained from a cadaver. This assessment seeks to establish the specific indications for which liver transplantation should be considered a therapeutic intervention, and to identify those indications for which the procedure should be considered established or accepted medical practice. Questions to be answered by this assessment include: 1) In which patients, with which diagnoses and at what point in the course of their illness is liver transplantation appropriate? 2) For which diseases is liver transplantation the treatment of choice or an effective therapeutic alternative? 3) Are there sub-groups of patients with specific diseases for whom liver transplantation may be an appropriate therapeutic modality? Are there others for whom it is not? 4) What is known about scope of need, availability of donor grafts, morbidity, survival rates, quality of life, and cost of liver transplantation?

PHS assessments consist of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessment are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist HCFA in establishing coverage policy for Medicare. The information being south is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on the clinical acceptability, effectiveness of this technology and extent of use is also being sought. Any person or group wishing to provide

OHTA with information relevant to this assessment should do so in writing no later than May 15, 1987 or within 90 days from the date of publication of this notice.

Written material should be submitted to: Enrique D. Carter, M.D., Director, Office of Health Technology Assessment, NCHSR&HCTA, 5600 Fishers Lane, Room 18A27, Rockville, MD 20857, (301) 443–4990.

Dated: February 4, 1987.

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 87–3441–Filed 2–18–87; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Docket No. WY–060–07–4333–10]

Wyoming, Closure to Shooting of Certain Public Lands in Natrona County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public lands at the poison spider bentonite pit to shooting.

SUMMARY: Notice is hereby given of the closure to shooting of certain public lands management by the Bureau of Land Management. The lands in question are located near Emigrant Gap Ridge west of the city of Casper, Natrona County, Wyoming. The area is commonly known as the Poison Spider Bentonite Pit and lies west of the Zero County Road. A legal description of the area is as follows:

Sixth Principal Meridian, Wyoming
T. 33 N., R. 81 W.
Section 9, NE¼, NW¼SE¼.
Section 10, All lands west of the
Zero County road in the W½NW¼.

DATES: This action is effective as of April 1, 1987.

ADDRESSES: Copies of the notice of closure are available at the following location: Bureau of Land Management, Platte River Resource Area, 111 South Wolcott, Room 111, Casper, WY 82601.

FOR FURTHER INFORMATION CONTACT: Jim Melton, Area Manager, Platte River Resources Area at the address given above; telephone 307/261–5860, (FTS) 328–5860.

SUPPLEMENTAL INFORMATION: The area was designated "open to all forms of off-road vehicle use" by the Platte River Resource Management Plan (RMP) in July 1985. The designation was made after numerous users with recreational, livestock grazing, and mineral interests, as well as local government officials were consulted. Agreement was reached that establishing the "open" ORV area was the best use of the land in question. Although the area had been used as both a shooting and ORV practice area for many years, those two uses occurring in a small area at the same time constituted an unacceptable safety hazard and have caused conflicts between shooters and ORV enthusiasts. The closure to shooting of the lands in question is a necessary step to eliminate the safety hazard and fully implement the ORV designation. The ORV area will be fenced during the summer of 1987 to clearly segregate it from surrounding lands.

Jim Melton,

Platte River Resource Area Manager.

[FR Doc. 87–3522 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–22–M

[Serial No. I–7322; ID–060–07–4220–10]

Coeur d'Alene District; Proposed Withdrawal and Public Meetings

AGENCY: Bureau of Land Management.

ACTION: Notice of proposed withdrawal and public meetings (Serial No. I–7322).

SUMMARY: The Bureau of Land Management proposes to withdraw approximately 6,100 of public land and the reserved mineral interests in 3,600 acres of private land along a 52 mile segment of the Salmon River near Riggins, Idaho. The withdrawal would close the lands to surface entry and mining. The land would remain open to mineral leasing.

DATE: Comments should be received by May 22, 1987.

ADDRESS: Comments should be sent to: Coeur d'Alene District Manager, Bureau of Land Management, c/o Cottonwood Resource Area, Route 3, Box 181, Cottonwood, Idaho 83522.

FOR FURTHER INFORMATION CONTACT: Ron L. Grant, Cottonwood Resource Area, (208) 962–3245.

On September 23, 1973, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described lands, including all reserved mineral interests in private lands, from location and entry under the mining laws and from settlement, sale, location, and entry under the general public land laws, subject to valid existing rights:

Those lands within approximately ¼ mile of either bank of the salmon River, from the mouth of French Creek downstream to the mouth of Hammer Creek.

The area described involves a segment of lands adjoining the Salmon River and contains approximately 6,100 acres of public land and 3,600 acres of reserved mineral interests in private lands in Idaho County.

The purpose of the withdrawal is to protect the scenic, recreational and cultural values of the lands. The lands are and have been segregated from surface entry and mining since October 2, 1968, under the provisions of the Wild & Scenic Rivers Act (Pub. L. 90–542) and subsequently upon notation of the land office records of the withdrawal application filing (I–7322) on October 1, 1973, under the regulations then in effect (43 CFR 2351.3(a)). Under the provisions of section 204(g) of the Federal Land Policy and Management Act of October 21, 1976, the segregative effect of the application filing will terminate on October 21, 1991, unless the lands are withdrawn or the application is otherwise terminated before that date. The uses which have been and will continue to be allowed during the segregative period are all discretionary authorizations which conform with the current land use and management plans, including recreational uses. It is proposed that the lands be withdrawn from a period of 20 years, the maximum allowed by statute. The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 90 days from date of publication of this notice, all persons who wish to submit comments, suggestions or objections to the withdrawal proposal may present their views in writing to the Coeur d'Alene District Manager of the Bureau of Land Management.

Notice is hereby given that three public meetings will be held in connection with the proposed withdrawal. The first will be held in the Sagebrush—Ponderosa Room at the Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho at 7:30 p.m. on March 16, 1987. A second meeting will be held in the IOOF Meeting Hall at Riggins, Idaho at 7:30 p.m. on March 18, 1987. The third meeting will be held at the Lewiston Community Center, 1424 Main Street, Lewiston, Idaho at 7:30 p.m. on March 19, 1987. The meetings will be open to attendance of opponents to the withdrawal who may state their views and to proponents of the withdrawal who may explain its purpose, intent and extent and to all interested persons who desire to be heard on the subject. Those

who desire to be heard in person at the hearing should file notice thereof not later than March 12, 1987, with the Coeur d'Alene District Manager, Bureau of Land Management.

Dated: February 10, 1987.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 87-3445 Filed 2-18-87; 8:45 am]

BILLING CODE 4310-GG-M

[UT-040-07-4830-12]

Cedar City District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Cedar City District Advisory Council will be held March 19, 1987.

The meeting will begin at 9:30 a.m. in the BLM office at 225 North Bluff, St. George, Utah. The agenda will include: a report on current studies and management programs in the Desert Tortoise area and a wide range of land issues as they impact the Dixie Resource Area Management Plan. The meeting will be held as a field tour. Those wishing to participate must provide their own transportation.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 9:45 a.m. or submit written comments for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, 176 East D. L. Sargent Drive, Cedar City, Utah 84720 by March 16, 1987. Depending on the number of persons wishing to make a statement, a per person limit may be established by the District Manager or Council Chairman.

Dated: February 10, 1987.

Dennis Curtis,

Acting District Manager.

[FR Doc. 87-3444-Filed 2-18-87; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-940-07-4212-12; A-20347-B]

Exchange of Public and State Lands In Arizona

February 10, 1987.

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, the following described lands were transferred out of Federal ownership in exchange for State-owned land. The lands transferred to the State of Arizona are described as follows:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 15 E.,
Sec. 25, E½NE¼.
T. 6 S., R. 15 E.,
Sec. 25, lots 1 to 4, incl., W½E½, W½;
Sec. 31, lots 1 to 4, incl.
T. 6 S., R. 16 E.,
Sec. 17, W½NW¼;
Sec. 18, lots 1 to 4, incl., E½W½, E½;
Sec. 19, lots 1 to 4, incl., E½W½, E½;
Sec. 20, W½NW¼, SW¼;
Sec. 21, E½;
Sec. 25, E½;
Sec. 28, NE¼, N½NE¼SE¼;
Sec. 29, W½;
Sec. 30, lots 1 to 4, incl., E½W½, E½;
Sec. 31, lots 1 to 4, incl., E½W½, E½;
Sec. 35, NE¼SE¼, E½NW¼SE¼, E½SE¼SE¼;
Sec. 36, all. (surface only)
T. 7 S., R. 16 E.
Sec. 23, E½, N½NW¼, SE¼NW¼;
Sec. 24, all;
Sec. 25, all;
Sec. 26, N½NE¼, SE¼NE¼, NE¼SE¼.
T. 8 S., R. 16 E.,
Sec. 12, W½, W½SE¼;
Sec. 13, all;
Sec. 14, all;
Sec. 23, N½;
Sec. 24, W½NE¼, W½, SE¼.
T. 11 S., R. 16 E.,
Sec. 13, N½SW¼.
T. 6 S., R. 17 E.,
Sec. 31, lots 1 to 4, incl., E½W½, E½;
Sec. 33, all;
Sec. 34, NW¼SW¼.
T. 7 S., R. 17 E.,
Sec. 4, lots 2, 3, 4, S½NW¼, N½SW¼;
Sec. 5, lots 1 to 4, incl., S½N½, N½S½, SE¼/SW¼, S½SE¼;
Sec. 6, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 19, lots 1 to 4, incl., E½W½, E½;
Sec. 20, all;
Sec. 21, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, lots 1 to 4, incl., E½W½, E½.
T. 8 S., R. 17 E.,
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 7, N½NE¼, E½NW¼;
Sec. 31, lots 15, 20, N½SE¼NE¼SW¼, N½N½NW¼SE¼, N½SE¼SW¼SE¼, SE¼NE¼SE¼, S½SW½NE¼SE¼, NW¼SE¼SE¼.
T. 9 S., R. 17 E.,
Sec. 3, lot 1, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, NE¼, NE¼NW¼, E½SE¼;
Sec. 11, all;
Sec. 12, all.
T. 12 S., R. 17 E.,
Sec. 1, lots 1, 2, S½NE¼, SE¼NW¼, S½;
Sec. 12, NW¼.
T. 8 S., R. 18 E.,
Sec. 25, W½SE¼.
T. 9 S., R. 18 E.,
Sec. 1, lots 1 to 4, incl., S½N½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½W½, E½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, S½;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 17, E½, NW¼;
Sec. 20, lots 6, 7, N½SE¼;
Sec. 21, lots 1 to 4, incl., N½, N½S½;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, lots 1 to 4, incl., N½N½, S½;
Sec. 29, lots 1, 2, 7, 8, SE¼;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all.
T. 10 S., R. 18 E.,
Sec. 22, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 24, lots 2, 3, 4, NE¼NE¼.
T. 12 S., R. 18 E.,
Sec. 4, lots 3, 4;
Sec. 5, lots 3, 4, S½NW¼, SW¼.
T. 7 S., R. 19 E.,
Sec. 13, SE¼SE¼.
T. 10 S., R. 19 E.,
Sec. 19, lot 3, E½SE¼, SE¼;
Sec. 20, W½ SW¼;
Sec. 21, all;
Sec. 22, S½.
T. 12 S., R. 19 E.,
Sec. 1, lots 1, 2, S½NE¼, SE¼;
Sec. 12, lots 1 to 4, incl., E½W½, E½;
Sec. 13, lots 1 to 4, incl., E½W½, E½;
Sec. 14, lots 1 to 7, incl., E½NE¼, S½SW¼, SE¼SE¼;
Sec. 20, S½NE¼, S½;
Sec. 21, S½NE¼, SE¼;
Sec. 23, lots 1 to 4, incl., S½N½, S½;
Sec. 24, all;
Sec. 25, all;
Sec. 28, E½, E½SW¼;
Sec. 29, N½, NE¼SW¼.
T. 13 S., R. 19 E.,
Sec. 25, SW¼SW¼.
T. 14 S., R. 19 E.,
Sec. 3, lots 3 to 6, incl., S½NW¼, SW¼;
Sec. 10, W½;
Sec. 13, lots 1 to 4, incl., W½E½, W½;
Sec. 24, lots 1 to 4, incl., W½E½, W½;
Sec. 25, lots 1 to 4, incl., W½E½, W½;
Sec. 29, NE¼NE¼, E½SE¼;
Sec. 30, N½NE¼;
Sec. 33, SW¼SE¼.
T. 15 S., R. 19 E.,
Sec. 21, SW¼SW¼;
Sec. 23, N½NE¼, W½;
Sec. 24, NW¼NE¼, N½NW¼;
Sec. 26, W½, W½SE¼;
Sec. 28, W½NW¼;
Sec. 33, SE¼SW¼, SW¼SE¼;
Sec. 35, W½NE¼, NW¼.
T. 6 S., R. 20 E.,
Sec. 5, lots 1, 2, 5, 6, SE¼NW¼;
Sec. 6, lots 1 to 8, incl. and lots 11, 12, SE¼NW¼;
Sec. 7, lots 1, 2, S½NE¼;
Sec. 29, lots 2, 3.
T. 7 S., R. 20 E.,
Sec. 3, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 6, lot 3;
Sec. 10, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;

Sec. 11, lots 1 to 4, incl., E½, E½W½;
Sec. 12, all;
Sec. 13, lots 1 to 4, incl., N½, N½S½;
Sec. 14, lots 1 to 7, incl., NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 15, lots 1 to 7, incl., NE¼NE¼, N½NW¼, E½SE¼;
Sec. 19, lots 1 to 4, incl., E½W½, SE¼;
Sec. 29, lots 1 to 7, incl., W½NW¼, SW¼SW¼, S½SE¼;
Sec. 30, lots 1 to 7, incl., NE¼, E½NW¼, SE¼SW¼, S½SE¼;
Sec. 31, lots 1 to 7, incl., NE¼, E½NW¼, NE¼SW¼, N½SE¼.

T. 12 S., R. 20 E.,
Sec. 5, S½SE¼;
Sec. 7, lots 1, 2;
Sec. 8, N½NE¼, W½;
Sec. 9, NW¼NW¼.

T. 13 S., R. 20 E.,
Sec. 3, SE¼SW¼;
Sec. 10, NW¼NW¼;
Sec. 11, SE¼NE¼;
Sec. 34, lots 1 to 4, incl., N½S½, N½;
Sec. 35, lots 1 to 4, incl.

T. 14 S., R. 20 E.,
Sec. 6, lot 8;
Sec. 7, NW¼NE¼;
Sec. 19, lots 1 to 4, incl., E½W½, E½;
Sec. 20, W½W½;
Sec. 30, lots 1 to 4, incl., E½W½, E½.

T. 15 S., R. 20 E.,
Sec. 22, E½NW¼.

T. 16 S., R. 20 E.,
Sec. 1, S½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, SE¼;
Sec. 8, N½NE¼;
Sec. 9, NE¼, N½NW¼, SE¼NW¼, N½SE¼;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, N½, SE¼;
Sec. 22, NE¼;
Sec. 24, all;
Sec. 25, all;
Sec. 27, N½NE¼, SE¼NE¼;
Sec. 30, NE¼SW¼.

T. 15 S., R. 21 E.,
Sec. 21, SW¼NW¼, SW¼;
Sec. 28, NW¼.

T. 16 S., R. 21 E.,
Sec. 7, lots 1, 2, S½NE¼, SE¼;
Sec. 8, W½;
Sec. 12, N½NE¼, SE¼NE¼, NE¼NW¼, SW¼;
Sec. 17, all;
Sec. 18, lots 1, 2, S½NE¼, SE¼;
Sec. 19, SE¼;
Sec. 20, S½;
Sec. 21, S½;
Sec. 29, all;
Sec. 30, E½;
Sec. 31, lots 1, 2, NE¼, E½NW¼;
Sec. 33, N½.

T. 15 S., R. 22 E.,
Sec. 15, W½;
Sec. 30, SW¼;
Sec. 31, lots 3, 4, NW¼, N½SW¼.

T. 16 S., R. 22 E.,
Sec. 5, lot 4, SW¼NW¼, SW¼;
Sec. 6, lots 1, 2, S½NE¼, SE¼;
Sec. 7, lot 3.

T. 13 S., R. 23 E.,
Sec. 18, lots 3, 4, NW¼NE¼, NE¼NW¼, E½SE¼, SW¼SE¼.

T. 15 S., R. 23 E.,
Sec. 29, NE¼.

The above described lands comprise 70,956.17 acres in Cochise, Graham, Pima and Pinal Counties.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of State land by the Federal Government.

In exchange for these lands, the United States acquired the following described land:

Gila and Salt River Meridian, Arizona

T. 7 S., R. 28 E.,
Sec. 15, S½SW¼, SE¼;
Sec. 36, SE¼SE¼.

T. 7 S., R. 29 E.,
Sec. 16, all;
Sec. 22, all;
Sec. 23, N½, N½S½, S½SW¼, SW¼SE¼;
Sec. 24, N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 25, E½;
Sec. 26, SE¼;
Sec. 36, all.

The above-described lands comprise 3,880.00 acres in Graham County.

At 9:00 a.m. on March 6, 1987, the reconveyed land described above will be open to operation of the public land laws, generally subject to valid existing rights and requirements of applicable law.

At 9:00 a.m. on March 6, 1987, the reconveyed land described above will be open to applications under the general mining laws and mineral leasing laws, subject to existing State-issued leases and permits for the terms of said leases and permits. All applications and offers received prior to 9:00 a.m. on March 6, 1987 will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2–3, if necessary. Applications and offers received thereafter shall be considered in the order of filing.

The following described land, acquired by the United States in this exchange will remain closed to appropriation under the public land laws and general mining laws pending completion of an inventory and the planning process.

Gila and Salt River Meridian, Arizona

T. 5 S., R. 18 E.,
Sec. 23, SE¼, except that portion in San Carlos Indian Reservation (SCIR);
Sec. 24, all south of SCIR;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all, except that portion in SCIR;
Sec. 28, all south of SCIR;
Sec. 32, all south of SCIR;
Sec. 33, all, except that portion in SCIR;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all.

T. 5 S., R. 19 E.,
Sec. 32, lots 1 to 16, incl.

T. 6 S., R. 17 E.,
Sec. 1, S½;
Sec. 2, all south of SCIR;
Sec. 8, SE¼;
Sec. 9, SW¼, SE¼NW¼;
Sec. 10, all;
Sec. 11, all;
Sec. 12, lots 1 to 4, incl., W½E½, W½;
Sec. 14, lots 1 to 7, incl., S½NE¼, SE¼NW¼ E½SW¼, SE¼;
Sec. 15, all;
Sec. 16, all;
Sec. 17, NE¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 20, N½NW¼, SE¼SW¼;
Sec. 21, all;
Sec. 22, all;
Sec. 23, lots 1 to 8, incl.;
Sec. 24, lots 1 to 8, incl.;
Sec. 25, lots 1, 2, 3, E½W½, E½;
Sec. 28, N½;
Sec. 36, E½NE¼, NW¼NE¼.

T. 6 S., R. 18 E.,
Sec. 1, lots 1 to 4, incl., S½N½, S½;
Sec. 2, lots 1 to 4, incl., S½N½, S½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1, 2, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½W½, NE¼;
Sec. 8, N½;
Sec. 9, E½, NW¼;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 19, lots 1 to 4, incl., E½W½, E½;
Sec. 20, E½NE¼, W½NW¼, SW¼;
Sec. 21, all;
Sec. 22, all;
Sec. 23, SW¼NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, W½, S½SE¼;
Sec. 30, lots 1 to 3, incl., E½, E½NW¼, NE¼SW¼;
Sec. 31, W½NE¼;
Sec. 32, N½NE¼, SE¼NE¼, NW¼SW¼, S½S½;
Sec. 33, N½, E½SW¼, SE¼;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all;

T. 6 S., R. 19 E.,
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, lots 1 to 4, incl., S½N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 6, lots 1 to 6, incl., S½NE¼, SE¼;
Sec. 7, lots 1 to 6, incl., NE¼, N½SE¼;
Sec. 8, lots 1 to 4, incl., NE¼, NE¼NW¼, S½NW¼, N½S½;
Sec. 9, lots 1 to 4, incl., N½, N½S½;
Sec. 10, lots 1 to 4, incl., N½, N½S½;
Sec. 15, all;
Sec. 16, lots 1 to 10, incl., W½NW¼, SE¼;
Sec. 17, all;
Sec. 18, lots 1 to 4, incl., E½;
Sec. 20, N½N½, S½S½;
Sec. 21, NW¼, SW¼SW¼;

Sec. 22, all;
Sec. 27, NE¼, N½NW¼, SE¼NW¼, N½SE¼;
Sec. 28, lots 2 to 10, incl., S½SW¼;
Sec. 29, lots 1 to 4, incl., S½N½, S½;
Sec. 31, lots 1 to 4, incl., E½;
Sec. 32, all;
Sec. 33, lots 1 to 4, incl., S½N½, S½;
Sec. 34, lots 1, 2, 3, 6, 7.
T. 7 S., R. 18 E.,
Sec. 1, lots 1 to 4, incl., S½N½, S½;
Sec. 2, lots 1 to 4, incl., S½N½, S½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lot 1, S½N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 5, lots 1 to 4, incl., S½N½;
Sec. 6, lots 1, SE¼NE¼, SE¼SW¼;
Sec. 7, S½SE¼;
Sec. 8, N½NE¼;
Sec. 9, NE¼, E½NW¼, S½;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, NW¼;
Sec. 14, E½, SW¼;
Sec. 15, SW¼;
Sec. 16, all;
Sec. 17, NE¼NE¼, S½NE¼, NW¼NW¼, SE¼NW¼;
Sec. 23, NE¼, E½NW¼, N½SE¼;
Sec. 24, all;
Sec. 25, NE¼, E½NW¼, S½;
Sec. 26, SE¼, N½SW¼;
Sec. 27, E½NE¼.
T. 7 S., R. 19 E.,
Sec. 3, lot 4;
Sec. 4, lots 1 to 4, incl.;
Sec. 5, lots 1 to 4, incl., S½NW¼, SW¼;
Sec. 6, lots 1 to 6, incl., S½NE¼, SE¼;
Sec. 7, lots 1 to 4, incl., W½E½, E½SE¼;
Sec. 18, SE¼NE¼.
T. 11 S., R. 20 E.,
Sec. 26, NW¼, S½;
Sec. 27, W½;
Sec. 28, E½, E½W½, W½SW¼;
Sec. 33, all;
Sec. 34, W½;
Sec. 36, all.
T. 12 S., R. 19 E.,
Sec. 36, all.
T. 12 S., R. 20 E.,
Sec. 1, lots 1 to 4, incl., S½N½, S½;
Sec. 2, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lots 1 to 4, incl., SW¼, S½N½;
Sec. 10, E½, SW¼;
Sec. 11, W½, N½NE¼;
Sec. 12, N½NW¼, E½E½;
Sec. 15, E½, E½W½, NW¼NW¼, W½SW¼;
Sec. 19, E½SE¼;
Sec. 20, N½, SW¼;
Sec. 21, N½, SE¼;
Sec. 22, SE¼, N½NE¼, SE¼NE¼, W½;
Sec. 23, all;
Sec. 24, all;
Sec. 25, N½N½, S½NE¼, SW¼SW¼, E½SE¼;
Sec. 26, S½NW¼, N½S½, S½SW¼;
Sec. 27, S½NE¼, S½;
Sec. 28, N½N½, S½S½;
Sec. 29, N½N½, S½;
Sec. 30, lots 3, 4, SE¼;
Sec. 31, lots 1 to 4, incl., E½;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, NW¼, S½.
T. 12 S., R. 21 E.,
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½W½, E½;
Sec. 8, SW¼NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 17, all;
Sec. 18, lots 1 to 4, incl., E½W½, E½;
Sec. 19, E½;
Sec. 20, W½;
Sec. 29, N½NE¼, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 30, lots 1 to 4, incl., E½W½, W½SE¼;
Sec. 31, lots 4, SE¼NW¼;
Sec. 32, NE¼, E½NW¼, NE¼SW¼, SE¼.
T. 13 S., R. 20 E.,
Sec. 2, lots 1 to 4, incl., S½N½, S½;
T. 13 S., R. 21 E.,
Sec. 6, lots 4 to 7, incl., SE¼NW¼, E½SW¼, SE¼;
Sec. 7, NE¼.

The above area comprises 72,624.37 acres in Graham, Pinal and Cochise Counties.

At 9:00 a.m. on March 6, 1987, the reconveyed land described above will be open to applications and offers under the mineral leasing laws, subject to existing State-issued leases and permits for the terms of said leases and permits. All applications and offers received prior to 9 a.m. on March 6, 1987 will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2-3, if necessary. Those applications and offers received thereafter shall be considered in the order of filing.

The following described land acquired by the United States in this exchange will remain closed to appropriation under the public land laws, including the mining and mineral leasing laws.

Gila and Salt River Meridian

T. 21 S., R. 18 E.,
Sec. 14, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 15, SW¼;
Sec. 16, NE¼SW¼, SE¼;
Sec. 20, E½;
Sec. 21, all;
Sec. 22, lots 1, 2, 3, NW¼;
Sec. 23, NE¼.

comprising 1,902.44 acres in Santa Cruz County.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-3427 Filed 2-18-87; 8:45 am]

BILLING CODE 4310-32-M

[UT-060-4322-12]

Intent for Plan Amendment

AGENCY: Bureau of Land Management, Moab.

ACTION: Notice of intent—plan amendment for the grand resource area resource management plan, Grand and San Juan Counties, Utah.

SUMMARY: This notice of intent is to advise the public that the Bureau of Land Management (BLM) intends to amend an existing planning document.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the 1985 Grand Resource Area Resource Management Plan which involves portions of Grand and San Juan Counties, Utah. The purpose of the amendment would be to identify grazing allotments which could be converted from one kind of livestock use to another (from sheep to cattle or from cattle to sheep) in the "Cisco Desert" area.

The existing plan does not state whether livestock conversions would be allowed on certain allotments. This amendment would specify whether conversions would be allowed or not.

For 30 days from the date of publication of this notice the BLM will accept comments on this proposal. There will also be opportunity for public comment on the final planning decision.

Existing planning documents and information are available at the Grand Resource Area, P.O. Box M, Sand Flats Road, Moab, Utah 84532, phone: (801) 259-8193.

FOR FURTHER INFORMATION: Contact Colin P. Christensen, Grand Resource Area Manager.

Dated: February 10, 1987.

Kenneth V. Rhea,

Associate District Manager.

[FR Doc. 87-3447 Filed 2-18-87; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4727, Block A-127, Galveston Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on February 4, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: February 10, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–3438 Filed 2–8–87; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

SUMMARY: The Minerals Management Service (MMS) incorporates by reference into Outer Continental Shelf (OCS) Order No. 5 for all OCS Regions the 1985 Edition of the American National Standards Institute/American Society of Mechanical Enginees (ANSI/ASME), Safety Pollution Prevention Equipment (SPPE)–1, and the 1984 Editions of the American Petroleum Institute (API) Specifications (Spec) 14A and 14D. The incorporation by reference brings OCS Order No. 5 up to date with current industry recommended practices. The MMS also deletes from OCS Order No. 5 for all OCS Regions the current incorporation by reference of ANSI/ASME SPPE–2. The deletion eliminates requirements dealing with accreditation of testing facilities.

DATE: This notice becomes effective on March 23, 1987].

FOR FURTHER INFORMATION CONTACT: John Mirabella, telephone: (703) 648–7816 or (FTS) 959–7816.

SUPPLEMENTARY INFORMATION: In the **Federal Register** Notice of September 18, 1986 (51 FR 33146), MMS solicited comments on a proposed amendment to OCS Order No. 5 that incorporates by reference more recent editions of documents currently incorporated and that deletes the current incorporation by reference of a document concerning accreditation of testing facilities.

Proposed Incorporation by Reference

The MMS proposed to incorporate by reference into OCS Order No. 5 for all Regions the following documents:

1. The 1985 Edition of ANSI/ASME SPPE–1, "Quality Assurance and Certification and Safety and Pollution Equipment Used in Offshore Oil and Gas Operations," in Paragraph 2, *Quality Assurance and Performance and Safety and Pollution-Prevention Equipment,* in lieu of the 1977 Edition currently incorporated in the Atlantic, Gulf of Mexico, and Pacific OCS Regions and the 1982 Edition currently incorporated in the Alaska OCS Region;

2. The 1984 Edition of the API Spec 14A, "API Specification for Subsurface-Safety Valve Equipment," in Subparagraph 3.2 *Specification for Subsurface-Safety Valves,* in lieu of the 1979 Edition currently incorporated in the Atlantic, Gulf of Mexico, and Pacific OCS Regions and the 1981 Edition currently incorporated in the Alaska OCS Region; and

3. The 1984 Edition of the API Spec 14D, "API Specification for Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service," in Subparagraphs 4.2 (Alaska and Atlantic OCS Regions) and 4.3 (Gulf of Mexico and Pacific OCS Regions), *Specification for Wellhead Surface-Safety Valves,* in lieu of the 1977 Edition currently incorporated in the Atlantic, Gulf of Mexico, and Pacific OCS Regions and the 1982 Edition currently incorporated in the Alaska OCS Region.

The 1985 Edition of ANSI/ASME SPPE–1 reflects the latest advances in practice concerning quality assurance programs for safety pollution-prevention equipment, accreditation of manufacturers of safety and pollution-prevention equipment, and equipment malfunction/failure reporting by offshore operators of safety and pollution-prevention equipment.

The 1984 Edition of the API Spec 14A reflects the latest advances in technology, equipment, and practice concerning subsurface safety valves, safety locks, and safety valve landing nipples to be used on offshore wells.

The 1984 Edition of the API Spec 14A reflects the latest advances in technology, , equipment, and practice concerning wellhead surface safety valves with flanged or other industry-accepted nonthreaded end connections and heat-sensitive, lock-open devices to be used on offshore wells. Those advances in technology, equipment, and practice include requirements for underwater safety valves.

The MMS had concluded that these additional requirements increase safety in the operation of production safety systems and keep OCS Order No. 5 up to date with current industry recommended practices.

Therefore, MMS proposed to incorporate by reference the 1985 Edition of ANSI/ASME SPPE–1 and the 1984 Editions of the API Spec 14A and 14D into OCS Order No. 5.

The ANSI/ASME SPPE–1 without identification of the specific edition is also incorporated by reference, partially or in total, as applicable, in subparagraphs 3.11 and 5.6.1. The MMS proposed to revise paragraph 2 by incorporating by reference the 1985 Edition and by adding the words "hereinafter referred to as ANSI/ASME SPPE–1" immediately after the incorporation. This would cause all subsequent references to ANSI/ASME SPPE–1 in OCS Order No. 5 to apply to the 1985 Edition.

The MMS proposed to revise subparagraph 3.2 for the Atlantic, Gulf of Mexico, and Pacific OCS Regions by incorporating by reference the 1984 Edition of API Spec 14 A and by deleting the phrase "or subsequent revisions which the Deputy Chief, Conservation Division—Offshore Minerals Regulation, has approved for use at the time of installation."

The MMS also proposed to revise subparagraph 4.2 in the Alaska and Atlantic OCS Regions and subparagraph 4.3 in the Gulf of Mexico and Pacific OCS Regions by incorporating by reference the 1984 Edition of API Spec 14D and by deleting the phrase "or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation."

The MMS revised the wording concerning the incorporation by reference of subsequent editions of references to clarify that new editions of documents incorporated by reference would replace editions previously incorporated only after going through rulemaking procedures.

Proposed Deletion of Incorporation by Reference

The MMS also proposed to delete from OCS Order No. 5 for all OCS Regions the ANSI/ASME SPPE–2, "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," currently incorporated by reference in paragraph 2. The proposed deletion eliminated requirements dealing with accreditation of testing facilities. Requirements dealing with accreditation of testing facilities. Requirements for testing of safety and pollution-prevention equipment are contained in SPPE–1 and is references, and incorporation by reference of SPPE–2 directly into OCS Order No. 5 is not necessary.

Two comments endorsing the proposed changes were received. However, the commenters offered suggestions which are discussed below.

Discussion of Comments

Comment—The first commenter stated that it had reviewed the various documents proposed to be incorporated and endorsed the incorporation by reference. However, the commenter contended that the documents should be incorporated only as guidelines and not as enforceable rules. The commenter also contended that the proposed incorporation by reference did not comply with the requirements of section 553(b) of the Administrative Procedure Act which requires public scrutiny.

Discussion—The MMS disagrees with both of the commenter's contentions. The MMS believes that the requirements contained in documents incorporated by reference should be mandatory and, therefore, were proposed as mandatory. Moreover, the documents proposed to be incorporated by reference have been subjected to public review and are a valid subject to comment to a proposed rule which incorporates that document. Accordingly, commenters had the opportunity to review the documents and to provide comments in response to the **Federal Register** Notice of September 18, 1986. This process conforms to the requirements of the Administrative Procedure Act.

Comment—The second commenter noted that the proposed incorporation by reference of the documents should be consistent with the proposed rule consolidation of 30 CFR Parts 250 and 256 published in the **Federal Register** on March 18, 1986 (51 FR 9316), and that once the proposed consolidated rules became official existing OCS Order No. 5 would be rescinded. The March 18, 1986, proposed rule does not directly reference API Spec 14A or 14D.

Discussion—The proposed rule published in the **Federal Register** on March 18, 1986, would consolidate into one document not only OCS Order No. 5 but the multitiered rules of MMS's offshore program with all their pertinent incoporations by reference. Therefore, the proposed rule consolidation merited and has been submitted to an appropriated separate and more lengthy public comment period.

Moreover, the comments in response to the rule consolidation are undergong a more extensive and time-consuming review. The MMS contends that in the meantime OCS Order No. 5, which is the current regulation for production safety systems, should be brought up to date with current industry recommended practices. The comments pertaining to the March 18, 1986, proposed rule are not being addressed at this time.

Executive Order 12291: This amendment is not expected to cause an increase in cost to consumers, industry, or governmental entities. Based on this assessment, the Department of the Interior (DOI) has determined that this document does not constitute a major rule under Executive Order 12291; therefore, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act: The DOI has also determined that this document will not have significant economic effect on a substantial number of small entities since offshore activities are complex undertakings generally engaged in by enterprises that are not considered small entities.

Paperwork Reduction Act: The information collection requirements contained in OCS Order No. 5 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* There are no new information collection requirements in this notice.

Author: The principal author of this document is Mario Rivero, Offshore Rules and Operations Division, Minerals Management Service.

Dated: December 31, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, OCS Order No. 5 for all OCS Regions is revised as follows:

1. Paragraph 2 for the Alaska and Atlantic OCS Regions is revised to read as follows:

2. *Quality Assurance and Performance of Safety and Pollution-Prevention Equipment.* Safety and Pollution Prevention Equipment (SPPE) shall conform to the American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) SPPE–1–1985 standard, "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," hereinafter referred to as ANSI/ASME SPPE–1. The applicable SPPE components and the applicable SPPE specifications are identified in subparagraphs 3.2 and 4.2.

2. Paragraph 2 for the Gulf of Mexico and Pacific OCS Regions is revised to read as follows:

2. *Quality Assurance and Performance of Safety and Pollution-Prevention Equipment.* Safety and Pollution Prevention Equipment (SPPE) shall conform to the American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) SPPE–1–1985 standard, "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," hereinafter referred to as ANSI/ASME SPPE–1. The applicable SPPE components and the applicable SPPE specifications are identified in subparagraphs 3.2 and 4.3.

3. In subparagraph 3.2 for the Alaska OCS Region, the phrase "API Spec 14A, Fifth Edition, April 1981, and Supplement 1, February 1982" is replaced with the phrase "API Spec 14A, Sixth Edition, April 30, 1984."

4. In subparagraph 3.2 for the Atlantic, Gulf of Mexico, and Pacific OCS Regions, the phrase "API Spec 14A, Fourth Edition, November 1979, or subsequent revisions which the Deputy Chief, Conservation Division—Offshore Minerals Regulation, has approved for use at the time of installation" is replaced with the phrase "API Spec 14A, Sixth Edition, April 30, 1984."

5. In subparagraph 4.2 for the Alaska OCS Region, the phrase "API Spec 14D, Fourth Edition, February 1982" is replaced with the phrase "API Spec 14D, Sixth Edition, April 30, 1984."

6. In subparagraph 4.2 for the Atlantic OCS Region and subparagraph 4.3 for the Gulf of Mexico and Pacific OCS Regions, the phrase "API Spec 14D, Second Edition, November 1977, as amended by Supplement 2, November 1978, or subsequent revisions which the Chief, Conservation Division, has approved for use at the time of installation" is replaced with the phrase "API Spec 14D, Sixth Edition, April 30, 1984."

(43 U.S.C. 1334)

[FR Doc. 87–3437 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Illinois and Michigan Canal National Heritage Corridor Commission; Meeting

February 6, 1987.

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 March 2, 1987, beginning at 10 a.m. at the Gaylord Building in Lockport, 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. sec. 461 note, to implement and support the conceptual plan.

Matters to be discussed at the meeting will include the boundary of the corridor, liability legislation, and the Economic Development Administration (EDA) grant.

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: February 6, 1987.

Charles H. Odegaard,

Regional Director, Midwest Region.

[FR Doc. 87–3502 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–70–M

Jefferson National Expansion Memorial 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 Jefferson National Expansion Memorial Commission will be held March 27, 1987, at 9 a.m. The meeting will be held in the Exhibit Gallery at the Old Courthouse, Jefferson National Expansion Memorial National Historic Site, 11 North Fourth Street, St. Louis Missouri 63102.

The Commission was originally established on August 24, 1984, pursuant to provisions of the Jefferson National Expansion Memorial Amendments Act of 1984, 98 Stat. 1469, 16 U.S.C. 450jj-6, to implement and support the conceptual plan.

Matters to be discussed at the February 27 meeting will include development of strategies and recommendations for the protection of the adjacent 200 acres, review of the final development and management plan, review of the final draft museum report, and strategies for fundraising and commitment.

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.

Russell W. Berry, Jr.,

Acting Regional Director, Midwest Region.

[FR Doc. 87–3503 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–70–M

United States World Heritage Nominations: 1987

AGENCY: National Park Service, Department of the Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, through the National Park Service, announces the nomination of Pu'uhonua o Honaunau National Historical Park and the Thomas Jefferson Architectural Theme to the World Heritage List. The nominations are the result of Interior's annual World Heritage nomination process, which was initiated through an April 8, 1986, **Federal Register** notice (51 FR 11986). The Department earlier announced the identification of both sites as proposed United States World Heritage nominations (51 FR 37794). The nominations have been submitted to the Secretariat of the World Heritage Committee for consideration through a process that could lead to their inscription on the World Heritage List in fall 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James Stewart, Acting Associate Director, Planning and Development, National Park Service, U.S. Department of the Interior, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 91 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world. The Convention complements each participating nation's heritage conservation programs, and provides for:

(a) The establishment of a 21-member World Heritage Committee to further the goals of the Convention and to approve properties for inclusion on the World Heritage List;

(b) The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

(c) The preparation of a List of World Heritage in Danger;

(d) The establishment of a World Heritage Fund, with a primary function to assist participating countries in preserving and protecting endangered World Heritage properties;

(e) The provision of technical assistance to participating countries, upon request; and

(f) The promotion and enhancement of public knowledge and understanding of the vital importance of heritage conservation at the international level.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 247 cultural and natural properties. The World Heritage Committee evaluates all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, presentation, and rehabilitation of World Heritage properties situated within its borders.

The Federal Interagency Panel for World Heritage makes recommendations on proposed United States World Heritage nominations and related matters. The Panel includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, U.S. Fish and Wildlife Service and Bureau of Land Management within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; the Department of Commerce; the Department of

Agriculture; the United States Information Agency; and the Department of State.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515; 16 U.S.C. 470a–1, a–2). On May 27, 1982, the Interior Department published in the Federal Register the final rules which are used to carry out this legislative mandate (47 FR 23392). The rules contain further information on the Convention and its implementation in the United States.

United States World Heritage Nominations: 1987

The Interior Department, in cooperation with the Federal Interagency Panel for world Heritage, has selected the following properties as United States nominations to the World Heritage Committee for inscription on the World Heritage List.

I. Cultural Properties

Architecture: Early United States
THE THOMAS JEFFERSON ARCHITECTURAL THEME
Monticello, Charlottesville, Virginia (38° 0'N; 78° 30'W)

Thomas Jefferson, the third American President, was a great architect who practiced the Classic Revival style. In Monticello, his mansion, he combined elements of Roman, Palladian, the 18th century French design with features expressing his extraordinary personal inventiveness. Criteria: (i) A unique artistic achievement, a masterpiece of the creative genius; and (ii) has exerted great influence, over a span of time and within a cultural area of the world, on development in architecture.

University of Virginia; Jefferson District
Charlottesville, Virginia (38° 0'N; 78° 30'W)

Includes original classrooms and professors' quarters housed in pavilions aligned on both sides of an elongated terraced court, as well as the domed Rotunda, a scaled-down version of the Pantheon. This building was the focal point of Thomas Jefferson's design. Jefferson envisioned a community of scholars living and studying in an architecturally unified complex of buildings. Criteria: (i) A unique artistic achievement, a masterpiece of the creative genius; and (ii) has exerted great influence, over a span of time and within a cultural area of the world, on developments in architecture.

Hawaiian
PU'UHONUA O HONAUNAU NATIONAL HISTORICAL PARK
Hawaii (19° 25'N; 155° 55'W)

This area (formerly known as City of Refuge National Historical Park) includes sacred ground, where vanquished Hawaiian warriors, noncombatants, and kapu breakers were granted refuge from secular authority. Prehistoric housesites, royal fishponds, and spectacular shore scenery are features of the park. Criteria: (iii) Bears a unique or exceptional testimony to a civilization which has disappeared; (iv) an outstanding example of a type of building or architectural ensemble which illustrates a significant stage in history; and (vi) directly or tangibly associated with ideas or beliefs of outstanding universal significance.

Dated: February 9, 1987.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Widlife and Parks.

[FR Doc. 87–3504 Filed 2–18–87; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–241]

Competitive Position of Canadian Live Cattle and Beef in U.S. Markets

AGENCY: International Trade Commission.

ACTION: Notice of time and place of public hearing.

EFFECTIVE DATE: January 21, 1987.

FOR FURTHER INFORMATION CONTACT: David E. Ludwick (202–724–1763), Office of Industries, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information of this matter by contacting the Commission's TDD terminal on 202–724–002.

SUPPLEMENTARY INFORMATION: On December 15, 1986, the Commission instituted the subject investigation and announced that a public hearing would be held at a time and place to be announced (51 FR 46942, Dec. 29, 1986). The public hearing is scheduled to begin at 9:30 a.m. April 16, 1987, and to be continued, if necessary, beginning at 9:30 a.m. April 17, at the Ramada Inn, 1223 Mulloway Lane, Billings, Montana. All persons shall have the right to appear in person or by counsel, to present information and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, not later than noon, March 23, 1987.

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–3547 Filed 2–18–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–242]

Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Matsushita Electric Industrial Co., Ltd. Matsushita Electronics Corporation and Matsushita Electric Corporation of America.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1837). Under the Commission's rules, the presiding officer's intial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 13, 1987.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impared individuals are advised that information on this matter can be obtained by contracting the Commission's TDD terminal on 202–724–0002.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination

of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–3548 Filed 2–18–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–371 (Preliminary)]

Import Investigation; Fabric and Expanded Neoprene Laminate From Taiwan

Determination

On the bass of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Traiff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Taiwan of fabric and expanded neoprene laminate, provided for in items 355.81, 355.82, 359.50 and 359.60 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).[3]

Background

On December 23, 1986, a petition was filed with the Commission and the Department of Commerce by Rubatex Corp., Bedford, VA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of fabric and expanded neoprene laminate from Taiwan. Accordingly, effective December 23, 1986, the Commission instituted preliminary antidumping investigation No. 731–TA–371 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 5, 1987 (52 FR 365). The conference was held in Washington, DC, on January 12, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on February 6, 1987. The views of the Commission are contained in USITC Publication 1944 (February 1987), entitled "Fabric and Expanded Neoprene Laminate from Taiwan: Determination of the Commission in Investigation No. 731–TA–371 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: February 6, 1987.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 87–3549 Filed 2–18–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–282 (Final)]

Import Investigation; Certain Forged Steel Crankshafts From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–282 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 167d(b)) to determine whether an industry in the United States is materially injured, or is threatened with materially retarded, by reason of imports from Brazil of certain forged steel crankshafts, provided for in items 660.67 and 660.71 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), Commerce has extended the date for its final determination in an ongoing antidumping investigation on certain forged steel crankshafts from Brazil. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for March 18, 1987).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: January 8, 1987.

FOR FURTHER INFORMATION CONTACT: Lynn Featherstone (202–523–0242), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contracting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of certain forged steel crankshafts. The investigation was requested in a petition filed on October 9, 1986 by Wyman-Gordon Company, Worcester, MA. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 44537, December 10, 1986).

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Liebeler dissenting.

[3] Vice Chairman Brunsdale determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports.

notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-3550 Filed 2-18-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-375 (Preliminary)]

Import Investigation; Certain Line Pipes and Tubes From Canada

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-375 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of line pipes and tubes [1] which are alleged to be sold in the United States at less than fair value.

As provided in section 733(a), the Commission must complete preliminary antidumping investigation in 45 days, or in this case by March 30, 1987. For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subpart A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 11, 1987.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-523-0104), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contracting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on February 11, 1987, by counsel for Tex-Tube Division of Cyclops Corp., Houston, TX, and Maverick Tube Corp., Chesterfield, Mo.

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on March 5, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Brian Walters (202-523-0104) not later than March 2, 1987, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to makes an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before March 11, 1987, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any Business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submission must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-3551 Filed 2-18-87; 8:45 am]

BILLING CODE 7020-02-M

[1] For purposes of this investigation, the term "line pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 16 inches in ourside diameter, conforming to API specifications for line pipe, provided for in items 610.3208 and 610.3209 of the Tariff Schedules of the United States Annotated (TSUSA) 1987.

[Investigation No. 731-TA-372 (Preliminary)]

Import Investigation; 175 Watt Mercury Vapor Light Fixtures From Taiwan

AGENCY: International Trade Commission.

ACTION: Notice of withdrawal of petition in antidumping investigation.

SUMMARY: On February 12, 1987, counsel for the American Electric Division of FL Industries, Inc., Southaven, MS, the petitioner in the subject investigation, filed a letter with the U.S. Department of Commerce and the U.S. International Trade Commission withdrawing its petition concerning imports of 175 watt mercury vapor light fixtures from Taiwan. Commerce has not initiated an investigation as provided in section 732(c) of the Tariff Act of 1930. Accordingly, the Commission gives notice that the antidumping investigation, involving imports from Taiwan of 175 watt mercury vapor light fixtures, provided for in items 653.39 and 688.42 of the Tariff Schedules of the United States (investigation No. 731-TA-372 (Preliminary)), will be discontinued.

EFFECTIVE DATE: February 12, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202-523-0300), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-3552 Filed 2-18-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-337 (Final)]

Certain Paint Filters and Strainers From Brazil

AGENCY: International Trade Commission.

ACTION: Schedule for the subject investigation.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-523-0104), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002. Information may also be obtained via electronic mail by assessing the Office of Investigations' remote bulletin board system for personal computers at 202-523-0103.

SUPPLEMENTARY INFORMATION: Effective December 30, 1986, the Commission instituted the subject investigation and gave notice that a schedule for its conduct would be announced at a later date (52 FR 3502, Feb. 4, 1987). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from March 9, 1987, to May 15, 1987 (52 FR 3158, Feb. 2, 1987). The Commission, therefore, is establishing its schedule in the investigation to conform with Commerce's new schedule.

The Commission's schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary of the Commission not later than May 8, 1987; the prehearing conference will be held in room 117 of the U.S. International Trade Commission Building at 9:30 a.m. on May 11, 1987; the public version of the prehearing staff report will be placed on the public record on April 29, 1987; the deadline for filing prehearing briefs is May 13, 1987; the hearing will be held in room 331 of the U.S. International Trade Commission Building at 9:30 a.m. on May 19, 1987; the deadline for filing all other written submissions, including posthearing briefs, is May 27, 1987; and the Commission will make its final injury determination by June 29, 1987.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-3553 Filed 2-18-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-374 (Preliminary)]

Import Investigation; Potassium Chloride From Canada

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-374 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of potassium chloride, provided for in item 480.50 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 27, 1987.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 11, 1987.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202-523-1793), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002. Information may also be obtained via electronic mail by assessing the Office of Investigations' remote bulletin board system for personal computers at 202-523-0103.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on February 10, 1987, by Lundberg Industries, Ltd., of Dallas, TX, and the New Mexico Potash Corp. of Memphis, TN, U.S. producers of potassium chloride.

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an

entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on March 3, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202–523–1793) not later than February 26, 1987, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before March 6, 1987, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary of the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: February 13, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–3554 Filed 2–18–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation Nos. 332–229, 230, 231, 232, 233, and 240]

Competitiveness Studies on Textile Mill Industry, Building-Block Petrochemicals, Steel Sheet and Strip, U.S. Auto Parts Industry, Optical Fibers, and Oilseed and Products Industry

AGENCY: International Trade Commission.

ACTION: Notice of change in time of public hearing.

EFFECTIVE DATE: February 9, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen Mills (202–523–0430), Office of the Secretary, U.S. International Trade Commission, Washington, DC 20436.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the time of the public hearing in connection with the investigations has been changed from 10:00 a.m. to 9:30 a.m. The hearing will be held in the Commission Hearing Room, 701 E Street NW., Washington, DC 20436, beginning at 9:30 a.m. on February 24, 1987. Notices of the institution of the investigations were published in the **Federal Register** of July 20, 1986 (51 FR 27265) and December 29, 1986 (51 FR 46947).

Issued: February 11, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–3555 Filed 2–18–87; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30981]

Boston and Maine Corporation; Exemption To Lease to Springfield Terminal Railway Co.

Boston and Maine Corporation (B&M), a wholly-owned subsidiary of Guilford Transportation Industries, Inc. (GTI), has filed a notice of exemption to lease to Springfield Terminal Railway Company (ST), also a wholly-owned subsidiary of GTI, the following lines and facilities of B&M in the area of Springfield, MA:

(a) The Connecticut River Main Line between M.P. S–0.00 (Springfield) and M.P. S–9.45 (Holyoke North); and

(b) All tracks in Springfield Yard. The purpose of this transaction is to enable ST to carry on operations presently performed by B&M.

Since B&M and ST are members of the same corporate family, the lease falls within the class of transactions that are exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(3). The transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Railroad employees affected by the transaction will be protected by the conditions in *Mendocino Coast Ry., Inc.—Lease and Operate*, (*Mendocino*), 354 I.C.C. 732 (1979), as modified at 360 I.C.C. 653 (1980). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of petitions to revoke will not stay the transaction.

Decided: February 12, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–3422 Filed 2–18–87; 8:45 am]

BILLING CODE 7035–01–M

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[1] In three other proceedings under the notice of exemption procedures, Finance Docket No. 30965, involving a trackage rights and lease between Delaware and Hudson Railway Company (D&H) and the ST; Finance Docket No. 30967, involving a lease between The Maine Central Railroad Company and the ST; and Finance Docket No. 30972, involving a lease between D&H and ST; the Railway Labor Executives' Association (RLEA) petitioned for the imposition of the labor protective conditions developed by the Commission in *New York Dock Ry—Control—Brooklyn Eastern District*, 360 I.C.C. 60 (1979) in lieu of the *Mendocino* conditions. A Commission decision will follow to consider RLEA's petition.

[Docket No. AB-55 (Sub-No. 195X)]

CSX Transportation, Inc; Abandonment Exemption in Hillsborough County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc. of 0.7 miles of track in Hillsborough County, FL, subject to standard labor protection conditions.

DATES: This exemption is effective on March 23, 1987. Petitions to stay must be filed by March 2, 1987, and petitions for reconsideration must be filed by March 11, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 195X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, 20423, or call 289-4357 (DC Metropolitan area), or toll-free (800) 424-5403.

Decided: February 4, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-3423 Filed 2-18-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Pepper's Steel and Alloys, Inc.

In accordance with Department Policy, 28 CFR 50.7, 38 FR 19029, as well as section 122(i) of the Superfund Amendments and Reauthorization Act, notice is hereby given that a partial consent decree in *United States* v. *Pepper's Steel and Alloys, Inc.* was lodged with the United States District Court for the Southern District of Florida on February 11, 1987. This consent decree is being entered into between the United States, the State of Florida Department of Environmental Regulation, the Dade County Department of Environmental Resources Management, and the Florida Power and Light Co. The consent decree requires the Florida Power & Light Co. to implement a remedial action at the Pepper's Steel site and to reimburse the United States for certain costs incurred by the government at the site.

The Department of Justice will receive for thirty (30) days from the publication date of this notice, written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and refer to *United States* v. *Pepper's Steel and Alloys, Inc.*, 90-11-2-62A. In addition, there will be a public hearing on the proposed decree on March 27 at 2:00 p.m. in Courtroom 7 of United States District Court in Miami (Honorable Eugene P. Spellman). At the public hearing the United States will respond, in a summary fashion, to comments received during the public comment period and, if appropriate, recommend final entry of the consent decree.

The consent decree can be examined at the office of the United States Attorney, 155 S. Miami Ave., Suite 500, Miami, Florida 33130, the Region IV Office of the Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia, and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, (Room 1515), Ninth and Pennsylvania Avenue NW., Washington, DC 20530. Copies of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-3534 Filed 2-18-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of a Settlement Agreement Pursuant to the Clean Water Act; National Plating Co.

In accordance with Departmental Policy, 28 CFR 50.7, 38 F.R. 19029, notice is hereby given that a proposed Settlement Agreement in *United States* v. *National Plating Co.*, Civil Action No. 85-0395P, was lodged with the United States District Court for the District of Rhode Island on February 3, 1987. The Settlement Agreement concerns violations of the national categorical pretreatment standards applicable to electroplating sources, adopted under section 307 of the Clean Water Act, 33 U.S.C. 1317, and codified at 40 CFR Part 413 and the general pretreatment standards adopted under section 307, and codified at 40 CFR Part 403. Forty CFR Part 413 establishes discharge limitations application to indirect dischargers in the electroplating category for copper, nickle, zinc and cyanide. Forty CFR Part 403 establishes discharge limits for pH and reporting requirements applicable to all indirect discharges. In this action, the United States alleged that National Plating Company of 946 Eddy Street, Providence, R.I., failed to comply with the discharge limitations for copper, nickel, zinc, cyanide and pH, and failed to submit certain reports required under 40 CFR 403.12. The proposed Settlement Agreement requires the defendant to pay $50,000 in civil penalties, $25,000 to the United States and $25,000 to the State of Rhode Island, and to comply with the applicable pretreatment requirements in the future. It further requires National to undertake a monitoring program to confirm future compliance with the pretreatment standards for metals, cyanide and ph, and to pay stipulated penalties in the amount of $1,000 for each exceedance of the pretreatment standards detected through the monitoring program.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *National Plating Co.*, D.J. Ref. No. 90-5-1-1-2413.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney, District of Rhode Island, 223 Federal Building & Courthouse, Kennedy Plaza, Providence, R.I. 02903; at the Region I office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Please enclosed a certified check payable to "Treasurer, United States of America"

for $2.00 (10 cents per page) to cover the costs of copying.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-3433 Filed 2-18-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Application for Registration as Manufacturer of Controlled Substances; Janssen, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 19, 1986, Janssen, Inc., HC 02 Box 19250, Gurabo, Puerto Rico 00658-9629, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Alfentanil (9737)	II
Sufentanil (9740)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than March 23, 1987.

Dated: February 12, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-3500 Filed 2-18-87; 8:45 am]

BILLING CODE 4410-09-M

Application for Registration as Manufacturer of Controlled Substances; Johnson Matthey, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 18, 1986, Johnson Matthey, Inc., 1401 King Road, West Chester, Pennsylvania 19380, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Sufentanil (9740)	II
Fentanyl (9801)	II

In addition by letter dated December 30, 1986, the firm requested their application be modified to include authorization as a bulk manufacturer of the following basic class of controlled substances:

Drug:	Schedule
Alfentanil (9737)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than March 23, 1987.

Dated: February 2, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 87-3501 Filed 2-18-87; 8:45 am]

BILLING CODE 4410-09-M

Bureau of Justice Statistics

Automated Information Files Maintained by Local Prosecutors; Research Funds Availability

AGENCY: Bureau of Justice Statistics, Justice.

ACTION: Notice.

SUMMARY: This solicitation announces the availability of research funds (from $375,000 to $425,000) to continue the collection and analysis of automated information files maintained by local prosecutors. BJS will make one award in response to this solicitation.

DATES: Proposals must be postmarked no later than May 20, 1987.

ADDRESSES: Copies of this notice, supporting documentation and past publications are available upon request at the following location: National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD 20850, Telephone No. 301/251-5500 (local) or toll free 800-732-3277.

FOR FURTHER INFORMATION, CONTACT: Carla K. Gaskins of the Adjudication Unit, BJS, at 633 Indiana Avenue, NW., Washington, DC 20531; telephone 202/724-7774.

SUPPLEMENTARY INFORMATION:

I. Introduction

The prosecutor is a key figure in shaping and implementing criminal justice policy. Numerous studies of American prosecutors show the important role they play in the administration of justice.

For close to a decade, the Bureau of Justice Statistics (BJS) has sponsored a data collection activity designed to obtain information on how prosecutors handle persons arrested for felony crimes. Key to the collection of this data has been management information systems maintained by local prosecutors to track arrests from presentation through final court disposition and sentencing.

Data contained in these systems give prosecutors detailed information on how felony arrests proceed in their jurisdictions. In addition, these data provide BJS with statistical information vital to meeting its mandate to collect and analyze statistics on criminal prosecution. Data from prosecutor management information systems form the basis for a series of statistical reports sponsored by BJS. To date, BJS has published 4 (four) major reports:

A Cross-City Comparison of Felony Case Processing—NCJ-55171, 7/79

The Prosecution of Felony Arrests, 1979—NCJ-86482, 5/84

The Prosecution of Felony Arrests, 1980—NCJ-97684, 9/85

The Prosecution of Felony Arrests, 1981—NCJ-101380, 7/86

These reports covered such issues as:

- final disposition patterns.
- attrition rates.
- case processing times.
- percent of arrests declined for prosecution.
- percent of arrests resulting in guilty pleas.
- fraction of guilty pleas to top charge.
- frequency of jury trials.
- incarceration rates by crime type.

II. Award History

The statistical series "The Prosecution of Felony Arrests" (hereafter PFA) has been continuously maintained by BJS through consecutive awards (both contract and cooperative agreement) made to private research firms. The following summarizes the history of these awards:

Year	Award No.	Award type	Award recipient	Major activities
1976	J-LEAA-016-76	Contract	INSLAW, Inc	Data on felony arrests disposed in the first 6 months of 1977 were collected from 13 local jurisdictions. These data were analyzed and presented in the first publication cited above.
1979	J-LEAA-020-79	Contract	INSLAW, Inc	A reformatted presentation of similar data on felony arrests disposed in 1979 from 14 local jurisdictions resulted in the publication PFA 1979.
1981	81-BJ-CX-KO42	Cooperative agreement	INSLAW, Inc	Jurisdiction coverage increased from 14 to 28 participants. This was a transitional year used to work out new agreements and redefine data elements (no report).
1983	81-BJ-CX-KO42 supplemental	Cooperative agreement	INSLAW, Inc	A report containing dispositional data on felony arrests processed in 1980 from 28 jurisdictions was produced, PFA 1980. Raw data files on arrests processed in 1981 were secured from participating jurisdictions.
1984	84-BJ-CX-K001	Cooperative agreement	INSLAW, Inc	A revised format of 1981 felony arrests data from 37 jurisdictions with detailed appendix tables measuring felony case attrition from three major points—arrest, filing, indictment—resulted in the publication of PFA 1981. Raw files and documentation containing 1982 data were collected.
1986	86-BJ-CX-K024	Cooperative agreement	Abt Associate	1982 data from 37 jurisdictions on crime types defined in accordance with BJS classifications are being analyzed. User-Friendly public-use datasets from 3 major jurisdictions will be submitted to BJS for public dissemination. PFA 1982 will be published. 1983 data are being collected and will be turned over to the recipient of the award made under this solicitation.

III. Description of Project Operations

The jurisdictions involved in this effort vary in their selection of informational items entered in data files, and their case records begin at different points in the adjudication process. The output from these management software packages, which are tailored to fit the needs and styles of participating jurisdictions, cannot be relied upon exclusively to meet the needs and requirements of the research community. Raw data files containing case history data are submitted via magnetic data tapes (or in some instances hard copy) with the information on arrests presented in a defined year up through the time the tape is submitted. Along with the tapes, prosecutors are asked to provide documentation for the data entries. These submissions are used to create master files which include all data elements for each felony case initiated in the base year and closed by the time the data transfer took place. Records in the master file include defendant variables, case variables, charge variables, sentencing variables, case management variables, and victim/witness variables. Master files are examined to determine which of the desired data elements are usable and the usable data are extracted into smaller files.

Charge codes extracted from the master files are used to develop crime category classifications that can be applied across jurisdictions. Using documentation provided by the jurisdictions and the crime classification codes, the extract files are processed into uniform analysis files in which all codes for qualitative data elements, such as reasons for rejections or dismissals, are the same across jurisdictions. Accurate documentation from participating jurisdictions is crucial to the development of uniform analysis files. Such documentation includes penal code citations, how and where they appear on the submitted tape; how jurisdictions define trials, how cases are pled, and who controls the process of taking a plea; and other variables along with record locations and lengths.

The analysis files may contain defendant variables such as the defendant's age, race and sex; case variables like screening date and outcome, type of defense attorney, status of release, final disposition, number of witnesses, etc.; charge variables by arrest, filing, indictment, and conviction; and sentencing variable such as place sentence is to be served, sentence length, suspensions, and related variables.

Within each of these general record descriptions, more specific detail is coded and entered for each case. For example, final dispositions are presented as a plea to the top charge, plea to other charge, guilty by jury to top charge, guilty by jury to other charge, guilty by court trial to top charge, guilty by court trial to other charge, not guilty by jury trial, not guilty by court trial, other not guilty, court dismissal, nolle prosequi, rejection or declination at screening, etc.

Additionally, information on the environment in which each prosecutor operates is collected. Data on the number of assistant district attorneys, screening policies, influence on sentencing, court organization, and jurisdiction are compiled. This information is collected through interviews with key prosecutor personnel and other criminal justice system personnel and supplemented by data from the U.S. Bureau of Census, the FBI, and other sources in order to provide an accurate understanding of each of the jurisdictions in which the prosecutors had to function.

IV. Scope of Desired Work

Geographical coverage of the series has expanded over the years from 13 jurisdictions in 1977 to 37 in 1982. Further expansion of the series is desired. In addition, BJS desires that the jurisdictions selected for participation in the series be representative of a meaningfully defined larger universe (such as the urban counties that account for most of the reported felony offenses in the Nation).

Previous datasets obtained under this project have largely been limited to information provided by one particular software package, "Prosecutors' Management Information Systems" or PROMIS as it is commonly known. Extensive field work was not used to gather data elements not recorded by the prosecutor but which impact the prosecutor's decisions concerning caseflow and charging priorities. To enhance the capability of the series for providing analysts with detailed and well documented data for cross-jurisdiction comparisons, supplementary field efforts may have to be undertaken. For example, in some jurisdictions, the automated case record begins at the point of indictment, and data on cases rejected or dismissed before indictment are not available from the prosecutor. In such instances, to obtain statistics on cases rejected before the initial screening, one would have to go directly to the police departments and/or the

lower courts to determine how many felony arrests actually occurred, why they were not presented for prosecution, and why they never reached the felony court. Another area where more information might be obtained is in the stated reasons for rejections or dismissals of cases by crime type. Detailed information on the reasons for the deterioration of felony arrests would take us further along in our effort to identify the crime types and case types where greater resources need to be targeted.

Data on all felony arrests which reached final disposition in calendar year 1986 are desired. Variables should include, but not be limited to, the following:

1. Age, race, sex of the defendant
2. Age, race, sex of the victim
3. Victim/defendant relationship
4. Prefiling dispositions—
   - Rejections
   - Referrals for other prosecution
   - Other referrals
   - Other prefiling dispositions
5. Arrests filed by prosecutor by highest filed charge
6. Postfiling/pre-indictment dispositions by charge—
   - Nolle prosequi
   - Dropped or dismissed
   - Referral to diversion
   - Referral to other prosecution
   - Other
7. Cases indicted by highest indictment charge
8. Postindictment dispositions by charge—
   - Dropped or dismissed
   - Referral to diversion
   - Referral to other prosecution
   - Acquittals
   - Convictions (plea/jury/bench)
9. Sentencing—
   - Prison (term)
   - Jail (term)
   - Probation (term)
   - Other
10. Dates of all the above actions
11. Reasons for rejections, nolle prosequi decisions and dismissals

In summary, BJS will fund a project that will: (1) Collect and analyze representative felony arrest disposition statistics based on the variables in the above list for calendar year 1986 (including detailed reasons for the rejection and dismissal of certain felony case types); (2) prepare one short report on a special topic; (3) prepare a final report with extensive tabulations resulting from an analysis of the jurisdictions' specific data and the summary data from the combined jurisdictions (as exemplified by Appendix A of *The Prosecution of Felony Arrests, 1981*); (4) collect 1987 machine or hard-copy data with appropriate documentation from those jurisdictions able to provide it; and (5) prepare public-use data sets for 1986 data in accordance with BJS specifications. BJS expects applicants to expand on previous reports and provide additional information where appropriate.

V. How to Apply

Seven (7) copies of a full proposal should be sent to: Director, Bureau of Justice Statistics, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531, Attn: Ms. Carla Gaskins.

Proposals should address all of the following areas:

1. Project abstract.
2. Detailed statement of work including
   a. State-of-the-art on need and uses of felony case data.
   b. Statement of project goals and objectives.
   c. Task/timetable for the accomplishment of goals and objectives.
3. Research design and proposed methodology
   a. Detailed description of site and case selection operations.
   b. Procedures for obtaining and submitting to BJS machine-readable datasets which are in compliance with A Style Manual for Machine-Readable Data Filed and Their Documentation (available from the National Criminal Justice Reference Services).
   c. The efforts to be taken to ensure that datasets prepared under proposed effort will be compatible with existing BJS datasets.
4. Discussion of validity and reliability checks on data to be collected.
   a. Procedures for data collection and entry.
   b. Assessment of prosecutor operating systems.
   c. Comparison of analytical results of this effort to previous prosecution research and data collection findings.
5. Methodology and discussion of the features of the proposed approach to data collection and analysis; how it compares to previous efforts to compile such data. Demonstrated familiarly with past and ongoing efforts to collect transactional data on felony arrests.
6. A clear budget narrative.
7. An organization capability statement.
8. Project deliverables should include (at minimum):
   a. Machine-readable datasets which conform to BJS standards (see 3b) for the summary data from the representative sample and jurisdication-specific data.
   b. Final report with detailed jurisdiction-specific tabulations as well as summary tables for the combined jurisdictions.
   c. Special topic report suitable for use as a BJS special report or bulletin.
   d. Raw format 1987 data submitted by selected jurisdictions.
9. A completed and signed SF–424.

VI. Review and Selection Process

Interested research organizations are invited to submit applications to receive a cooperative agreement from BJS. The funding period for this effort will commence on or about July 1, 1987.

Any applicant selected in response to this solicitation will have the full cooperation of the current grantee in the transfer of data files, operations manuals, computer programs, and other related documents in order to effect a smooth transition of the project and to minimize any loss of continuity in project activities.

Major criteria to be used in reviewing proposals are:

1. Does the applicant present a sound and cost-effective approach to carrying out this project?

2. Does the applicant have the organizational capability to conduct large-scale, multisite data collection activities?

3. Does the applicant provide evidence of a staff or the ability to obtain a staff which possesses extensive knowledge and understanding of the criminal justice system and whose experience indicates an ability to obtain the cooperation and participation of public officials?

4. Will the applicant meet the needs of BJS data collection programs by providing machine readable datasets and documentation?

5. Will the applicant be able to complete this project within an 18-month period and for the proposed budgeted amount? (BJS will make an award of from $375,000 to $425,000 to the successful applicant.)

All applications will be competitively reviewed by a BJS selected panel consisting of five persons (one BJS staff member, two representatives from other DOJ agencies, and two reviewers from outside the Federal government). The panel will recommend for the award the single applicant with the best overall proposal. Final authority to award a cooperative agreement is reserved to the Director of the Bureau of Justice Statistics.

VII. Who May Apply

Public or private, non-profit and profitmaking organizations (which are willing to waive their fee) may apply for this cooperative agreement.

Dated: February 6, 1987.

Steven R. Schlesinger,

Director, Bureau of Justice Statistics.

[FR Doc. 87-3435 Filed 2-28-87; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

DATE: Time and place: March 10, 1987, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy. For further information, contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565. Signed at Washington, DC this 12th day of February 1987.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 87-3455 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-28-M

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Mangement and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Mangement, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, D.C. 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration
Title 29 CFR Part 29—Labor Standards for the Registration of Apprenticeship Programs
On Occasion
Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
192,040 respondents; 37,086 hours; 1 form
Needed by employers, apprentices, and State apprenticeship agencies to set forth labor standards to safeguard the welfare of apprentices and to extend the application of such standards by subscribing policies and procedures concerning the registration for certain Federal purposes of acceptable apprenticeship programs.

Revision

Employment and Training Administration
Title 29 CFR Part 30—Equal Employment Opportunity in Apprenticeship and Training
1205-0224
On Occasion
Individuals or households, State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
5,000 hours; 7,316 hours
This information is required to promote and ensure equality of opportunity with sponsors of apprenticeship programs registered with recognized State Apprenticeship Agencies.

Extension

Bureau of Labor Statistics
Information for the Employment Cost Index
1220-38; BLS 3038A, 3038B, 3038C, 3038E/T, and 3038E/M
Quarterly
State or local governments; Businesses or other for-profit; non-profit institutions; small busineses or organizations
18,472 responses; 17,503 hours; 6 forms
The information collection covered by this request is needed to publish the ECI, which measures trends in employee compensation costs. The ECI is used to analyze the relationships between changes in productivity, employment, output prices, and compensation costs. The survey covers the private nonfarm economy and State and local governments.

Reinstatement

Occupational Safety and Health Administration
Post Inspection Employer Questionnaire
1218-0049; OSHA 164A; OSHA 164B
On occasion

Farms; Businesses or other for profit; Small businesses or organizations
7,000 responses, 1,050 hours
Employers and employees who have been inspected by OSHA are asked to give their impressions of the technical knowledge and professional conduct of the CSHO who visited them. This information is used to assess the impressions OSHA leaves and to change policies and devise appropriate training to correct problems.

Signed at Washington, DC, this twelfth day of February, 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87-3479 Filed 2-18-87; 8:45 am]

BILLING CODE 4810-30-M

Employment and Training Administration

[TA-W-18,458]

Alpha Consulting, Inc., and Pintex Petroleum Corp., Boulder, CO; Affirmative Determination Regarding Application for Reconsideration

By an application dated November 14, 1986, a petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of former workers at the subject companies in Boulder, Colorado. The determination will soon be published in the **Federal Register.**

A petitioner claims and presents evidence that the subject companies are not service companies but produce an article—crude oil and gas. The oil and gas were sold to companies in Oklahoma and Kansas.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 18th day of December 1986.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87-3457 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,785]

American Pipe and Steel Supply Co., Houston, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 22, 1986 in response to worker petition received on December 15, 1986 which was filed on behalf of workers at American Pipe and Steel Supply Company, Houston, Texas.

A negative determination applicable to the petitioning group of workers was issued on January 15, 1987 (TA-W-18,769). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 11th day of February 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-3458 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,054]

BJ-Titan Services, Hays, KS; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 2, 1987 in response to a worker petition received on January 12, 1987; and filed by the employees on behalf of the workers at BJ-Titan Services, Hays, Kansas.

A negative determination applicable to the petitioning group of workers was issued on November 20, 1986 (TA-W-18,484). No new information is evident which would result in a reversal of the Department's previous determination. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 9th day of February 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-3459 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,002 and TA-W-18,003]

Bunker Limited Partnership Crescent Silver Mine, Inc., and Kellogg, ID and Big Creek, ID; Negative Determination Regarding Application for Reconsideration

By an application dated December 5, 1986, a company official at the Crescent Mine, Inc., requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Bunker Limited Partnership, Crescent Silver Mine, Inc., Kellogg and Big Creek, Idaho. The denial notice was published in the **Federal Register** on November 18, 1986 (51 FR 41681).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The company official claims that the lower domestic price of silver during the first five months of 1986 was caused by increased silver imports during the same period. It is also claimed that the Department certified workers at the Hecla Mining Company's Lucky Friday silver-lead mine and the Sunshine Mining Company's silver mine located adjacent to the Crescent Mine. The company official also claimed, by phone, that the conditions which warranted the Department to revise its earlier determination for workers at the Hecla's Star Mine in Wallace, Idaho are similar to those at Crescent Mine.

Findings in the investigation showed that the Crescent Mine produced silver ore, which was processed into silver concentrate. During the recent periods, all the silver concentrate produced by the Crescent Mine was exported to customers located outside the United States. Reduced export sales are not a basis for certification under the terms of the Trade Act of 1974.

Increased imports because of lower prices is not sufficient to certify workers as eligible to apply for adjustment assistance within the meaning of the Trade Act. The Act states that increased imports must "contribute importantly" to a decline in sales or production and to worker separations. All of the group criteria for certification were met for workers at Hecla Mining Company's Lucky Friday Mine in Mullan, Idaho (TA-W-17,506) and Sunshine Mining Company's silver mine in Kellogg, Idaho (TA-W-17,522) including the "contributed importantly" test. The

contributed importantly test is generally demonstrated through a survey of the subject firm's customers. The Department's surveys of customers showed that the major customers of both mines increased their import purchases of silver in 1985 compared to 1984 while reducing their purchases from the subject firms.

The issue in the Department's revised determination for workers of Hecla's Star Mine in Wallace, Idaho (TA–W–13,506) is not the same as that posed in the instant case. For instance, none of the products were exported by the Star Mine. In the instant case the entire production of silver concentrate was exported. Secondly, the products produced were different. The Star Mine produced primarily zinc concentrates with lesser amounts of lead and silver concentrates whereas the Crescent Mine produced exclusively silver ore and concentrates. Lastly, the Department findings show that the Star Mine was jointly owned by the Bunker Hill Company and the Hecla Mining Company, the only customers of the Star Mine. The Department certified the workers at the Bunker Hill Company's zinc smelter after workers at the Star Mine were denied certification. Because one of the owners and the major customer of the Star Mine had workers certified eligible for adjustment assistance, the Department's notice of negative determination was reconsidered and workers at Hecla's Star Mine were certified eligible to apply for adjustment assistance. The Department sees no similarity in the two cases.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 24th day of December 1986.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87–3460 Filed 2–18–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–19,023]

Joy Manufacturing Co., Richmond, TX; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 29, 1987 in response to a worker petition which was filed on behalf of workers at Joy Manufacturing Company, Richmond.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–18,996). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 10th day of February, 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–3461 Filed 2–18–87; 8:45 am]

BILLING CODE 4510–30–M

McInnes Steel Co., Corry, PA et al; 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 January 26, 1987–January 30, 1987 and February 2, 1987–February 6, 1987.

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–18,722; McInnes Steel Company, Corry, PA

TA–W–18,425; NL Industries, Baroid Div., Potosi, MO

TA–W–18,430; Harshaw/Filtrol Partnership, Filtrol Div., Salt Lake City, UT

TA–W–18,870; Marvin E. Boyer Oil Co., Iola, KS

TA–W–18,660; Blackstone Corp., Jamestown Malleable Iron Div., Jamestown, NY

TA–W–18,580; Springfield Foundry Co., Inc., Indian Orchard, MA

TA–W–18,275; Western Gear Machinery Corp., Everett, WA

TA–W–18,559; Marion-Heil Bronze Co., Marion, OH

TA–W–18,821; Charles E. Mayfied Co., Princeton, LA

TA–W–18,701; Metal Specialties, Inc., Odessa, TX

TA–W–18,515; Williams Hand Tools, Inc., Buffalo, NY

TA–W–18,650; S & G Sporting Goods, Inc., Taunton, MA

TA–W–18,449; Monsanto Chemical Co., Nitro, WV

TA–W–18,450; Todd Pacific Shipyards Corp., Seattle Div., Seattle, WA

TA–W–18,607; Brown & Root Marine, Harbor Island Fabrication Yard, Aransas Pass, TX

TA–W–18,514; Connie Blouse Co., Inc., Roseto, PA

TA–W–18,537; Beverly Blouse Co., Inc., Nazereth, PA

TA–W–18,027; Mobil Oil Corp., Ventura, CA

TA–W–18,028; Mobil Oil Corp., Kern (Bakersfield), CA

TA–W–18,029; Mobil Oil Corp., San Ardo, CA

TA–W–18,166; Confer Smith & Co., Hamburg, PA

TA–W–18,817; Bethlehem Rebar Industries, Channelview, TX

TA–W–18,644; Butler Refractories Co., Pittsburgh, PA

TA–W–18,012; Standard Oil Production Company, Anchorage, AK

TA–W–18,013; Standard Oil Production Company, Houston, TX, Executive Offices

TA–W–18,014; Standard Oil Production Company, Houston, TX, Gulf Coast Div.

TA–W–18,015; Standard Oil Production Company, Dallas, TX, Continental Div.

TA–W–18,016; Standard Oil Production Company, Dallas, Tx, Technology Center

TA–W–18,017; Standard Oil Production Company, Midland, TX

TA–W–18,018; Standard Oil Production Company, Oklahoma City, OK

TA–W–18,019; Standard Oil Production Company, Cleveland, OH, Headquarters

TA–W–18,020; Standard Oil Production Company, Warrensville Lab, Cleveland, OH

TA–W–18,021; Standard Oil Production Company, Casper, WY

TA–W–18,565; Mal Marshall, Inc., Miami, FL

TA–W–18,455; Lockheed Maune, Seattle, WA

TA–W–18,385; Mid West Transformer Co., Grayslake, IL

TA–W–18,369; Reading Industries, Inc., Reading Tube Div. Reading, PA

TA–W–18,593; Saxon Oil Co., Dallas, TX

TA–W–18,593A; Saxon Oil Co., Big Lake, TX

TA–W–18,593B; Saxon Oil Co., Midland, TX

TA–W–18,642; E.I. DuPont De Nemours & Co., Inc., Charleston, SC

TA–W–18,366; Cooper Energy Service, Superior Div., Springfield, OH

TA–W–18,865; I-F Manufacturing Co., New Philadelphia, OH

TA–W–18,555; Ridge Tool Co., Elyria, OH

TA-W-18,283; Rheem Manufacturing Co., Houston, TX
TA-W-18,427; Mitel Caribe, Inc., Bayamon, PR
TA-W-18,516; Lehigh Portland Cement Co., Waco, TX
TA-W-18,704; Abex Corp., Railroad Product Group, Superior, WI
TA-W-18,637; U.S. Metals Refining Co., Div., of Amax, Carteret, NJ
TA-W-18,533; Ensign Bickford Co., Louviers, CO
TA-W-18,556; Superior Drawn Steel Co., Monaca, PA
TA-W-18,431; Ideal Basic Industries, Florence, CO
TA-W-18,361; Dumore Corp., Racine, WI
TA-W-18,568; Ideal Basic Industries, Colorado Div., Superior, NE
TA-W-18,461; Micro Component Technology, St. Paul, MN
TA-W-18,962; Emerald Service, Inc., Titusville, PA
TA-W-18,737; Kaiser Aluminum & Chemical Corp., Mead Works, Mead, WA
TA-W-18,738; Kaiser Alumimum & Chemical Corp., Trentwood Rolling Mill, Trentwood, WA
TA-W-18,328; AT&T Technologies, Inc., AT&T Network Systems, Atlanta, GA
TA-W-18,403; Lawsilk Ribbon Corp., Allentown, PA
TA-W-18,404; Lawsilk Ribbon Corp., Bethlehem, PA
TA-W-18,643; Advanced Specialty & Platers & Coaters, Inc., Lansdowne, PA
TA-W-18,435; AT&T Information Systems, Service Center, Milwaukee, WI
TA-W-18,587; Ithaca Gun Co., Ithaca, NY
TA-W-18,588; Lthaca Gun Co., Cameron, MO
TA-W-18,459; L.E. Jones Co., Menominee, MI

The following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-19,021; Olan Mills, 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-18,984; FIP, 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-18,991: DJ Inspection Service, 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-19,000; JICO Fishing Tools, 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-19,001; Panther Drilling, Inc., 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-19,002; CGG American Service, 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-19,005; Machen Well Service, 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-19,012; Fitz Equipment Co., 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-18,816; Consolidated Cigar Co., McAdoo, PA

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of cigars did not increase as required for certification.

TA-W-19,009; Cecil I. Walker Machinery Co., Belle, WV

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,888; Levi Strauss & Company, Blackstone, VA

Separations at the subject firm were due to a domestic transfer of operations.

TA-W-18,716; Eimco Mining Machinery International, Salt Lake City, UT

Criterion (3) has not been met. The subject firm predominently exported its production.

TA-W-18,956; Rose & Sons, 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-18,718; Salem Technical Services, Beloit, WI

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,707; Fausett International, Osburn, ID

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,720; Stedor Enterprises, Ltd, Taylor, S.C.

The investigation revealed that employment declines during the relevant period was the result of normal business fluctuations.

TA-W-18,871; Leamco Service, 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-18,717; Rockwell International Corp., Highway Brake & Trailer Axles Div., Ashtabula, OH

The declines have been attributable to reduced exports.

TA-W-18,407; Appleton Electric Co., Foundry Div., South Milwaukee, WI

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-18,227; Chevron USA, Inc., Cleves Refinery, Cleves, OH

Aggregate U.S. imports of gasoline and diesel fuel did not increase as required for certification.

TA-W-18,591; Arl-La-Tex Oil and Gas, Inc., Witchita Falls, TX

Aggregate U.S. imports of crude oil did not increase as required for certification.

TA-W-17,739; Levi Strauss & Co., Tyler, TX

The investigation revealed that criterion (3) has not been met due to a domestic transfer of production.

TA-W-18,479; Hockensmith Corp., Penn, PA

Aggregate U.S. imports of ingot molds are negligible.

TA-W-18,829; Wisco Casing, Inc., Dickinson, ND

Aggregate U.S. imports of oilfield pumps are negligible.

TA-W-18,563; Mid-Continent Resources, Inc., Carbondale, CO

Aggregate U.S. imports of coal are negligible.

TA-W-18,603; Bedcor, Inc., Comfort, WV

Aggregate U.S. imports of coal are negligible.

TA-W-18,583; Trans American Natural Gas Corp., Laredo, TX

Aggregate U.S. imports of natural gas did not increase as required for certification.

TA-W-18,335; Christy Park Industries, Inc., McKeesport, PA

U.S. imports of pressure containers were less than nine percent in relation to domestic shipment in 1985.

TA-W-18,645; Valley Camp of Utah, Inc., Helper, UT

Aggregate U.S. imports of coal are negligible.

TA-W-18,008; Beth Energy Mines, Ebensburg, PA

U.S. imports of coal are negligible.

TA-W-18,566; Homestake Mining Co., Mineral Exploration Div., 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-18,567; Homestake Mining Co., Mineral Exploration Div., Golden, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,672; Duval Corporation, Tucson, AZ

Aggregate U.S. imports of copper and molybdenum did not increase as required for certification.

TA-W-18,673; Duval Corporation, Mineral Park Property, Kingman, AZ

Aggregate U.S. imports of copper and molybdenum did not increase as required for certification.

TA-W-18,674; Duval Corporation, Sierrita Property, Sahuarita, AZ

Aggregate U.S. imports of copper and molybdenum did not increase as required for certification.

TA-W-18,488; Fansteel Pasco Gear, Phoenix, AZ

Aggregate U.S. imports of steel gears did not contribute importantly to the declines at the subject firm.

TA-W-18,648; Weyerhaeuser Co., Twin Harbor Region, Raymond Peell Woods Div. Raymond, WA

Aggregate U.S. imports of logs are negligible.

TA-W-18,575; LTV Steel Co., Campbell Works Seamless Div., Youngstown, OH

Aggregate U.S. imports of seamless steel pipe did not increase as required for certification.

TA-W-18,176; Schweizer Dipple, Inc., Cleveland, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,370, Blue Stread Industries, Inc., Pearlington, MS

Aggregate U.S. imports of offshore barges are negligible.

TA-W-18,371; Blue Streak Marine, Inc., Belle Chasse, LA

Aggregare U.S. imports of offshore barges are negligible.

TA-W-18,769; American Pipe and Steel Supply, 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-18,517; Utex Industries, Inc., Weimer, TX

Aggregate U.S. imports of seals and gaskets did not contribute importantly to the subject firm's sales or employment declines.

TA-W-18,512; North American Philips Lighting Corp., Bloomfield, NJ

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-18,193; Portec, Inc., Railway Maintenance Products Div. Troy, NY

Aggregate U.S. imports of railroad joint bars did not increase as required for certification.

TA-W-18,962; National Mine Service Co., Greenup, KY

Increased imports did not contribute importanly to worker separations at the firm.

TA-W-18,374; Mobil Exploration and Producing Service, Inc., Dallas, TX

Aggregate U.S. imports of refined petroleum products did not increase as required for certifications.

TA-W-18,375; Mobil Oil Corp., Mobil Producing Texas and New Mexico, Inc., Houston TX

Aggregate U.S. imports or refined petroleum products did not increase as required for certification.

TA-W-18,679; General Motors Corp., CPC Hamilton-Fairfield, Hamilton, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-18,745; Pratt Mining Co., Campbell Creek, WV

Aggregate U.S. imports of coal are negligible.

TA-W-18,336; Westran Corp., Muskegan, MI

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-18,373; Thomas Steel Strip Corp., Warren, OH

Aggregate U.S. imports of metallic coated sheets did not increase as required for certification.

TA-W-18,621; U.S. Steel Mining Co., Gary #51 (Shawnee) Mine, Pineville, WV

Aggregate U.S. imports of coal are negligible.

TA-W-18,627; U.S. Steel Mining Co., Gary #50 Mine, Pineville, WV

Aggregate U.S. imports of coal are negligible.

TA-W-18,281; Pittsburgh Tube Co., Monaca & Darlington Div., Pittsburgh, PA

Aggregate U.S. imports of mechanical tubing did not increase as required for certification.

TA-W-18,420; Gemini Engine Co., Corpus Christi, TX

Aggregate U.S. imports of oilfield equipment and pumps are negligible.

TA-W-18,629; Umetco Minerals Corp., Hot Springs, AR

Aggregate U.S. imports of ferrovandium did not increase as required for certification.

TA-W-18,392; Skar-Ore Steamship Corp., Cleveland, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Ace of 1974.

TA-W-18,417; Caterpillar, Inc., Decatur, IL

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-18,448; Dana Corp., Spicer Axle Div., New Castle, IN

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-18,884; C.B.I. Service, Inc., Salt Lake City, UT

Aggregate U.S. imports of oil storage tanks are negligible.

TA-W-18,697; USX Corp., US Steel Supply Div., Seattle, WA

Increased imports did not contribute importantly to the employment decline at the subject firm.

TA-W-18,960; Natco, Electra, TX

Aggregate U.S. imports of oil storage tanks are negligible.

TA-W-18,638; Ohio River Pipe Line Co., Pump Station and Tank Farm, East Sparta, OH

U.S. imports of oil did not contribute importantly to employment declines at the subject firm.

TA-W-18,684; Ashland Petroleum Co., Field Office & Garage, East Canton, OH

U.S. imports of oil did not contribute importantly to employment declines at the subject firm.

Affirmative Determinations

TA-W-18,349; Transamerica Delaval, Pumptron Div., Gettysburg, OH

A certification was issued covering all workers of the firm separated on or after October 2, 1985.

TA-W-18,703; Bohn Aluminum & Brass Adrian, MI

A certification was issued covering all workers of the firm separated on or after November 18, 1985.

TA-W-18,469; Worcester Controls Corp., West Boylston, MA

A certification was issued covering all workers of the firm separated on or after October 9, 1985.

TA-W-18,997; Tenneco Oil Co., Exploration and Production Div., San Antonio, TX

A certification was issued covering all workers of the firm separated on or after January 9, 1985.

TA-W-18,798; Cleveland Cliffs Iron Co., Tilden Mining Co., National Mine, MI

A certification was issued covering all workers of the firm separated on or after December 10, 1985.

TA-W-18,725; Harmony Mills, Cumberland, RI

A certification was issued covering all workers of the firm separated on or after November 21, 1985 and before April 30, 1986.

TA-W-18,753; Medical Products Co., Racine, WI

A certification was issued covering all workers of the firm separated on or after June 1, 1986.

TA-W-18,565; Damson Oil Corp., Drilling Department, Houston, TX

A certification was issued covering all workers of the firm separated on or after October 21, 1985.

TA-W-18,297; Exxon Co., USA, Production Department South Texas Div., Exploration Dept., Gulf Coast Div., Corpus Christi, TX

A certification was issued covering all workers of the firm separated on or after August 18, 1985.

TA-W-18,743; Exxon Co., USA, Exploration Department, Central Exploration Div., Midland, TX

A certification was issued covering all workers of the firm separated on or after November 24, 1985.

TA-W-18,744; Exxon Co., USA, Production Department, Southwestern Div., Midland, TX

A certification was issued covering all workers of the firm separated on or after November 24, 1985.

TA-W-17,930; Laconia Shoe Co., Inc., Laconia, NH

A certification was issued covering all workers of the firm separated on or after August 21, 1985.

TA-W-18,319; U.S. Shoe Corp., Womens Footwear Division, Cincinnati, OH

A certification was issued covering all workers of the firm separated on or after September 29, 1985.

TA-W-18,774; Marathon Oil Co., Midland, TX

A certification was issued covering all workers of the firm separated on or after December 3, 1985.

TA-W-18,530; Cowden Manufacturing Co., Lancaster, KY

A certification was issued covering all workers of the firm separated on or after January 1, 1986.

TA-W-18,713; Lamar Manufacturing Co., Millport, AL

A certification was issued covering all workers of the firm separated on or after November 19, 1985.

TA-W-18,610; RCA Consumer Electronic IHVT ROSE Dept., Indianapolis, IN

A certification was issued covering all workers of the TV transformer department of the firm separated on or after October 17, 1985 and before February 15, 1987.

TA-W-18,698; Pressed Steel Tank Co., Milwaukee, WI

A certification was issued covering all workers of the firm separated on or after November 13, 1985.

TA-W-18,313; BHP Petroleum (Americas), Inc., Midland, TX

A certification was issued covering all workers of the firm separated on or after September 22, 1985.

TA-W-18,180; Nylon Net Co., Inc., Memphis, TN

A certification was issued covering all workers of the firm separated on or after September 4, 1985.

TA-W-18,765; Canterra Petroleum, Inc., Denver, CO

A certification was issued covering all workers of the firm separated on or after November 3, 1985.

TA-W-18,437; Donlin Sportswear, Inc., New Tazewell, TN

A certification was issued covering all workers of the firm separated on or after October 7, 1985.

TA-W-18,651; Reynolds Metals Co., Eagle Pass, TX

A certification was issued covering all workers of the firm separated on or after October 30, 1985.

TA-W-18,324; Canton Drop Forge, Canton, OH

A certification was issued covering all workers of the firm separated on or after September 29, 1985.

TA-W-18,665; Moench Tanning Co., Gowanda, NY

A certification was issued covering all workers of the firm separated on or after November 5, 1985.

TA-W-18,573; Alcoa Conductor Products, Vancouver, WA

A certification was issued covering all workers of the firm separated on or after April 1, 1986.

TA-W-18,611; Illua Saronno, Edison, NJ

A certification was issued covering all workers of the firm separated on or after August 25, 1985.

TA-W-17,810; Corsicana, Co., Corsicana, TX

A certification was issued covering all workers of the firm separated on or after July 21, 1985 and before October 3, 1985.

TA-W-18,596; Singer Furniture Co., Bryson City, NC

A certification was issued covering all workers of the firm separated on or after October 24, 1985 and before February 2, 1987.

TA-W-17,761; Mindy Leather Fashions, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after July 7, 1985.

TA-W-18,207; Blumenthal Manufacturing Co., Inc., Los Angeles, CA

A certification was issued covering all workers of the firm separated on or after August 22, 1985 and before July 31, 1986.

TA-W-18,597; Brown Disc Manufacturing, Inc., A Subsidiary of the Phone Poulenc S.A., Colorado Springs, CO

A certification was issued covering all workers of the firm separated on or after October 24, 1985.

TA-W-17,680; Empire Robe Manufacturing Co., Long Island City, NY

A certification was issued covering all workers of the firm separated on or after May 15, 1985 and before May 1, 1986.

TA-W-18,168; Ridgway Color Co., Ridgway, PA

A certification was issued covering all workers of the firm separated on or after September 11, 1985.

TA-W-18,541; Fina Oil and Chemical Co., Denver, Colorado Exploration & Production District

A certification was issued covering all workers of the firm separated on or after October 15, 1985.

TA-W-18,528; Utex Oil Company and Utex Drilling Co., Salt Lake City, UT And All Other Nationwide Locations

A certification was issued covering all workers of the firm separated on or after October 16, 1985.

TA-W-18,574; LTV Steel Co., Inc., Nemacolin (Buckeye) Mine, Nemacolin, PA

A certification was issued covering all workers of the firm separated on or after October 23, 1985.

TA-W-18,242; Belco Industries, Inc., Famco Machine Div., Kenosha, WI

A certification was issued covering all workers of the firm separated on or after September 15, 1985.

TA-W-18,519; Calnap Tanning Co., Napa, CA

A certification was issued covering all workers of the firm separated on or after July 1, 1986.

TA-W-18,641; Baldt, Inc., Chester, PA

A certification was issued covering all workers of the firm separated on or after October 16, 1986.

TA-W-18,278; A.I.E. Magnetics, Nashville, TN

A certification was issued covering all workers of the firm separated on or after September 23, 1985.

TA-W-18,164; Arrow Pants, Garfield, NJ

A certification was issued covering all workers of the firm separated on or after August 25, 1985 and before May 4, 1986.

TA-W-17,909; Champlin Petroleum Co., Houston, TX

A certification was issued covering all workers of the firm separated on or after August 15, 1985.

TA-W-17,710; Champlin Petroleum Co., Corpus Christi, TX

A certification was issued covering all workers of the firm separated on or after August 15, 1985.

TA-W-18,260; Diversified Products Corp., Opelika, AL

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-18,341; Enduro Stainless, Inc., Massillon, OH

A certification was issued covering all workers of the firm separated on or after September 25, 1985.

TA-W-18,531; Fayscott, Dexter, ME

A certification was issued covering all workers of the firm separated on or after October 15, 1985.

TA-W-18,184; Pennsylvania Steel Foundry and Machine Co., Hamburg, PA

A certification was issued covering all workers of the firm separated on or after September 11, 1985.

TA-W-18,529; Sprague Electric Co., Lansing, NC

A certification was issued covering all workers of the firm separated on or after October 16, 1985.

TA-W-18,189; HKH Industries, Inc., Jacksonville, FL

A certification was issued covering all workers of the firm separated on or after September 4, 1985 and before January 5, 1987.

TA-W-18,191; Birdsboro Corp., Birdsboro, PA

A certification was issued covering all workers of the firm separated on or after September 10, 1985.

TA-W-18,192; Birdsboro Corp., Reading, PA

A certification was issued covering all workers of the firm separated on or after September 10, 1985.

TA-W-18,550; Eaton Corp., Forge Div., Marion, OH

A certification was issued covering all workers of the firm separated on or after October 13, 1985.

TA-W-18,763; Weyerhaeuser Co., Southwest Oregon Div., North Band Logging Operation, North Bend, OR

A certification was issued covering all workers of the firm separated on or after December 2, 1985.

TA-W-18,557; Diamond Match Co., Springfield, MA

A certification was issued covering all workers of the firm separated on or after October 24, 1985.

TA-W-18,584; Honeywell, Inc., Arlington Heights, IL

A certification was issued covering all workers of the firm separated on or after October 27, 1985.

TA-W-17,950; Acme Boot Co., Inc., Waverly, TN

A certification was issued covering all workers of the firm separated on or after August 20, 1985.

TA-W-18,564; Stetson Hat Co., St. Joseph, MO

A certification was issued covering all workers of the firm separated on or after October 20, 1985.

TA-W-18,689; Evenflo Juvenile Furniture Co., Piqua, OH, A Div. of Spaulding & Evenflo, Inc.

A certification was issued covering all workers of the firm separated on or after October 29, 1985.

TA-W-18,470; Weyenberg Shoe Manufacturing Co., Spring Street Plant, Beaver Dam, WI

A certification was issued covering all workers of the firm separated on or after October 14, 1985.

TA-W-18,207; Blumenthal Manufacturing Co., Inc., Los Angeles, CA

A certification was issued covering all workers of the firm separated on or after August 22, 1985 and before July 31, 1986.

TA-W-18,754; Conoco, Inc., Production Dept., Great Bend, KS

A certification was issued covering all workers of the firm separated on or after November 9, 1985.

TA-W-18,700; Elkay Industries, Inc. (Formerly Pioneer Ltd.), Sumter, SC

A certification was issued covering all workers of the firm separated on or after November 12, 1985.

TA-W-18,685; Freeman Shoe Co., Inc., Div. of U.S. Shoe Corp., Emmitsburg, MD

A certification was issued covering all workers of the firm separated on or after October 31, 1985.

TA-W-18,661; Freeman Shoe Co., Inc., Div. of U.S. Shoe Corp., Hanover, PA

A certification was issued covering all workers of the firm separated on or after July 15, 1986.

TA-W-18,795; James E. Russell Petroleum, Inc., Kansas Div., Oilfield Research Laboratories, Chanute, KS

A certification was issued covering all workers of the firm separated on or after November 19, 1985.

TA-W-18,666; LTV Steel Corp., Clyde Mine, Fredericktown, PA

A certification was issued covering all workers of the firm separated on or after November 6, 1985.

TA-W-18,641; Baldt, Inc., Chester, PA

A certification was issued covering all workers of the firm separated on or after October 16, 1986.

I hereby certify that the aforementioned determinations were issued during the period January 26, 1987–January 30, 1987 and February 2, 1987–February 6, 1987. 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: February 10, 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-3462 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

Mitchell Energy and Development Corp., and Southwestern Gas Pipeline, Inc. and Subsidiaries; Termination of Investigation

TA-W-#	Firm	Plant location
18,918	Ferguson Crossing Pipeline Co	Lyons, TX
18,919	Ferguson Crossing Pipeline Co	San Antonio, TX
18,920	South Cen-Tex Gas Co	San Antonio, TX
18,921	Southwestern Gas Pipeline, Inc	Mineral Wells, TX
18,922	Southwestern Gas Pipeline, Inc	San Antonio, TX
18,923	Winnie Pipeline Co	Winnie, TX

Pursuant to section 221 of the Trade Act of 1974, investigations were initiated on January 12, 1987 in repsonse to worker petitions received on January 12, 1987 which were filed December 29, 1986 on behalf of workers at the above firms.

The petition has requested that the petitions be withdrawn. Consequently, further investigation in these cases would serve no purpose; and the investigations have been terminated.

Signed at Washington, DC this 10th day of February 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-3463 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,321]

National Glove, Inc., Chestnut Street Plant, Mount Sterling, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 27, 1986 applicable to all workers of the Chestnut Street Plant of National Glove, Inc., Mount Sterling, Ohio. The Certification notice was published in the **Federal Register** on November 18, 1986 (51 FR 41682).

The intent of the certification is to cover only workers of National Glove, Inc., in Mount Sterling, Ohio who were adversely affected because of increased import competition of industrial work gloves.

Based on information subsequently furnished by the company on production activities at the Chestnut Street plant which involved sewing car mats, the certification is being amended to show that workers engaged in the production of car mats are not included. Car mats are not impacted by increased import competition.

The amended notice applicable to TA-W-17,321 is hereby issued as follows:

All workers of the Chestnut Street plant of National Glove, Incorporated, Mount Sterling, Ohio, except those engaged in employment related to the production of car mats, who became totally or partially separated from employment on or after October 15, 1985 and before May 13, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 12th, day of December 1986.

Carolyn M. Golding,

Director, Office of Unemployment Insurance Services.

[FR Doc. 87-3464 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

Red Snapper Rentals et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether

the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 1, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 1, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 9th day of February 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Red Snapper Rentals (Workers)	Midland, TX	2/2/87	1/21/87	TA-W 19,065	Oil drilling tools.
AT&T Technologies (CWOA)	Kent, WA	2/2/87	1/21/87	TA-W 19,066	Repair of telephones.
Hamilton Brothers Oil (Workers)	Denver, CO	2/2/87	1/8/87	TA-W 19,067	Oil and natural gas.
BB Robinson, Jr. (Workers)	Wichita Falls, KS	2/2/87	1/20/87	TA-W 19,068	Seismic exploration on oil wells.
Leckie Smokeless Coal (UMWOA)	Rupert, WV	2/2/87	1/21/87	TA-W 19,069	Mid volatile metallurgical coal.
Ranger Fuel Corp., Beckly #4 Mine (UMWOA)	Beckley, WV	2/2/87	1/21/87	TA-W 19,070	Low volatile metallurgical coal.
Gulf Marine Fabricators (Workers)	Ingelside, TX	2/2/87	1/22/87	TA-W 19,071	Jackets & decks for offshore drilling rigs.
IS&S, Inc. (Workers)	Odessa, TX	2/2/87	1/15/87	TA-W 19,072	Resale of oilfield merchandise.
Oil Field Rental Serv. (Workers)	Van Vleck, TX	2/2/87	1/20/87	TA-W 19,073	Oilfield drilling equipment.
Shrewsbury Coal Co. (Workers)	Shrewsbury, WV	2/2/87	1/19/87	TA-W 19,074	Bituminous coal.
The New River Co. (UMWOA)	Mt. Hope, WV	2/2/87	1/21/87	TA-W 19,075	Low volatile metallurgical coal.
Bridon-American Corp. (Workers)	Wilkes Barre, PA	2/2/87	1/23/87	TA-W 19,076	Wire rope.
Terex Corp. (UAW)	Hudson, OH	2/2/87	1/21/87	TA-W 19,077	Earth moving equipment.
Aluminum Co. of America (Company)	Massena, NY	2/2/87	1/14/87	TA-W 19,078	Pig metal, extruded metal.
Wooley Tool Mfg., Inc. (Workers)	Odessa, TX	2/2/87	1/15/87	TA-W 19,079	Tongs, elevators & latches for oil rigs.
Milpark (Workers)	Midland, TX	2/2/87	1/7/87	TA-W 19,080	Drilling fluids.
Ocean Drilling & Exploration (Company)	New Orleans, LA	2/2/87	1/13/87	TA-W 19,081	Oil and natural gas.
Target Sportswear, Jaquar Mfg. (ACTWU)	Smethport, PA	2/2/87	1/22/87	TA-W 19,082	Men's clothing.
Convergence Corp. (Company)	El Paso, TX	2/2/87	1/19/87	TA-W 19,083	Video tape editing equip.
Jackson Products Co. (SMWIA)	Tampa, FL	2/2/87	1/21/87	TA-W 19,084	Commercial dishwasher.
Adelphia Button Co. (Workers)	Philadelphia, PA	2/2/87	2/2/87	TA-W 19,085	Buttons.
Cadet Manufacturing Co. (Workers)	Vancouver, WA	2/2/87	1/2/87	TA-W 19,086	Electric heaters.
Johnson Industries (Workers)	Odessa, TX	2/2/87	1/20/87	TA-W 19,087	Oilfield equipment.
Cowden's Mfg. Co. (Workers)	Springfield, KY	2/2/87	12/31/86	TA-W 19,088	Jeans.
Jan Electric (Workers)	Monahans, TX	2/2/87	1/14/87	TA-W 19,089	Oil field machinery.
General Electric (Workers)	Syracuse, NY	2/2/87	1/14/87	TA-W 19,090	CRT's.
Sprague Electric (Workers)	Visalia, CA	2/2/87	1/19/87	TA-W 19,091	Transformers.
XTEK (Company)	Cincinnati, OH	2/2/87	1/19/87	TA-W 19,092	Ditch gear.
Thermo Teck (Workers)	Houston, TX	2/2/87	1/19/87	TA-W 19,093	Insulation service.
Beechcraft (Workers)	Selma, AL	2/9/87	1/9/87	TA-W 19,094	Aircraft.
Arvin North American Automotive (Workers)	Franklin, IN	2/9/87	1/26/87	TA-W 19,095	Mainfolds, catalytic converters & exhaust systems.
American Brass Co. (UBCJOA)	Kenosha, WI	2/9/87	1/27/87	TA-W 19,096	Brass mill products.
Health Tex, Inc. (ACTWU)	Danville, VA	2/9/87	1/30/87	TA-W 19,097	Children's wear.
Health Tex, Inc. (ACTWU)	Cowpens, SC	2/9/87	1/30/87	TA-W 19,098	Knitting goods.
Health Tex, Inc. (Company)	Brunswick, ME	2/9/87	1/29/87	TA-W 19,099	Children's shirts.
Health Tex, Inc. (Company)	Portland, ME	2/9/87	1/29/87	TA-W 19,100	Children's shirts.
Health Tex, Inc. (Company)	Gardiner, ME	2/9/87	1/29/87	TA-W 19,101	Children's shirts.
Health Tex, Inc., Div./Imperial Reading (ACTWU)	Christianburg, VA	2/9/87	1/30/87	TA-W 19,102	Children's wear.
Health Tex, Inc., Div./Imperial Reading (ACTWU)	Petersburg, VA	2/9/87	1/30/87	TA-W 19,103	Children's wear.
Lakeview Mfg. Co. (Workers)	Lakeview, OH	2/9/87	12/30/86	TA-W 19,104	Cartridges for word processors.
Regal-Lite (Workers)	Rumford, RI	2/9/87	1/9/87	TA-W 19,105	Outdoor brass lighting fixtures.
Lee Company (Workers)	El Paso, TX	2/9/87	1/20/87	TA-W 19,106	Sewing shop for pants.
Pyramid Geophysical Co. (Workers)	Tyler, TX	2/9/87	1/22/87	TA-W 19,107	Oil exploration.
Hallmark-Parker, Div./Nutone (Workers)	Harrodsburg, KY	2/9/87	1/17/87	TA-W 19,108	Bathroom accessories.
Garlin, Inc. (Company)	Lynchburg, VA	2/9/87	1/25/87	TA-W 19,109	Dresses, blouses, etc.
M.I. Drilling Fluids Co. (Workers)	Lafayette, LA	2/9/87	1/28/87	TA-W 19,110	Oil drilling chemicals.
Lone Star Industries, Maryneal Plant (USWA)	Sweetwater, TX	2/9/87	1/27/87	TA-W 19,111	Cement.
Northern Lights, Hydro Line, Inc. (Workers)	Dickinson, ND	2/9/87	1/27/87	TA-W 19,112	Clear oil wells of parafin.
Avondale Industries, Inc. (USSA)	Chicago, IL	2/9/87	1/30/87	TA-W 19,113	Presses & automation equipment.
Bike Athletic Company (ACTWU)	Knoxville, TN	2/9/87	1/28/87	TA-W 19,114	Athletic equipment and apparel.
Consolidated Coal Co. (UMWA)	Bishop, VA	2/9/87	1/30/87	TA-W 19,115	Metallurgical coal.
Bay State Abrasives (Workers)	Westboro, MA	2/9/87	1/29/87	TA-W 19,116	Grinding wheels.
Angus Mining, Inc. (UMWA)	Caretta, WV	2/9/87	1/30/87	TA-W 19,117	Coal mining.
La Belle Producing Co. (UMWA)	Labelle, PA	2/9/87	1/30/87	TA-W 19,118	Processing of coal.
Joy Manufacturing Co. (Workers)	Kilgore, TX	2/9/87	2/2/87	TA-W 19,119	Oil field equipment.
ASARCO, Inc. (USWA)	Corpus Christi, TX	2/9/87	2/3/87	TA-W 19,120	Zinc.

[FR Doc. 87-3465 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-18,006]

Suttle Apparatus Corp., Lawrenceville, IL; Notice of Affirmed Determination Regarding Application for Reconsiderating

By an application postmarked January 14, 1987, the International Association of Machinists and Aerospace Workers requested administrative reconsideration of the Department of Labor's Notice of negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of former workers at Suttle Apparatus Corporation, Lawrenceville, Illinois. The determination was published in the **Federal Register** on January 9, 1987 (52 FR 872).

The union claimed, among other things, that the Lawrenceville facility met the decreased production and sales criterion in 1985 compared to 1984.

Conclusion

After careful review of the

application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 9th day of February 1987.

Carolyn M. Golding,

Diector, Office of Unemployment Insurance Services.

[FR Doc. 87-3466 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-86-22-M]

ASARCO Inc.; Petition for Modification of Application of Mandatory Safety Standard

ASARCO Incorporated, Box 868, Troy, Montana 59935 has filed a petition to modify the application of 30 CFR 57.16015 (work or travel on overhead crane bridges) to its Troy Mine (I.D. No. 24-01467) located in Lincoln County, Montana. 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 no person shall work from or travel on the bridge of an overhead crane unless the bridge is provided with substantial footwalks with toeboards and railings the length of the bridge.

2. Petitioner seeks a modification of the standard to allow servicing of the overhead crane without installing a footwalk on the bridge.

3. Petitioner states that any welding required to provide a footwalk may alter the structural and strength characteristics of the bridge because a footwalk was not included in the original design.

4. The crane is provided access with ladders and work decks on the rear of the crane. To lubricate the front bearings, the operator must tram the trolley to the stop blocks near the wall of the shop, and then the controls are locked out. The employee is also required to wear a safety belt.

5. Petitioner states that the positioning of the trollery, required lock-out procedures, and the use of a safety belt provide the necessary safety and access to service the overhead crane.

6. 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 March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 12, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3467 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-17-M]

Harrod Concrete and Stone Co.; Petition for Modification of Application of Mandatory Safety Standard

Harrod Concrete and Stone Company, P.O. Box 794, Frankfort, Kentucky 40602 has filed a petition to modify the application of 30 CFR 57.15002 (hard hats) to its Glenn's Creek Mill and Mine (I.D. No. 15-00020) located in Franklin County, Kentucky. 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 all persons wear suitable hard hats when in or around a mine or plant where falling objects may create a hazard.

2. Petitioner seeks a modification of the standard to allow employees to park and retrieve company vehicles underground during cold weather without wearing hard hats.

3. In support of this request, petitioner states that the drivers are not exposed to hazardous conditions in the mine. They ride in, usually in a pick-up in the morning, start their trucks and exit the mine. In the evening they return to the mine to park their trucks in the mine and ride back out. The areas where they park are bolted and well maintained.

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 March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 11, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3468 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-18-M]

Harrod Concrete and Stone Co.; Petition for Modification of Application of Mandatory Safety Standard

Harrod Concrete and Stone Company, P.O. Box 794, Frankfort, Kentucky 40602 has filed a petition to modify the application of 30 CFR 57.15030 (provisions and maintenance of self-rescue devices) to its Glenn's Creek Mill and Mine (I.D. No. 15-00020) located in Franklin County, Kentucky. 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 a one-hour self-rescue device approved by the MSHA be made available by the operator to all personnel underground, and that each operator maintain self-rescue devices in good condition.

2. Petitioner seeks a modification of the standard to allow employees to park and retrieve company vehicles underground during cold weather without having self-rescue devices.

3. In support of this request, petitioner states:

(a) The room and pillar limestone mine has no properties of combustible gases;

(b) There is always an attended vehicle accompanying the drivers to transport any employees out of the mine if the possibility of a dangerous situation should arise;

(c) The drivers are only in the mine a very short period of time; and

(d) The trucks are only parked underground during cold weather and parking the vehicles underground in a warmer atmosphere reduces the instances of exposure to the hazard associated with jump starting trucks and using starting fluid.

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 March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 11, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3469 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-19-M]

Harrod Concrete and Stone Co.; Petition for Modification of Application of Mandatory Safety Standard

Harrod Concrete and Stone Company, P.O. Box 794, Frankfort, Kentucky 40602 has filed a petition to modify the application of 30 CFR 57.17010 (electric lamps) to its Glenn's Creek Mill and Mine (I.D. No. 15-00020) located in Franklin County, Kentucky. 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 individual lamps be carried for illumination by all persons underground.

2. Petition seeks a modification of the standard to allow employees to park and retrieve company vehicles underground during cold weather without having to carry individual electric lamps.

3. In support of this request, petitioner states that the main haul roads have sufficient light and the overhead lights provide additional light. The overhead lights were experimentally turned off and the escort truck lights were adequate enough to provide safe lighting. The escort vehicle also carries a flashlight in case the overhead and escort vehicle lights both go out simultaneously.

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 March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 11, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3470 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

Mine Safety and Health Administration

[Docket No. M-86-20-M]

Kennecott-Utah Copper Division; Petition for Modification of Application of Mandatory Safety Standard

Kennecott-Utah Copper Divison, P.O. Box 31838, Salt Lake City, Utah 84131-0838 has filed a petition to modify the application of 30 CFR 56.9022 (berms or guards) to its UCD Concentrator (I.D. No. 42-00717) located in Salt Lake County, Utah. 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 berms or guards be provided on the outerbank of elevated roadways.

2. Petitioner states that providing berms or guards on all the roads of the UCD concentrator tailing pond would result in a diminution of safety for the miners affected because it would increase hazards to personnel traveling on dike roads, increase water penetration into the sand dike, will unnecessarily cause weather related roadway hazards, and will increase erosion on dike roads and embankments.

3. As an alternate method, petitioner proposes that:

(a) Permanent service roads located adjacent to canals or embankments steeper than 5:1 (horizontal or vertical) will continue to be bermed. Inclined ramp roads will be bermed along the outside edge. Berms will be extended approximately 50 feet from the ramp intersection with the uppermost pipeway;

(b) Signs limiting speed on the upper pipeway to 20 miles per hour (MPH) will be clearly posted. The peripheral pipeline is located continuously along the inside edge of the top dike road (pipeway) and provides for excellent visual demarcation;

(c) The dike, peripheral pipeline and access roads will be inspected continuously by the tailing pond operator. When erosion is noted in the edge of the dike roadways, warning markers will be immediately placed on either approach to the eroded area until repairs are completed;

(d) All active road surfaces will be maintained in a safe condition and roads will be graded regularly to maintain a relatively smooth surface. Areas affected by erosion will be filled and repaired in a timely manner and snow graded off to prevent hazardous accumulations and buildup of ice and mud;

(e) Permanent roads to accommodate vehicles larger than pickup trucks, and for use in traveling to specific areas around the tailing pond, will be maintained at lower levels on the embankment, and provided with berms;

(f) Two-way travel on the pipeway will be restricted. Travel on the uppermost access road will be generally limited to the tailing pond operator and maintenance crew, and will be limited to pickup trucks traveling at slow speeds to allow inspection of the peripheral pipe system, dike and pipeway. Other personnel will be required to travel to various locations on the tailing pond via the lower permanent roads. Sufficient ramp intersections will be provided to serve as turnouts;

(g) Traffic signs which warn of curves in the dike road will be posted;

(h) The slope angle of the tailing pond embankment will be minimized by maintaining horizontal to vertical slope ratios of 5:1 or greater; and

(i) Vehicles traveling on tailing pond roads will be equipped with a two-way radio monitored daily by the plant security department.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 12, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3471 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-242-C]

Old Ben Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 333 West Vine Street, Lexington, Kentucky 40507 has filed a petition to modify the application of 30 CFR 77.900 (low- and medium-voltage circuits serving portable or mobile three-phase alternating current equipment; circuit breakers) to its Old Ben No. 1 Mine (I.D. No. 12-00330), and its Old Ben No. 2 Mine (I.D. No. 12-00329) located in Pitkin County, Indiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirements that low- and medium-voltage circuits supplying power to portable or mobile three-phase alternating current equipment be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained and equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and over-current.

2. Petitioner states that to require manual reset of circuit breakers for dewatering pumps which trip on loss of power would result in a diminution of safety to the miners affected due to pit flooding which occurs if the pump power is not promptly restored after a power outage.

3. As an alternate method, petitioner proposes to dewater the mining pits using pontoon-mounted pumps, fed electrically from mobile substations transforming the pit distribution voltage to 480 volts, 3 phase. These pumps will be installed with specific equipment and conditions as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 11, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3472 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-10-C]

Old Ben Coal Co; Petition for Modification of Application of Mandatory Safety Standard

Old Ben Coal Company, 333 West Vine Street, Lexington, Kentucky 40507 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Mine No. 21 (I.D. No. 11-00588) located in Franklin County, Illinois. 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 trolley wires, trolley feeder wires, high-voltage cables and transformers not be located in by the last open crosscut and be kept at least 150 feet from pillar workings.

2. As an alternate method, petitioner proposes to locate a longwall mining unit, with cables and equipment designed to conduct 2400 volts a.c., in by the last open crosscut and within 150 feet of pillar workings. Petitioner proposes to use shielded cables in the 2400 volt circuitry such that each power conductor is surrounded by a grounded metal shield within a protective cover that is protected by a ground fault monitoring system as specified in the petition.

3. A methane monitoring system will be built into the system on working sections so that all cables and equipment on the longwall face will be de-energized at the controller when methane is found in excess of 2% at the longwall face.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 11, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3473 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-16-M]

Sunnyside Gold Corp; Petition for Modification of Application of Mandatory Safety Standard

Sunnyside Gold Corporation, P.O. Box 177, Silverton, Colorado 81433 has filed a petition to modify the application of 30 CFR 57.11059 (respirable atmosphere for hoist operators underground) to its Sunnyside Mine (I.D. No. 05-00417) located in San Juan County, Colorado. 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 standard which requires an approved and properly maintained self-contained breathing apparatus system which shall consist of a mask connected to compressed air stored in containers adjacent to the hoist controls. The self-contained breathing system shall provide a minimum of 24 hours of respirable atmosphere to the hoist operator. In addition, the self-contained breathing system shall be capable of a quick connect with the approved 2-hour self-contained breathing apparatus above.

2. The mine has two underground hoists, located 1.8 miles from the portal; one is located on the main level (American Tunnel) and the other is approximately 900 feet in elevation above on "F" level.

3. Dreager BG 174A's have been provided to the hoist operators to meet the approved apparatus requirement. However, in making the modifications for the Dreager to accept the quick connect coupling, the approval will be voided.

4. As an alternate method, petitioner proposes that a separate and independent exhalation valve assembly will be installed into the exhalation tube of the Dreager breathing hose and a positive automatic shutoff quick connect coupler will be installed to the

installation hose of the Dreager breathing tubes. In further, support of this request, petitioner states that at the first indication of a mine fire, the hoist operator would:

(a) Immediately take the Dreager mask and breathing tubes from storage;

(b) Connect the quick connect coupling to the compressed air units;

(c) Turn on the first cylinder; and

(d) Put on the face piece allowing the exhalation hose to hang free.

5. The compressed air system is a bank of compressed air cylinders connected in series with a regulator, a low pressure warning device and a length or air hose sufficient to allow the hoist operator to perform his or her duties while attached to the breathing mask. As each cylinder is depleted, the valve on the next cylinder in succession is opened until all employees have been lowered to the proper level. Upon completion, the hoist operator would strap on the Dreager 174A, attach the exhalation hose, turn on the Dreager oxygen supply, disconnect the quick connect from the compressed air, and connect the quick connect to the Dreager inhalation tube. The hoist operator is then free to exit the mine under apparatus.

6. To assure proper functioning and readiness, the hoist operator breathing apparatus will be bench tested monthly by a competent person, and hoist operators will be thoroughly trained on the use of the BG 174A, and receive refresher training at three month intervals.

7. 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 March 23, 1987. Copies of the petition are available for inspection at that address.

Dated: February 11, 1987.

Patricia W. Silvey,

Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87-3474 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-43-M

Wage and Hour Division

[Administrative Order No. 659]

Special Industry Committee for All Industry in American Samoa; Notice of Appointment, Convention, and Hearing

1. Pursuant to section 5 and 6(a) (3) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205, 206(a) (3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949–53 Comp., p. 1004) and 29 CFR Part 511, I hereby appoint special Industry Committee No. 18 for American Samoa.

2. Pursuant to section 6(a) (3) and section 8 of the Acts, as amended (29 U.S.C. 206(a) (3), 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR Part 511, I hereby:

(a) Convene the above-appointed industry committee.

(b) Refer to the industry committee the question of the minimum rate or rates for all industry in American Samoa to be paid under section 6(a) (3) of the Act, as amended.

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate condictions in such industry, and the committee, or any authorized subcommitee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the Act.

The committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on June 8, 1987, in the Senate Chambers, Fono Building, Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rates prescribed by section 6(a) and 6(b) of the Act, as amended by the Fair Labor Standards Amendments of 1977, currently $3.35 an hour.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industry, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in such industry than may be determined for other employees in such industry, the committee shall recommend such reasonable classifications within such industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR Part 511.10, which will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements nogotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information which has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, as soon as it is completed. Upon request, the Wage and Hour Division will mail copies to interested persons. To facilitate mailing, such persons should make advance, written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in

English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Each prehearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 29, 1987. If such statement are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC, this 12th day of February 1987.

William E. Brock,

Secretary of Labor.

[FR Doc. 87-2475 Filed 2-18-87; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities..

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to advise the Chairman of the National Endowment for the Humanities on the state of humanities education in the public elementary and secondary schools in the United States. These meetings will be open to the public.

1. Dates: March 2, April 10, and May 22, 1987.
   Time: 9:00 a.m. to 3:00 p.m.
   Room: M-14
   Program: A group of teachers and scholars will assemble to discuss humanities education with respect to history and literature in the nation's elementary and secondary schools.
2. Date: March 23, 1987.
   Time: 9:00 a.m. to 3:00 p.m.
   Room: 714
   Program: A group of teachers and scholars will assemble to discuss humanities education with respect to foreign languages in the nation's elementary and secondary schools.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 87-3542 Filed 2-18-87; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by Consumers Power Company (the licensee) for an amendment to Facility Operating License No. DPR-6, issued to Consumers Power Company for operation of the Big Rock Point Plant, located in Charlevoix County, Michigan.

The amendment, as proposed by the licensee in the application dated December 5, 1986, would revise portions of sections 5.1 and 5.2 of the Big Rock Point Technical Specifications. The proposed change to section 5.1 reflects the planned use of new hybrid control rods in the core. These hybrid control rods are manufactured by NUCOM, Incorporated. The proposed change to section 5.2 modifies two tables on reactor operating parameters to support the use of Reload I-2 fuel which would be installed during the 1987 refueling outage for Cycle 22. Notice of consideration of issuance of this amendment was published in the Federal Register on January 14, 1987 (52 FR 1551). The proposed change to Section 5.1 concerning the planned use of hybrid control rods in the core is being handled as a separate licensing action. The proposed change to section 5.2 concerning modification of two tables of reactor operating parameters to support the use of Reload I-2 fuel was denied.

At present, Table 1 of section 5.2.1(b) provides reactor operating parameters for all previous fuel reloads through Reload I-1 fuel. The request proposes to revise this table to support Reload I-2 fuel. After review of the reactor operating parameters contained in this table, the Commission found this request unacceptable. This request was found unacceptable because additional information, provided at the request of the staff, indicates that operation at the existing Technical Specification limit could result in violation of the safety limit for the most limiting transients.

The licensee was notified of the Commission's denial of this portion of its request by letter dated February 12, 1987.

By March 23, 1987, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or 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.

A copy of any petitions should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the license.

For further details with respect to this action, see (1) The application for amendment dated December 5, 1986, and (2) the Commission's letter and Safety Evaluation dated February 12, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the North Central Michigan College Library, 1515 Howard Street, Petoskey, Michigan 49770. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commissoin, Washington, DC 20555, Attention: Director, Division of BWR Licensing.

Dated at Bethesda, Maryland, this 12th day of February 1987.

For the Nuclear Regulatory Commission.

Rajender Auluck,

Acting Director, BWR Project Directorate No. 1, Division of BWR Licensing.

[FR Doc. 87-3544 Filed 2-18-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from 10 CFR Part 50, Appendix J, General Design Criteria 55—Reactor

Coolant Pump Seal Injection Lines to the Tennessee Valley Authority, (the licensee) for the Sequoyah Nuclear Plant, Units 1 and 2, located at the licensee's site in Hamilton County, Tennessee. The exemption was requested by the licensee by letter dated January 23, 1986.

Environmental Assessment

Identification of Proposed Action

The exemption will permit the reactor coolant pressure boundary isolation on the reactor collant pump seal injection lines to be provided by in-containment check valves and out-of -containment manual isolation valves. General Design Criteria (GDC) 55 requires that each line that is part of the reactor coolant pressure boundary and that penetrates primary reactor containment shall be provided with containment isolation valves. The combination of valves, automatic or locked closed, inside and outside containment is specified in GDC 55 unless it can be demonstrated that the containment isolation provisions for a specific loss of lines are acceptable on some other defined basis.

The reactor coolant pump seal injection was designed to provide continued seal water during operation and following certain transients and accidents. The seal injection line was not designed, therefore, to be automatically isolated by an isolation signal. GDC 55 also requires that valves outside containment be located close to the containment and other appropriate requirements be provided to minimize the probability or consequences of an accidental rupture of the lines.

In support of the exemption, the licensee has proposed that redundant containment isolation is provided by the check valves inside containment, and by redesigned local manual valves outside containment. The seal injection is a closed system and the charging pumps provide a water seal to prevent the release of containment atmosphere to the environment. Any leaks are into leak collection systems which are designed to handle leaks and contaminated fluids greater than expected from the seal injection system.

The Need for the Proposed Action

The proposed exemption is needed to permit the licensee to operate the plant without being in violation of the Commission's requirements.

Environmental Impact of the Proposed Action

The proposed exemption is from the specified combination of valves in GDC 55. The need for automatic isolation is to insure that the containment atmosphere is not released to the environment following an accident. For the seal injection line, however, continued operation following certain transients and accidents does not require automatic isolation on a containment isolation signal. The seal injection system is a closed system outside containment and was designed and is operated to prevent offsite releases in normal operation or following accidents. However, should the seal injection be discontinued and the check valve inside containment leak, it would be into a closed system which is not open to the environment. The licensee has procedures if the need arises which would further prevent any containment atmosphere release possibility.

For a line rupture or valve leak outside containment, the seal injection line is located in controlled areas where leakage is collected in the Tritiated Drain Collection Tank. The drains are sized to accommodate a maximum leak rate of 50 gpm that would be expected from a Residual Heat Removal pump shaft seal. The consequences of a leak this size have been evaluated and the analysis was previously found acceptable. A leak from the seal injection line which would release containment atmosphere in this area is within the 50 gpm analysis already found acceptable. Because of this, there would be a neglible effect on the overall risk from plant operation. In addition, since any leak would be into a closed system, there would not be any leakage, either radioactive or non-radioactive, to the environment. Therefore, in consideration of all of the above, the exemption does not involve a significant environmental impact.

Alternative to the Proposed Action

Because the staff has concluded that there is no significant impact associated with the proposed exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact. In further support of this, the licensee investigated the alternative of installing automatic isolation valves and improving the leak detection capabilities in the seal injection lines and areas respectively. The engineering costs would be $1,500,000 minimum with valves and supplies form stock or warehoused, and the exposure to installation crews during an outage is estimated to be about 47 man-rem. This alternative may reduce the effects of a line rupture or valve leak somewhat but would result in increased radiation exposure and cost.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the"Final Environmental Statement Related to the Operation of Sequoyah Nuclear Plant, Units 1 and 2," dated July 1974.

Agencies and Persons Consulted

The NRG staff reviewed the licensee's request that supports the proposed exemption.

The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the request for exemption dated January 23, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

Dated at Bethesda, Maryland, this 12th day of February 1987.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Director, PWR Project Directorate No. 4, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 87-3543 Filed 2-18-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

OSHA "Hazard Communication" Standard; Open Public Meeting

AGENCY: Office of Management and Budget.

ACTION: Notice of public meeting.

SUMMARY: The Office of Management and Budget (OMB) will solicit comments on the existing recordkeeping, notification and other paperwork requirements of the Occupational Safety and Health Administration (OSHA) standard, "Hazard Communication" (29 CFR 1910.1200) at a public meeting. Members of the public are invited to provide comments and suggestions concerning these requirements and the associated paperwork. This meeting will be conducted under the authority of the

Paperwork Reduction Act of 1980 (Public Law 96–511).

DATE: April 2, 1987, beginning at 9:00 a.m.

ADDRESS: The meeting will be held at the New Executive Office Building, Room 2010, 726 Jackson Place NW., Washington, DC, (use 17th Street entrance). To obtain entrance into the building, please call (202) 395–6880 with your full name and birthdate by March 31 and request that your name be placed on the access list. Attendees who notify OMB in writing, as requested below, do not need to call to be cleared into the building.

FOR FURTHER INFORMATION CONTACT: Scott H. Jacobs, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC, 20503, (202) 395–6880.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act requires OMB to provide interested persons early and meaningful opportunity to comment on information requirements imposed by Federal agencies (44 U.S.C. 3517). Public participation in review of such requirements is appropriate in assisting OMB and other Federal agencies to carry out the goals of the Act. Under the Act and implementing regulations at 5 CFR 1320.4(b), agencies must ensure that collections of information have practical utility, are the least burdensome necessary to achieve program objectives, and are not duplicative of information otherwise available.

OSHA's "Hazard Communication" standard, which became fully effective in May 1986, is intended to require the transmittal of complete chemical hazard information to employees and downstream employers in order to reduce the incidence of chemical source illnesses and injuries in the manufacturing sector. A detailed explanation of the evidence in the public record and policy considerations upon which OSHA based the information collection and paperwork requirements of the standard can be found at 48 FR 53280 (November 25, 1983).

The purpose of this public meeting is to solicit comments from a wide range of individuals and organizations on the information collection requirements of the standard, which include chemical hazard evaluation, written hazard communication programs, labeling, development and provision of Material Safety Data Sheets (MSDS), and the paperwork and notification aspects of access to trade secrets.

Commenters are urged to present their views with as much data as possible so that the merits of their cases can be evaluated. Comments are welcome on all aspects of the paperwork requirements of the standard; however, the audience will be particularly encouraged to comment on the following issues:

Burden Estimates

• What is the paperwork burden required for compliance with the standard? How many hours are required to comply with the paperwork requirements? What are the costs of compliance associated with these requirements?

Transmittal of Hazard Information

• Does each recordkeeping, notification and paperwork component of the "Hazard Communication" standard contribute to the efficient, effective transmittal of hazard information? Can these components be made more efficient or effective?

Non-mandatory MSDS

• How has issuance of OSHA's nonmandatory MSDS form affected the compliance burden on the public? Should OHSA continue to provide a nonmandatory form? Should it be modified?

Persons who wish to speak at the public meeting should notify OMB in writing at the above address by March 25, and should include the full names and birthdates of all attendees, as well as an estimate of the time needed. Oral presentations will be limited to 15 minutes for each individual or organization, except under special circumstances. An agenda of the meeting and a list of attendees will be available on March 31. Persons who are unable to attend but who wish to provide comment may do so in writing. Comments, particularly recommendations for alternatives, should be as detailed and specific as possible, and should include supporting data. All written comments should be submitted on or before April 30, 1987, to the following address: Office of Management and Budget; OIRA Docket Library; Room 3201; Washington, DC 20503, Attn: Scott Jacobs.

Joseph R. Wright, Jr.,

Deputy Director.

[FR Doc. 87–3434 Filed 2–18–87; 8:45 am]

BILLING CODE 3110–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Appeal from Determinations Under Railroad Unemployment Insurance Act.

(2) Form(s) submitted: HA–4.

(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 50.

(7) Annual reporting hours: 17.

(8) Collection description: Under Section 5 of the Railroad Unemployment Insurance Act, an employee aggrieved by an initial determination or review of his or her claim for benefits has a right to two levels of administrative appeal. The form will obtain the information needed to initiate either level of appeal.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy Egan (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 87–3446 Filed 2–18–87; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–24092; File No. SR–NSCC–87–1]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corp., Relating to an Amendment to National Securities Clearing Corporation's ("NSCC") Rules and Fee Structure Regarding the Release of Clearing Data; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15

U.S.C. 78s(b)(1), notice is hereby given that on February 1, 1987, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amend NSCC's SCC Division Rules and Procedures by revising the Fee Structure as follows:

National Securities Clearing Corporation Fee Structure

* * * * *

V. Pass-Through and Other Fees

A. Participant Fees—represents the monthly fee for each number assigned to a Member, Municipal Comparison Only Member or Fund/Serv Member for participation by each Member, Municipal Comparison Only Member or Fund/Serv Member under such number in one or more of the specified services provided by NSCC. The [seven] *eight* services and their related base fees are:

* * * * *

8. Trade input either..... $500 per month
a) as a Service Bureau
or
b) by an affiliated Service Bureau

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In File No. NSCC–86–17, a Statement of policy was adopted to allow Service Bureaus to submit two-sided trade data to NSCC. The purpose of this filing is to establish a fee for the service. This fee is identical to the fee established for Qualified Special Representatives, which submit identical types of data. NSCC imposes a fee on Qualified Special Representatives, and proposes to impose a fee on Service Bureaus, to accept two-sided trade data in order to recover both the initial and continuing costs of ensuring that Qualified Special Representatives and Service Bureaus have appropriate authority to submit trade data on behalf of members, to reject trades inputted without proper authority, and to provide the necessary notifications if trades are rejected. These costs are unique to the inputting of two-sided trades by Qualified Special Representatives and Service Bureaus.

The proposed rule change to NSCC's Fee Structure is consistent with the requirement of the Securities Exchange Act of 1934 ("34 Act"), as amended, and the rules and regulations thereunder applicable to a self-regulatory organization in that it allows for the equitable allocation of fees among NSCC Participants. Inasmuch as the proposed rule change relates only to NSCC's Fee Structure, it does not affect the safeguarding of securities and funds in NSCC's custody or control or for which it is responsible.

B. Self-Regualtory Organization's Statement on Burden on Competition

NSCC does not perceive that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on the proposed rule change have been solicited or received. NSCC will notify the Securities and Exchange Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withhold from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 12, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 12, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–3533 Filed 2–18–87; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by Philadelphia Stock Exchange, Inc.

February 12, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Chesapeake Corporation Common Stock, $1.00 Par Value (File No. 7–9684)

Consolidated Stores Corporation Common Stock, $0.01 Par Value (File No. 7–9685)

Glenfed, Inc. Common Stock, $0.01 Par Value (File No. 7–9686)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 6, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the

Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-3531 Filed, 2-18-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Trading in the Securities of Hughes Capital Corp.; Order of Trading Suspension

February 12, 1987.

It appears to the Securities and Exchange Commission that there is a lack of current adequate and accurate public information concerning Hughes Capital Corporation's business operations and recent unusual market activity in the company's stock.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that all trading in the securities of Hughes Capital Corporation is suspended for a single ten-day period from 9:30 A.M. (EST) on February 13, 1987 through 11:59 P.M. (EST) on February 22, 1987.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-3530 Filed 2-18-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15576; 812-6531]

NZI Corporation Limited, NZI Capital Corporation; Notice of Application

February 12, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: NZI Corporation Limited ("NZI"), and NZI Capital Corporation ("Capital") (NZI and Capital, together, "Applicants").

Relevant 1940 Act Section: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order exempting them from all provisions of the 1940 Act in connection with the offer and sale of debt securities of NZI, or debt securities of Capital guaranteed unconditionally by NZI.

Filing Date: the application was filed on November 12, 1986, and amended on February 5, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 5, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington, DC 20549. Applicants, c/o Frederic C. Rich, Esq., Sullivan & Cromwell, 125 Broad Street, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Carson G. Frailey (202) 272-3037, or Special Counsel, Karen L. Skidmore, (202) 272-3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. NZI is the parent of a group of companies providing financial services, principally insurance, in New Zealand, Australia and 20 other countries, mainly in Asia (NZI and its consolidated subsidiaries being referred to herein as the "NZI Group"). The NZI Group includes the largest private sector insurance company in New Zealand, one of the largest private sector insurance companies in Australia and the largest finance company in New Zealand, one of the largest private sector insurance companies in Australia and the largest finance company in New Zealand.

2. For the fiscal year ended March 31, 1986, the NZI Group had net earnings of NZ $85 million on revenues of NZ $1,305 million. The NZI Group's General Insurance division contributed approximately 53% of this revenue and 58% of these earnings; its Banking Service division contributed 21% and 22%, respectively.

3. At May 31, 1986, NZI had outstanding 567,237,908 ordinary shares held by over 38,110 persons. Its ordinary shares are listed for trading on the London, New Zealand, and Australian Associated Stock Exchanges and stock exchange listing in Tokyo is being sought. NZI currently ranks fourth in terms of market capitalization among all New Zealand companies.

4. Capital was incorporated on December 5, 1986, under the laws of the State of Delaware and is a wholly-owned subsidiary of NZI, and NZI (or a company controlled by NZI) will continue to own all of Capital's capital stock. Capital's sole business will be the issuance of debt obligations and the provision of the proceeds thereof to NZI (or companies controlled by NZI) will continue to own all of Capital's capital stock. Capital's sole business will be the issuance of debt obligations and the provision of the proceeds thereof to NZI (or companies controlled by NZI).

5. NZI is subject to regulation by New Zealand and Australian insurance authorities by virtue of its activities in those countries.

6. NZI wishes to offer and sell its debt securities in the United States, either directly, or through Capital. such offers and sales may be accomplished either through underwritten public offerings registered under the Securities Act of 1933, as amended (the "1933 Act"), or made pursuant to an exemption from the registration requirements of the 1933 Act.

7. Exempting Applicants from all provisions of the 1940 Act in connection with the issuance and sale in the United States of debt securities of NZI, or debt securities of Capital guaranteed by NZI, is necessary or appropriate in the public interest; is consistent with the protection of investors; and is consistent with the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Substantially all (in no event less than 85%) of the proceeds of the sale of any debt securities issued by Capital will be provided as soon as practicable (but in no event more than six months after receipt) to NZI (or companies controlled by NZI) on terms that will allow Capital to make timely payment on such debt securities. In any period prior to providing such proceeds, or with any portion not so provided, Capital will not invest in, reinvest in, own, hold, or

trade in securities other than U.S. Government securities, securities of NZI (or a company controlled by NZI) or debt securities exempted from the 1933 Act by section 3(a)(3) thereof.

2. Any debt securities of Capital issued to or held by the public will be unconditionally guaranteed by NZI as to the payment of principal, interest and premium, if any.

3. NZI's guarantee will provide that, in the event of a default in payment of principal, interest, premium, or payments made under a sinking fund on any debt securities issued by Capital, the holders of those securities may institute legal proceedings directly against NZI to enforce the guarantee without first proceeding against Capital.

4. In any offering of their debt securities made pursuant to a registration statement under the 1933 Act, Applicants will not sell such securities until the registration statement is declared effective by the Commission and the related indenture is qualified under the Trust Indenture Act of 1939, and Applicants will furnish a prospectus to such persons and in such manner as may be required by the 1933 Act and the rules and regulations thereunder. Any offering of debt securities by Applicants in the United States not registered under the 1933 Act will be made on the basis of disclosure documents which are at least as comprehensive as is customary in the United States for such an offering, and which will include NZI's most recently available audited fiscal year-end balance sheet and profit and loss statement together with a description of any material differences between the accounting principles applied in the preparation of such financial statements and generally accepted accounting principles in the United States, and such disclosure documents will be updated promptly to reflect material changes in the financial condition of NZI.

5. In connection with any offering in the United States of debt securities by Applicants, NZI will appoint a United States person as agent to accept any process which may be served in any action based on any such debt securities of NZI, or NZI's guarantee of debt securities of Capital, and instituted in any State or Federal court by the holder of such debt securities. NZI will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long as such debt securities remain outstanding and until all amounts due and to become due in respect of such debt securities have been paid. Applicants will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such debt securities, or otherwise in connection with such debt securities.

6. Any future offering in the United States of debt securities by Applicants will only be made if such securities have been registered under the 1933 Act, or if NZI has received an opinion from its United States legal counsel to the effect that, under the circumstances of the proposed offering, the securities are not required to be registered under the 1933 Act because of an exemption therefrom. NZI does not request Commission review or approval of any such opinion of NZI's United States legal counsel.

7. Any future offering in the United States of debt securities by Applicants not registered under the 1933 Act shall have received prior to issuance one of the three highest investment grades from at least one nationally-recognized statistical rating organization, and Applicants' United States counsel shall have certified that such rating has been received.

8. With regard to public offerings of debt securities (not either registered under the 1933 Act, or exempt from registration by virtue of section 3(a)(3) or section 4(2) thereof), that are not issued in the United States or sold to U.S. persons (but where there is a reasonable likelihood of offers or sales of such debt securities being made in the United States or to U.S. persons), Applicants will adopt agreements and procedures reasonably designed to prevent such debt securities from being offered or sold in the United States or to U.S. persons (except as U.S. counsel may then advise is permissible).

9. All of Capital's securities, other than debt securities or non-voting preferred stock meeting the applicable requirements of paragraphs (a)(1) through (a)(3) of Rule 3a-5 under the 1940 Act, or directors' qualifying shares, will continue to be owned directly by NZI (or a company controlled by NZI).

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-3532 Filed 2-18-87; 8:45am]

BILLING CODE 8010-01-M

[Rel. No. 34-24090; File No. SR-CSE-86-6]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Cincinnati Stock Exchange Relating to an Affiliation With the Chicago Board Options Exchange

I. Introduction and Background

The Cincinnati Stock Exchange, Inc. ("CSE") submitted, on November 18, 1986, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), and Rule 19b-4 thereunder, to amend certain provisions of the CSE By-Laws and Rules to reflect the existence of a recently consummated affiliation agreement ("Agreement") between the CSE and the Chicago Board Options Exchange ("CBOE").[1] The affiliation gives CBOE members who meet CSE membership requirements the ability to become CSE proprietary members without having to purchase certificates of proprietary membership.

The intention of the proposal is to define the rights of the various parties to the Agreement for the course of the affiliation. To this end, the CSE proposes to modify certain procedures for amending its By-Laws and Rules and to change its By-Laws which address Board structure, certificates of proprietary membership, voting rights, committee powers, and governance issues.

Notice of the proposed rule change, together with the terms of substance of the proposal, was given by the issuance of a Commission release (Securities Exchange Act Release No. 23868, December 9, 1986) and by publication in the **Federal Register** (51 FR 44958, December 15, 1986). No comments were received regarding the proposal.

II. Description of the Agreement and Proposal

A. CBOE Ownership Interest in the CSE

The primary intent of the Agreement is to provide the CBOE with a proprietary interest in the CSE. In order to accomplish this, under the Agreement the CSE is obligated to transfer to the CBOE ninety-eight certificates of proprietary membership, free of any liens or encumbrances.[2] In exchange, the CBOE will pay to the CSE $1.186 million, and has promised not to resell any certificates to non-CBOE members, for a period of two years, without the

[1] A copy of the agreement was submitted by the CSE as part of the public record.

[2] *See* Article V, Section 5.2(b). This section limits the maximum number of authorized certificates of proprietary membership to 275.

prior consent of a majority of CSE proprietary members as of September 12, 1986, who still own more than one certificate at the time that consent is requested. In addition, the CBOE will grant to each CSE propietary member who was a Designated Dealer on September 12, 1986,[3] the right to sell fifty percent of his certificates, minus one, to the CBOE, provided the CSE member continues to maintain his Designated Dealer function in 80% of the number of stocks in which he was a Designated Dealer on September 12, 1986.

Unlike any other applicant for CSE membership, CBOE members are also entitled to become proprietary members of the CSE without owning certificates, provided such members meet the eligibility requirements of the CSE. Such a membership would terminate automatically when the owner ceases to be a CBOE member.[4] The CSE proposes certain amendments to Article II of its By-Laws to define the interests of both members with and without certificates. Amendments to Section 9.1 provide that proprietary members without certificates may not sell or encumber their membership of any interest therein. Revisions to Section 9.4 provide that a national securities exchange may purchase, hold, or resell certificates pursuant to Board of Trustee approval, but may not become a members of the CSE.[5]

B. Exchange Governance and Board Structure

In order to reflect the participation of the CBOE in the activities of the Exchange, the CSE proposes to amend Articles V and VI of its By-Laws concerning the size and composition of the CSE Board of Trustees and certain CSE Committees. Primarily, the CSE proposes to raise the number of Trustees from nine to thirteen. The thirteen members will consist of the CSE President,[6] two proprietary members with certificates who are Designated Dealers in the National Securities Trading System ("Designated Dealer Trustees"), one proprietary member that conducts a non-member public customer business on the Exchange ("At-Large Trustee") (collectively, the "CSE Trustees"), the Chairman of the CBOE, the President of the CBOE, four CBOE members or executive officers of CBOE member organizations (collectively, the "CBOE Trustees"), and three representatives of issuers and investors ("Public Trustees"). The terms of office for the Public Trustees and the CSE Trustees, except the CSE President, are set at three years.[7] The term of office for CBOE Trustees is one year.

Modifications to Article V, Section 2.2(a) provide amended Trustee election procedures. Under the new procedures, members with certificates would elect the Designated Dealer and At-Large Trustees while the CBOE Board of Directors would select the four CBOE Trustees. Proposed Section 2.2(c) provides a new selection process for the Public Trustees. A six-member Special Nominating Committee, comprised of the At-Large Trustee, the Designated Dealer Trustees, and three of the six CBOE Trustees, must approve a candidate for Public Trustee.[8] After this approval, the candidates are submitted to the full Board of Trustees for its approval or disapproval.

Amendments to Article VI, Section 3 would change the composition of the Securities Committee, to provide that one proprietary member with a certificate and one Public Trustee must be on that committee. Under new Section 3.1, the Securities Committee also would be provided the authority to adopt procedures related to the Exchange's interface with the Intermarket Trading System.

C. Modifications to Exchange by-Law and Rule Amendment Procedures

To reflect the interests of the parties to the Agreement, the CSE proposes to add a new Article to its By-Laws (Article XII) that institutes limitations on amendments to certain CSE By-Laws and Rules. In particular, paragraph (a) provides that, for two years following the effective date of the provision, no change to any of the delineated sections may become effective without the unanimous consent of the Designated Dealer and At-Large Trustees.[9] Paragraph (b) provides that in years two through ten following enactment of the provision, no change to Article V, Section 1 or Article XII can be effected without two-thirds approval from proprietary members with certificates and proprietary members without certificates, voting separately as a class.[10] Paragraph (c) provides that, after ten years, no change may be made to Article V, Section 1 or Article XII without a two-thirds votes of all proprietary members voting as one class. These changes may be effectuated without following the standard Board approval procedures required under Article IX.[11]

III. Discussion

The Commission has reviewed carefully the CSE proposal in light of the standards set forth under section 6(b) of the Act. We believe that the technical

[3] *See* CSE Rules 11.9(a)(3), which defines Designated Dealer as a "proprietary member who maintains a minumum net capital of at least $500,000 computed pursuant to the provisions of Commission Rule 15c3–1 and who has been approved by the Securities Committee to perform market making functions by entering bids and offers for Designated Issues into the [National Securities Trading] System."

[4] *See* proposed amendments to Article II, Section 9.1. Further, the proposed amendments to Article II, Section I divide members into three classes: proprietary members with certificates, proprietary members without certificates, and access participants. Access participants are limited members of the Exchange whose rights have not been altered by the Agreement.

[5] This provision is designed to enable the CBOE to hold certificates [the original ninety-eight as well as any purchased from CSE Designated Dealers pursuant to Section 2.2 of the Agreement] during the course of the affiliation. Pursuant to Section 2.3 of the Agreement, however, the CBOE is prohibited, for a two year period, from reselling any of the original ninety-eight certificates to non-CBOE members, unless the sale is approved by a majority of the proprietary members that owned more than one certificate on September 12, 1986, who are still proprietary members on the date consent is requested.

[6] According to Article VII, Section 2 of the By-Laws, the CSE President, as with all CSE officers, is an appointee of the Board of Trustees. The CSE does not propose to change this provision. As noted below, the CSE President must be a full-time employee of the CSE.

[7] *See* Article VII, Section 2. The term of the CSE President remains at one year.

[8] Proposed amendments to Article VI, Section 1.1 provide for the creation of the Special Nominating Committee. Unlike all other committees, the Special Nominating Committee would not be subject to the control and supervision of the Board.

[9] The affected sections are listed in the proposed amendment to Article I, Section 1(m). The new section reads: "The term 'Protected Provisions' shall mean the provisions contained in Articles I [Definitions], II [Exchange Membership], V [Exchange Organization and Administration], VI [Committees], VII [Officers and Employees], VIII [Indemnification of Trustees, Officers and Employees], IX [Amendments to By-Laws], X [Adoption of and Amendments to Exchange Rules], XII [Special Limitations on Changes to Certain By-Laws and Rules] and XIII [Off-Exchange Transactions] of these By-Laws and Rules 11.9 [National Securities Trading System] and 11.10 [National Securities Trading System Fees] of the Exchange Rules in effect on this effective date of this provision of these By-Laws." Paragraph (a), however, does not require unanimous consent of the Designated Dealer and At-Large Trustees to amend Rule 11.9 to accommodate changes made pursuant to Commission approval of side-by-side trading of options and their underlying securities.

[10] As noted above, Article V, Section 1 pertains to the composition of the Board of Trustees, while Article XII concerns the limitations on amendments to the By-Laws discussed herein.

[11] Under the procedures detailed in Article IX, any member of the Board of Trustees, by resolution, or one-third of the proprietary members of the Exchange, by petition, may propose an amendment to the By-Laws. The Board of Trustees may, at its discretion, then submit the proposed amendment to the proprietary membership. At that point, if a majority of the members approve the proposal, it is submitted to the Commission for approval pursuant to Section 19(b) of the Act.

provisions that implement the proposed affiliation are consistent with the purposes of the Act.[12] As discussed above, however, to effectuate the affiliation, the CSE also has proposed several significant changes to its governance provisions. Accordingly, in reviewing the proposal and underlying Agreement, the Commission has focused its review on the amendments to the Exchange governance provisions to ensure that they conform to sections 6(b)(1), 6(b)(3), and 6(b)(5) of the Act.[13]

Section 6(b)(3) requires that "the rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs. . . ."[14] Section 6(b)(1) requires a national securities exchange to be organized so as to have the ability to carry out the purposes of the Act, the rules and regulations thereunder, and the rules of the exchange, and to compel its members to do the same. Section 6(b)(5) generally requires that the rules of an exchange be designed to protect investors and the public interest. Accordingly, the Commission has evaluated whether the amendments to the provision concerning the composition of the Board of Trustees gives the CBOE constituency a numerical domination on the Board inconsistent with any of those three sections.

After careful review, the Commission has concluded that the proposed CSE governance provisions meet the fair representation requirements of Section 6(b)(3) in addition to the standards set forth in Sections 6(b)(1) and (5). First, we believe that the Board structure proposed in Articles V and VI provides for the fair representation of each segment of the CSE's membership. The structure does not provide CBOE interests a dominant position on the Board that could adversely effect the other constituents of the CSE, the CSE as a whole or the Board's duty to act in its fiduciary capacity as representatives of the broader public interest. Although the CBOE will control six of the thirteen Board seats, four other Trustee positions will represent existing CSE interests,[15] while the remaining three Trustees must first be selected by a committee composed equally of CSE and CBOE trustees.[16] The Commission also notes that the remaining three "Public Trustees" are not allowed to be associated with any member of the CSE, CBOE or any other self-regulatory organization, other than as a public trustee or public director, to ensure that these Trustees are true public representatives on the Board. The Commission believes that this proportionate representation fairly reflects the substantial investment in CSE made by CBOE as well as the anticipated development of substantial numbers of joint CBOE-CSE members.

The provisions of Article XII also prevent, during the initial 2 years of affiliation, undue CBOE domination by providing the CSE representatives on the Board veto power over significant proposed changes to the By-Laws, thereby preventing the broader interests of the CSE from being frustrated.[17] This provision substantially decreases the possibility that CBOE's influence on the Board will be overrepresented during the time prior to CBOE's investment reaching its peak.[18]

The provisions of Article XII provide other assurances that, in the event of changed circumstances, the interests of the respective parties will be represented on the Board of Trustees. For example, paragraph (b) of Article XII alters the authority to amend the control provisions of Article V, Section 1 and Article XII for years two through ten of the Agreement, making approval contingent on the affirmative vote of two-thirds of both certificate holders and non-certificate members, voting separately as a class, instead of the traditional membership-wide majority voting requirement. This provision ensures that, during these years, the Board will be unable to effect a change of control that is unrepresentative of the make-up of the members of the exchange. In particular, the provision protects the interest of current proprietary members with certificates (present CSE members) in that they will still have input concerning amendments to exchange governance By-Laws even if present CBOE members purchase a simple majority of certificates. Further, separate class voting requirements ensure that a proliferation of non-certificate holders could not force a change in governance structure without separate approval of certificate holders. Article XII, Section (c) addresses any concern that the CBOE Trustees could maintain a substantial presence on the Board even though a significant number of memberships are no longer held, or in control of, CBOE or its members. If this were to occur, under the provision a restructuring of the Board could be effectuated through a two-thirds vote of all proprietary members and without the Board approval regularly required by Article IX.

IV. Conclusion

Based on the above, we believe that the proposed Board composition, coupled with the limitations imposed by Article XII, adequately balance the interests of the respective parties and ensure that the Board will continue to be reflective of its membership and constituency consisent with Sections 6(b)(1), (3) and (5) of the Act. In particular, we note that Article XII provides a time period in which the CBOE can be assured of some control over its substantial investment, while also providing a mechanism whereby a change in the make-up of the membership of the Exchange or a loss of interest in the affiliation by the CBOE can be reflected in the composition of the Board.

The Commission, therefore, finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6(b)(1), 6(b)(3), and 6(b)(5) and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes be, and hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

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[12] *See, e.g.*, Article II, Sections 2, 3, and 4 (instituting identical duties, obligations, and eligibility requirements on propreitary members with certificates and proprietary members without certificates); Article II, Section 10 (generally providing equal voting rights for proprietary members with and without certificates).

[13] 15 U.S.C. 78f(b)(1), (3), (5).

[14] 15 U.S.C. 78f(b)(3). On at least three recent occasions, the Commission has evaluated exchange proposals in light of the requirements of Section 6(b)(3). *See, e.g.*, Securities Exchange Act Release Nos. 22959 (February 19, 1985), 51 FR 8060 (File No. SR-NYSE-85-47); 22729 (December 19, 1985), 50 FR 53051 (File No. SR-Phlx-85-23); 21439 (October 31, 1984), 49 FR 44577 (File Nos. SR-CBOE-85-14, SR-CBOE-85-15).

[15] Although the CSE President is not elected by proprietary members with certificates, but instead is appointed by the Board, the Commission notes that the CSE President is required to be a full-time employee of the exchange, to the exclusion of any other interests.

[16] As noted above, the Special Nominating Committee for selecting Public Trustees is comprised of three CBOE Trustees and the Three CSE Trustees, other than the President.

[17] The only Articles not subject to this veto power are Article III (pertaining to dues, assessment, and other charges), Article IV (relating to listings, delistings, and unlisted trading privileges) and Article XI (concerning commissions).

[18] As noted above, it is unclear how many memberships with certificates will be bought by CBOE directly from CSE members pursuant to the contract terms and how many memberships without certificates will be issued to CBOE members.

Dated: February 12, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-3528 Filed 2-18-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-24088; File No. SR-NSCC-86-05]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of the National Securities Clearing Corporation

On April 3, 1986, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change under Section 19(b) of the Securities Exchange Act of 1934 ("Act") that, among other things, would establish the Mutual Fund Settlement, Entry and Registration Verification Service ("Fund/Serv"). Notice of the proposal was published in Securities Exchange Act Release No. 23133 (April 16, 1986), 51 FR 17424 (May 12, 1986). No comments were received. On June 30, 1986, NSCC filed an amendment that sets forth a timetable to expand the number of participants over a 12 month period and to continue Fund/Serv as a one-year pilot. On August 12, 1986, NSCC further amended its proposed Operational Capability Standards to delete reference to Commission or self-regulatory organization inspections as a condition to approval of certain applicants. As discussed below, the Commission has determined to approve the proposed rule change.

I. Introduction

On December 31, 1985, NSCC filed a proposed rule change that established, among other things, Fund/Serv as a one-year pilot.[1] During the pilot period, NSCC proposed to limit participation to no more than four broker-dealer members and five Fund/Serv members. Because of substantial interest in Fund/Serv by the investment company community, NSCC seeks to expand the number of participants.

NSCC's proposal, as amended, seeks authority to admit new Fund/Serv members, under a specific timetable, to meet investment company demand for access to the Fund/Serv system. The proposal also revises NSCC's applicant and continuing membership standards for Fund/Serv members.

II. Description

NSCC proposal amends NSCC's rules and procedures to: (1) Continue Fund/Serv as a one-year pilot; (2) remove the pre-set limitations on participant expansion and replace it with a proposed timetable for participant expansion; (3) impose new operational and financial qualifications on Fund/Serv members; (4) require applicants to submit questionnaire forms and members to submit quarterly reports concerning certain financial and operational information; and (5) revise the fee structure for Fund/Serv.

A. The Fund/Serv System

New NSCC Rule 52 establishes Fund/Serv as a one-year pilot that will enable NSCC settling members to submit mutual fund purchase and redemption orders to NSCC. Each day, NSCC will collect mutual fund purchase and redemption orders from broker-dealer members for delivery to mutual fund processors.[2]

Mutual fund processors that receive orders from members outside NSCC's system may originate orders ("Fund Originated Orders") for confirmation and settlement within the Fund/Serv System. The broker-dealer member who receives such an order can accept, reject or correct the Fund Originated Order. If corrected, NSCC will settle the order based upon the correction unless subsequently rejected by the mutual fund processor. If the corrected order is rejected, NSCC will delete the order from the Fund/Serv Service.

Members also may submit trade corrections (denoted "As of" orders) up to six months after trade date ("T"). A trade not submitted on trade date or a trade previously submitted but rejected from the system may be submitted as an "As of" trade. The mutual fund processor can either accept or reject "As of" orders but cannot make any changes to the submitted information.

Payment obligations related to mutual fund orders also can be settled through NSCC. Each day, NSCC will summarize member payment obligations or credits on the member's settlement statement and the member will be obligated to pay or receive funds accordingly. Orders settled through Fund/Serv, however, are not guaranteed by NSCC. Accordingly, to the extent one side of a Fund/Serv transaction fails to pay, the contra side would be required to return to NSCC any funds received from NSCC.

Mutual fund purchases will settle automatically on five days after trade date (*i.e.*, "T+5"). For mutual fund liquidations, the scheduled settlement date will vary from T+5 to T+15, depending on whether the securities are registered in street name [3] or the customer's name. If the securities are registered in street name, settlement will be scheduled for T+5. For securities registered in the customer's name, the system will delay settlement until the mutual fund processor releases the transaction for settlement. The mutual fund processor will have until T+14 to submit that release.[4] Settlement will occur on the next business day following receipt by NSCC of a release for settlement. Any liquidations remaining in a "delayed" status on T+15 will be deleted from the system.

Fund/Serv also will enable a member to submit registration instructions to a mutual fund processor to the extent that the order was confirmed and settled through Fund/Serv. NSCC will accept registration instructions from T+5 through T+15. All settled orders pending registration instructions on T+15 will be deleted from NSCC's system on T+16.[5]

B. Qualification for Use of the Fund/Serv System

In order for mutual funds to utilize Fund/Serv, NSCC, in new Rule 51, creates a new category of membership, called a Fund/Serv Member. Under new

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[1] *See* File No. SR-NSCC-85-09, Securities Exchange Act Release No. 22928 (February 20, 1986), 51 FR 8954 (February 27, 1986).

[2] A mutual fund processor can be either a settling member or a Fund/Serv Member. Mutual fund processors receive fund purchase and redemption orders from NSCC on behalf of eligible mutual funds. Twice a day, at approximately 7 p.m. and 11 p.m., NSCC will transmit to mutual fund processors purchase and redemption orders and other transaction data NSCC previously received from broker-dealer members.

[3] A security held by a registered clearing agency in its nominee name for its member (*i.e.*, broker-dealers and banks) or a security held by a member of a clearing agency in its nominee name for its customers is considered registered in "street name." The clearing agency or the clearing agency member is listed as owner on the books of the corporation; however, the members' customers are the beneficial owners. Holding securities in street name expedites the settlement of mutual fund liquidations.

[4] While most mutual fund securities are uncertificated or registered in street name, most mutual funds allow customers to obtain certificates. In those cases, settlement can not occur until the customer returns the certificates to the broker-dealer who, in turn, forwards the certificates to the mutual fund processor. Because of the uncertainty of when the certificates will be available for liquidation, NSCC will hold those transactions in a "delayed status" until the mutual fund processors releases the transaction for settlement but no later than T+15.

Irrespective of these time frames for settlement of liquidations, mutual fund processors must comply with Section 22(e) of the Investment Company Act of 1940. In addition, Fund/Serv does not affect a broker-dealer's obligations under the Act. (*see, e.g.*, 15 U.S.C. § 78g, k(d) and 12 CFR 220).

[5] NSCC intends, in the near future, to permit broker-dealers and mutual fund processors to pass "money-only" charges through the system. When this enhancement is available, members will be able to make money adjustments for dividend and commission payments as part of the money settlement process.

Rule 51, Fund/Serv Member must be "principal underwriters" as defined in section 2(a)(29) of the Investment Company Act of 1940 and must be either a registered broker-dealer or an organization that has demonstrated to NSCC's Board of Directors that it could materially benefit from access to Fund/Serv. The rule also requires that the Fund/Serv Member enter into an Agreement with NSCC setting forth the rights and obligations of the Fund/Serv Member.

1. Entrance Requirements

The proposal requires a Fund/Serv applicant to have a previous, relevant business history, capable personnel and sufficient financial ability to meet its obligations to NSCC. The standards include a "net worth" test and an "assets-under-management" test. An applicant for Fund/Serv membership must have a net worth of at least one million dollars and have at least $100 million of assets under management.[6]

The standards also require an applicant to have at least three years of relevant business history or, for businesses with less than three years business experience, employ personnel with sufficient operational experience to perform its obligations as a Fund/Serv Member.[7]

The rules also require Fund/Serv applicants to complete a questionnaire. The questionnaire is designed to provide NSCC with certain information needed to ensure that an applicant meets the standards of operational experience and sufficient financial ability to meet obligations to NSCC.[8] Furthermore, NSCC will require the investment adviser to the mutual funds to have an established business history.

2. Obligations and Rights of Fund/Serv Members

To ensure continued compliance with NSCC's requirements, NSCC will require Fund/Serv members to submit quarterly reports regarding changes in operational capability, financial conditions and personnel and updated regulatory history and insurance information. The proposal requires all broker-dealer members to file with NSCC, in a timely manner, a copy of Form X-17-A-5 (Financial and Operational Combined Uniform Single ("FOCUS") Report). In addition, the proposal would apply to Fund/Serv members NSCC's existing authority to examine its members' books and records. Furthermore, the proposal requires Fund/Serv members to provide certain background, operational and financial information regarding the investment companies and investment advisors for the funds.

Another tool to alert NSCC to certain changes in a Fund/Serv member's financial condition is the surveillance status category. NSCC may place a Fund/Serv member on surveillance status when there is a significant drop in fund assets, a significant increase in net redemptions or other financial or operational changes that could potentially increase NSCC's financial exposure.[9] A Fund/Serv member placed on surveillance status will be required to report weekly certain information, as prescribed by NSCC, including the member's average weekly net redemptions.

While the proposal will provide NSCC the authority to require Fund/Serv members to contribute to NSCC's clearing fund, NSCC has determined not to exercise that authority at this time. Instead, NSCC will modify its settlement cycle by requiring Fund/Serv members to make payment of net debit balances sufficiently earlier in the day to allow NSCC, in the event of non-payment of such debit balance, to prevent crediting broker-dealer participants in the afternoon settlement cycle for monies not received from Fund/Serv members.

C. Fund/Serv System Fees

NSCC also is amending Rule 24, Charges For Services Rendered. NSCC originally amended its rules to charge a fee of $0.35 per side per confirmed order. NSCC, however, has decided that the fee should be based upon settled orders.

III. NSCC's Rationale

NSCC seeks to expand the number of mutual funds by approximately 25 and broker-dealer participants by approximately 49 over the one-year pilot period. NSCC believes that expanding the number of participants over the one-year pilot will enable these participants to more efficiently process mutual fund transactions, especially in light of one significant recent growth in mutual fund transactions and the manually-intensive methods for processing mutual fund transactions outside of NSCC.

NSCC proposes to decrease the "assets under management" requirements from $500 million to $100 million. NSCC, however, has added a "net worth" requirement, an applicant questionnaire requirement, and certain continuing membership requirements, including filing of periodic reports and an early warning surveillance program. NSCC believes that a Fund/Serv applicant having $100 million assets under management and a "net worth" of at least one million dollars and meeting the other proposed membership requirements probably will be able to meet its routine settlement obligations to NSCC.

NSCC believes that the proposal is consistent with the Act because it facilitates the prompt and accurate clearance and settlement of mutual fund transactions. Specifically, the expanded pilot would be a significant step toward bringing the clearance and settlement of mutual fund transactions into a centralized, efficient and automated clearance environment. At the conclusion of the pilot, NSCC expects to offer Fund/Serv to all members and qualifying mutual funds.

IV. Statutory Standards

Under section 19(b) of the Act, the Commission must approve NSCC's proposed rule change if it finds NSCC's proposal is consistent with the Act and Commission rules applicable to registered clearing agencies. The Commission may not approve the proposal if it is unable to make such a finding.

Section 17A sets forth general objectives with respect to the regulation of registered clearing agencies. Congress directed the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. Section 17A(b)(3) provides, among other things, that a clearing agency shall not be registered by the Commission unless the Commission determines that the rules of the clearing agency are designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system.

Section 17A(b)(3)(F) provides that the clearing agency's rules must be designed to promote the prompt and accurate

[6] NSCC indicates that most applicants that might benefit from Fund/Serv Services can meet this standard.

[7] NSCC plans to develop appropriate standards and would file those standards for review under Section 19(b) of the Act.

[8] For example, the questionnaire solicits information concerning an applicant's financial background, including financial statements, net worth, potential liabilities and the dollar amount of assets under management. Other areas covered in the questionnaire include an applicant's operational background, regulatory background, insurance coverage and pending investigations or litigations.

[9] For example, Fund/Serv members would be placed on surveillance status if the net assets under its management decreased by 15% over the previous month, 25% over the previous two-month period or 30% over the previous three-month period. A member placed on surveillance status must report weekly to NSCC the member's average weekly net redemptions and any other assurances of its financial responsibility as NSCC may determine.

clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. In addition, section 17A(b)(3)(I) provides that the rules of a clearing agency must not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Furthermore, in section 17A(a)(2), Congress directed the Commission, in using its authority under the Act, to have due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers, dealers, clearing agencies and transfer agents.

V. Discussion

The Commission believes that NSCC's proposal is consistent with the Act and will promote the prompt, accurate and safe clearance and settlement of securities transactions. Moreover, as discussed below, continuation of the pilot program and phased expansion of participant users appear well-designed to relieve current operational stress for mutual fund securities processors.

The proposal is the first centralized automated processing system for mutual fund purchases and redemptions available to National Clearance and Settlement System ("NCSS") clearing agency participants. Centralized, automated securities processing has long been the hallmark of the NCSS, whose clearing agencies safekeep in excess of $2 trillion of corporate and municipal securities[10] and clear and settle member transactions valued in excess of $1.9 trillion annually.[11]

Although mutual fund transactions processing is similar in some respects to corporate and municipal securities processing, mutual fund processing is unique in several important respects. Mutual fund shares generally are issued in book-entry form and, although many mutual fund shares are sold by brokers, only a very small percentage of those shares are traded in the secondary market. Historically, these differences led the mutual fund industry to develop order processing systems outside the context of NCSS clearing agencies.

In contrast to that history, the Fund/Serv System provides broker-dealers and fund processors a centralized, automated mechanism for transmitting purchase and redemption orders and for settling those transactions. Currently, broker-dealers handling customer orders for securities processed by more than one fund agent must establish communication and settlement arrangements with each such agent and, similarly, each fund agent must establish arrangements with brokers handling orders for the agent's funds. The absence of centralized, efficient facilities and uniform standards for processing mutual fund transactions increases brokers' risks of failed deliveries, inadequate transaction records, operational errors and, ultimately, financial insolvency. Moreover, the recent sharp increase in trade volume has contributed to processing stress.[12]

A centeralized, automated mutual fund transaction processing system will create significiant efficiences for broker-dealers and mutual funds and enhance regulatory oversight of mutual fund transaction processing. Accordingly, the proposed system represents an important step toward the goals embodied in section 17A: Efficient, effective and safe securities processing through centralized, automated facilities. Indeed, the proposed system eventually will permit broker-dealers and fund processors to process all their transactions in corporate, municipal and investment company securities through one clearing corporation and one securities depository.[13] Moreover, to ensure that mutual fund agents do not process transactions through the Fund/Serv System in ways inconsistent with regulatory requirements, NSCC's proposal would clarify that agents warrant to NSCC that all transactions submitted for processing comply with the Investment Company Act and the Investment Company Act rules thereunder.[14] The proposed centralized automated system, coupled with NSCC's oversight experience with clearing agency operations, should enhance significantly the oversight of Fund/Serve members and member activities. Centralized, automated facilities should result in better audit trails and transaction recordkeeping, as well as stronger internal accounting controls.

The Commission also believes that NSCC's proposed standards for Fund/Serv members are consistent with the Act. NSCC will require Fund/Serv applicants to have a net worth of $1 million and an establishd business history (or personnel with business experience) of three years. NSCC also will require these applicants to complete a questionnaire discussing the applicants' financial and operational experience. These standards seem reasonably designed to enable NSCC to assess the financial and operational capability of applicants. These standards are similar in character to other NSCC membership standards, which NSCC uses effectivlely for its settling members.

To supplement that application process, NSCC will require Fund/Serv members to file quarterly reports and will require all registered broker-dealers participating in Fund/Serv to file FOCUS reports. In addition, NSCC has developed an early warning surveillance status to monitor certain members that experience certain financial and operational changes. A continuous reporting and monitoring program is critical to responsible clearing agency oversight of Fund/Serv users.

While NSCC has proposed operational and financial standards to minimize financial exposure to NSCC and to its members, there is always the risk that a member will default on its payment obligation. Accordingly, NSCC requires settling members, among other things, to contribute to NSCC's clearing funds to secure their payment obligations and protect NSCC against financial losses related to NSCC's clearance and settlement activities. At this time, however, Fund/Serv members (who are not otherwise settling members) would not be required to contribute to NSCC's Clearing Funds, primarily because their use of NSCC services would be limited to Fund/Serv and payments in that service are not guaranteed by NSCC. Nevertheless, to

[10] *See* The Depository Trust Company, Annual Report (1985) at 2.

[11] In 1985, NSCC processed an average of almost 290,000 transactions each day, valued at $7.6 billion. *See* NSCC, Annual Report (1985) at 10.

[12] Mutual funds, marketed through broker-dealers, have experienced a 220% increase in assets, under management from 1984 to 1985. In 1985, investors; mutual fund purchases and redemptions arranged through broker-dealers represented 75% of the industry's overall volume, or $85.3 billion of the $114.3 billion in mutual fund (not including money market) shares purchased and redeemed during the year.

[13] Section 17A directs the Commission to use its authority under the Act to facilitate the establishment of a NCSS for the prompt and accurate clearance and settlement of transactions in securities, including investment company securities. Section 17A also authorizes the Commission to establish standards in that regard for clearing agencies and transfer agents, including persons performing transfer agent functions with respect to investment company securities. *See* § 17A(d). Section 17A also contemplates investment company participation in registered clearing agencies. *See* section 17A(b)(3)(B)(iii).

[14] Notwithstanding Fund/Serv's operational time frames, fund processors must process transactions in compliance with, among other things, Commission rules under Section 17A of the Act and Section 22 of the Investment Company Act of 1940. See, *e.g.*, note 4, *supra*. In promulgating rules under those Acts, however, the Commission has sought to establish requirements that harmonize the objective of both statutes. *See, e.g.*, Securities Exchange Act Release No. 19860 (June 10, 1983), 48 FR 28231.

protect against Fund/Serv member default, NSCC's proposal would require Fund/Serv members to make payment of net debit balances sufficiently early in the day to allow NSCC to prevent the crediting of broker/dealer participants for monies not received from Fund/Serv members. This modification to NSCC's settlement cycle is a prudent response to the potential financial risks.

NSCC's decision to continue the pilot program and phased, scheduled expansion is appropriate for several reasons. Phased expansion should reduce the risks of operational difficulties and processing errors among new broker and fund agent system users.[15] In addition, phased expansion may help assure compliance with Investment Company Act transaction processing requirements during the conversion process and facilitate Commission oversight of fund agent conversions to the Fund/Serv System. Finally, phased expansion permits NSCC to gain additional experience operating the Fund/Serv system and to adjust Fund/Serv procedures where necessary to accommodate user needs without risking widespread order processing delays, errors or confusion.

VI. Conclusion

The Commission agrees with NSCC that the proposed expanded pilot is consistent with section 17A of the Act. The proposal will enable NSCC to meet the growing demand for an automated and centralized order entry, confirmation, registration and settlement services for mutual fund transactions. During the pilot, NSCC will monitor the expansion of Fund/Serv to ensure the safe and efficient processing of mutual fund transactions and will make changes necessary to provide such service to all NSCC members and qualifying mutual funds. NSCC will keep the Commission informed of the progress of the pilot and, before expiration of the pilot period, NSCC expects to submit a proposed rule change to establish a permanent system. The Commission therefore finds that the proposal is consistent with the Act and, in particular, with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NSCC–86–05) be, and it hereby is, approved through January 31, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: February 10, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–3529 Filed 2–18–87; 8:45 am]

BILLING CODE 8010–01–M

[15] The Commission recognizes that new Fund/Serv users could encounter significant operational difficulties in converting to a centralized, automated transaction processing system. Personnel must be trained to follow new procedures, internal systems must be adjusted and, in some cases internal accounting controls must be revised. It appears, however, that NSCC is taking appropriate action to reduce the risk of operational difficulties to new Fund/Serv users. For example, new users are trained in system procedures and transactions are processed through Fund/Serv and existing systems until NSCC and the new users are comfortable with exclusive Fund/Serv processing.

SELECTIVE SERVICE SYSTEM

Privacy Act of 1974; Proposed Revision of Systems of Records

AGENCY: Selective Service System.

ACTION: Proposed revision of systems of records.

SUMMARY: The Selective Service System proposes to revise the routine uses in its systems of records SSS–4, SSS–5, and SSS–10.

Comment Date: Comments on these proposed revisions of the systems of records should be submitted in writing or before March 23, 1987, to the General Counsel, Selective Service System, Washington, DC 20435, Phone (202) 724–1167.

EFFECTIVE DATE: The revisions of these systems of records will become effective on March 23, 1987 unless the Selective Service System publishes notice to the contrary.

Congress Notice

Notice of these proposed revisions of these systems of records has been filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget, as required by 4 U.S.C. 552a(o).

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, DC 20435, Phone (202) 724–1167.

SUPPLEMENTARY INFORMATION: The systems of records, SSS–4, SSS–5, and SSS–10 appear at 52 FR 2635, January 23, 1987.

February 10, 1987.

Wilfred L. Ebel,

Acting Director of Selective Service.

Routine uses are revised to read:

SSS–4

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Defense—exchange of information concerning registration classification, enlistment, examination and induction of individuals, and for recruiting (prior to April 1, 1982 only on request of the registrant).

Alternative service employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement in and supervision of performance of alternative service in lieu of induction into military service.

Department of Justice—for review and processing of suspected violations of the Military Selective Service Act, or for perjury, and for defense of a civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of violation of the Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's eligibility for re-entry into the United States and United States citizenship.

Department of State—for determination of an alien's eligibilty for possible entry into the United States and United States citizenship.

Office of Veterans' Reemployment Rights, United States Department of Labor—to assist veterans in need of information concerning reemployment rights.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 et seq.) and for determining the individual's proper Social Security Account Number when there appears to be a discrepancy.

State and local government agencies—to provide information which may constitute evidence of a violation of State or local law, for law enforcement purposes.

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification.

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SSS–5

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Defense—for exchange of information concerning registration, classification, enlistment, examination and induction of individuals.

Alternative service employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement in and supervision of performance of alternative service in lieu of induction into military service.

Department of Justice—for review and processing of suspected violation of the Military Selective Service Act or for perjury and for defense of a civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of violation of Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's eligibility for re-entry into the United States.

Department of State—for determination of an alien's eligibility for possible entry into the United States and United States citizenship.

Office of Veteran's Reemployment Rights, United States Department of Labor—to assist veterans in need of information concerning reemployment rights.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 et seq.) and for determining the individual's proper Social Security Account Number when there appears to be a discrepancy.

State and local government agencies—to provide information which may constitute evidence of a violation of State or local law, for law enforcement purposes.

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification.

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SSS–10

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Defense—for exchange of information concerning registration, classification, enlistment, examination and induction of individuals and identification of individuals, availability of Standby Reservists, and identification of prospects for recruiting.

Department of Justice—for review and processing of suspected violations of the Military Selective Service Act, or for perjury, and for defense of civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of a violation of the Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's eligibility for re-entry into the United States.

Department of State—for determination of an alien's eligibility for possible entry into the United States and United States citizenship.

Office of Veteran's Reemployment Rights, United States Department of Labor—to assist veterans in need of information concerning reemployment rights.

Department of Health and Human Services—for locations of parents pursuant to the Child Support Enforcement Act (42 U.S.C. 651 et seq.) and for determining the individual's proper Social Security Account Number when there appears to be a discrepancy.

State and local government agencies—to provide information which may constitute evidence of a violation of State or local law, for law enforcement purposes.

Alternative service employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement in and supervision of performance of alternative service in lieu of induction into military service.

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification.

* * * * *

[FR Doc. 87–3439 Filed 2–18–87; 8:45 am]

BILLING CODE 8015–01–M

Matching Program To Identify Registration Violators

AGENCY: Selective Service System.

ACTION: Notice.

SUMMARY: Pursuant to OMB Memorandum dated May 11, 1982, "Revised Supplemental Guidance for Conducting Matching Programs", the Selective Service System publishes the following information concerning the Selective Service System Registration Compliance Program for computerized matching of individual records maintained by the Selective Service System against records of other federal and non-federal sources.

This report covers all computerized matching of individual records maintained by the Selective Service System against records of other federal and non-federal sources. It is a revision of the report published in 49 FR 7687 (March 1, 1984) and 50 FR 51325 (December 16, 1985) and incorporates additional sources of records of registration age men.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Johnsen, Associate Director, Information Management, Selective Service System, P.O. Box 4638, North Suburban, IL. 60197–9938, Phone (312) 688–2202.

Dated: February 10, 1987.

Wilfred L. Ebel,

Acting Director of Selective Service.

Report Concerning SSS Matching Program To Identify Registration Violators

Pursuant to OMB Memorandum dated May 11, 1982, concerning "Revised Supplemental Guidance for Conducting Matching Programs", the Selective Service System submits the following information concerning its revision to the Selective Service System Registration Compliance Program for computerized matching of individual records maintained by the Selective Service System against the records of various Federal, State and local government agencies and other public and private sources.

Authority

The authority under which the program is conducted are sections 10(b)(5) and 12(e) of the Military Selective Service Act (50 U.S.C. App. 451 et seq.); and Presidential Proclamation 4771, 45 FR 45247 (July 3, 1980).

Purpose

This matching program is a continuing program to identify those persons who are in violation of the registration requirements of section 3 of the Military Selective Service Act (50 U.S.C. App. 453).

Procedure

The matching procedure for the program includes the following steps:

(1) Various Federal, State and local government agencies, and other public and private sources provide the Selective Service System the following information as available; the name, social security account number, date of birth, and address of each male born in the year of birth of the age groups which are required to register.

(2) The data received from the various record sources is compared to the Selective Service Registrant Registration Record System (SSS–10) to eliminate those men who have registered. Pending further matching and confirmation, the names on the lists that are not matched with the Selective Service record of

registrants constitute the Selective Service Suspected Violator Inventory System (SSS–8) containing the names of suspected violators.

(3) The Selective Service Suspected Violator Inventory System (SSS–8) is then compared to the record systems of the Defense Logistics Agency and the U.S. Coast Guard containing the names of personnel on active duty with the armed forces. The names of persons who are on active duty with the armed forces are removed from the Suspected Violator Inventory System.

(4) Letters and registration forms are mailed to individuals in the Selective Service Violator Inventory System. Records not containing addresses may then be matched by Internal Revenue Service to their Individual Master File (IRS–24.030) to determine the most current addresses. (**Authority:** 26 U.S.C. 6103(i)(2)). The Internal Revenue Service then mails letters and registration forms to the individuals.

(5) Those who respond by registering are entered into the Selective Service Registrant Record System (SSS–10). Those who fail to respond or refuse to register are reported to the Department of Justice for further investigation and possible prosecution. Those who respond but are determined to be exempt from registration pursuant to sections 3(a) and 6(a)(1) and (2) of the Military Selective Service Act (50 U.S.C. App. 453, 456) are so identified.

Record Systems

The record systems that are matched against the SSS–8 are:

(1) Selective Service System Record System No. SSS–10 "Registrant Registration Records (post–1979) SSS" published in 45 FR 30587 (May 8, 1980);

(2) Social Security Administration Record System No. 09–60–0058 "Master Files of Social Security Number Holders HHS SSA OEER" published in 46 FR 53784 (October 30, 1981);

(3) Internal Revenue Service Record System No. IRS 24.030 "Individual Master File (IMF)" published in 46 FR 16463 (March 12, 1981);

(4) U.S. Coast Guard, Record System No. DOT/CG 624 "Personnel Management Information System (PMIS)" published in 46 FR 59741 (December 7, 1981);

(5) U.S. Coast Guard, Record System No. DOT/CG 678 "Reserve Personnel Management Information System (Automated)" published in 46 FR 59741 (December 7, 1981);

(6) Defense Logistics Agency Record System No. S 322.10 DLA-LZ "Defense Manpower Data Center Data Base" published in 46 FR 40556 (August 10, 1981);

(7) Department of Education Record System No. 18–40–0014 "Pell Grant Applicant File" and No. 18–40–0015 "Pell Grant Student Eligibility Report Subsystem," published in 46 FR 29633 (June 21, 1981);

(8) Federal Aviation Administration Record System No. DOT/FAA 802 "Airmen Certification System", published in 46 FR 59782 (December 7, 1981);

(9) Department of Health and Human Services, Record System No. 09–15–0044, "Health Education Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPR," published in 51 FR 16220 (May 1, 1986);

(10) Immigration and Naturalization Service Record System No. 001 "Immigration and Naturalization Service Index System" published in 42 FR 54337 (October 5, 1977);

(11) Veterans Administration Record System No. 45VA23 "Veterans Assistance Discharge System (VADS)-VA" published in 47 FR 370 (January 5, 1982);

(12) State and local government records; and

(13) Lists acquired from other public and private sources.

Start and End Dates

The matching program began June 1, 1982. The program will continue indefinitely unless registration under the Military Selective Service Act is terminated by the President or by statute.

Safeguards

Safeguards afforded the records involved are:

(1) Records are available to authorized Selective Service personnel only. Authorized personnel include the Director, Deputy Director, Associate Director for Operations, Associate Director for Information Management, the General Counsel, computer operators involved in processing the information, and other personnel specifically authorized to have access to the information by the Director, the Deputy Director, the Associate Directors or the General Counsel.

(2) Computer files are maintained at the Joint Computer Center at Great Lakes, Illinois.

(3) Building is secured and patrolled after normal business hours.

(4) Security guards for the building allow access to authorized personnel only.

(5) Computer room is secured with cypher locks.

(6) Terminal access to the computer system is restricted to those with valid user ID and password.

(7) A Customer Information Control System requires an additional password for interactive access to data base information.

(8) A software security package protects access to data in the system.

Disposition of Records

At the completion of the program for each year group, source records are returned to source agencies by registration year group, if requested; or destroyed pursuant to any prior agreement between the Selective Service System and any respective source agency; or disposed of pursuant to Chapters 21 and 33 of the Federal Records Act of 1950 (44 U.S.C. 2101 et seq.).

Congressional Notice

Copies of this report are sent concurrently with publication to the Congress, addressed to the President of the Senate and the Speaker of the House of Representatives.

[FR Doc. 87–3440 Filed 2–18–87; 8:45 am]

BILLING CODE 8015–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06–0170]

Red River Ventures, Inc.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1987)) for transfer of ownership and control of Red River Ventures, Inc., 777 East 15th Street, Plano, Texas 75074, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of ownership and control of Red River Ventures, Inc. which was licensed February 21, 1974, is subject to the prior written approval of SBA.

The transfer of ownership and control relates to a proposed issuance of 218,750 shares of additional stock of a holding company, Red River Investors, Inc., which holds all of the capital stock of Red River Capital Corporation, which is the parent company of Red River Ventures, Inc.

Presently, the sole shareholder of Red River Investors, Inc. is Delwin W. Morton.

The proposed ownership and control of Red River Investors, Inc. would be as follows:

Name and address	No. of shares	Percent of ownership
Delwin W. Morton, 777 East 15th Street, Plano, Texas 75074	125,000	36.4
Charles J. Wilson, 16660 Dallas Parkway, Suite 2000, Dallas, Texas 75248	125,000	36.4
Six Other Investors (less than 10 percent for each investor)	93,750	27.2
Total	343,750	100.0

There will be no changes in the officers and directors of Red River Ventures, Inc.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, no later than 30 days of the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416. A copy of this Notice will be published in a newspaper of general circulation in Plano, Texas.

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

Dated: February 9, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-3388 Filed 2-18-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/1048]

Integrated Services Digital Network (ISDN); Joint Working Party and Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Joint Working Party and Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 11, 1987 in Room 1205, Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 9:30 a.m.

The agenda for the meeting is as follows:

1. Report on CCITT Study Group XI/6 Meeting, Kyoto, January 26-February 3, 1987.

2. Report on CCITT Study Group XVIII Meeting, Brasilia, February 2–13, 1987.

3. Consideration of contributions to the Study Group XI Working Parties Meeting, Phoenix, March 23-April 10, 1987.

4. Consideration of other relevant contributions.

5. Other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 647–5832. All attendees must use the C Street entrance to the building.

Dated: February 5, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 87-3430 Filed 2-18-87; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/1047]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telephone and Telephone Consultative Committee (CCITT) will meet on March 18, 1987 at 9:30 a.m. in Room 1105, Department of State, 2201 C Street NW., Washington, DC.

The purpose of the meeting is to discuss the status of the work on CCITT restructure in CCITT Special Study Group S to begin to establish U.S. positions for the final international meeting on the subject in November, 1987. This is the first of a series of meetings to culminate in July, 1987 on this matter.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl S. Barbely, State Department, Washington, DC (202) 647–5823 at least 24 hours in advance of the meeting. All attendees must use the C Street entrance to the building.

Dated: February 9, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 87-3429 Filed 2-18-87; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/1049]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 17, 1987 at 9:30 a.m. in Room 1207, Department of State, 2201 C Street, NW., Washington DC.

Study Group A deals with international telecommunications policy and services.

The proposed agenda will cover the following activities:

1. Develop contributions for Working Parties of CCITT Study Group III (April).

2. Develop contributions for two Working Parties CCITT Study Group I (April/May).

3. Develop contributions for CCITT Study Group VIII.

Members of the general public may attend the meeting and join the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, DC; telephone (202) 647–5832. All attendees must use the C Street entrance to the building.

Dated: February 9, 1987.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 87-3428 Filed 2-18-87; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 160—406 MHz Emergency Locator Transmitters (ELT); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 160 on 406 MHz Emergency Locator Transmitters (ELT) to be held on March 17-19, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Approval of the Minutes of the Second Meeting; (3) Review and Discuss EUROCAE WG-29 Activities; (4) Report on Potential Problems of Frequency Interference in the 406 MHz Band; (5) Review NOAA Data Base Procedures; (6) Review of Draft Sections Including Those From Task Assignments; (7) Task Assignments; (8) Other Business; and (9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 11, 1987.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 87-3385 Filed 2-18-87; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Onandaga County, NY

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 Onandaga County, New York.

FOR FURTHER INFORMATION CONTACT:

Roger H. Edwards, Director, Facilities Design Division, New York State Department of Transportation, State Campus, 1220 Washington Avenue, Albany, New York 12232, Telephone: (518) 457-6452.

or

Victor E. Taylor, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 472-3616.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration, in cooperation with the New York State Department of Transportation will prepare an Environmental Impact Statement (EIS) on a proposal to construct Relocated Route 290 in Onandaga County, New York. The proposed improvement would involve the construction of an alternate access to the urban arterial system in order to relieve traffic congestion and reduce accidents on existing facilities. At its western terminus, Relocated Route 290 would connect to existing ramps in the I-481/I-690 Butternut Interchange. The new highway would extend easterly approximately three (3) miles to its eastern terminus with Route 257/290 near Manlius Center. Construction of this facility is considered necessary to provide for existing and projected traffic demand. Also included in this proposal is the relocation of a portion of Butternut Drive and provision of signalized, at grade intersections with Fisher Road, Bowman Road, and North Burdick Street.

Alternatives under consideration include taking no action and construction of a four-lane limited highway on new location. Incorporated into and studied with the build alternative will be various design alternates with variations of grade and alignment. In addition, consideration will be given to stage construction of the new facility.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A scoping with cognizant Federal, State and local agencies was held in Syracuse on July 26, 1985. Public information sessions were conducted on November 26, 1985 and January 28, 1986. In addition, a Public Hearing will be held. Public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment. No further scoping type meetings are planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the New York State Department of Transportaton or Federal Highway Administration at the adresses provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Dated: February 9, 1987.

Victor E. Taylor,

Division Administration Federal Highway Administrator, Albany, New York.

[FR Doc. 87-3443 Filed 2-18-87 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP-86-09; Notice 1]

Ford Motor Company; Receipt of Petition for Determination of Inconsequential Noncompliance

Ford Motor Company, of Detroit, Michigan has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncomplicance with 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Ford Motor Company produced approximately 27,300, 1986 Ford Tempo and 9,000 1986 Mercury Topaz 4-door vehicles through July 21, 1986, equipped

with optional deck lid luggage racks which obstruct the 5 degree down sight lines, resulting in noncompliance with FMVSS No. 108. Minimum design and photometric requirements for center high mounted stop lamps are found in Figure 10 of Standard No. 108. Following the discovery of this noncompliance, Ford began production of a revised shortened stanchion luggage rack which does not prevent the center-mounted stop lamp from complying with the photometric requirements of FMVSS No. 108.

Based on its investigation, testing and analyses, Ford argued,

". . . we believe that the high mount stoplamps installed on 1986 Tempo and Topaz 4-door vehicles equipped with deck lid luggage racks more than amply perform their intended function as recited by NHTSA in the preambles to rulemaking applicable to these devices. Further, we believe that the high-mount stoplamps in question perform their intended function equally well as such stop lamps installed on similar vehicles not equipped with deck lid luggage rack and which comply with applicable visibility requirements. Additionally, as we would fully expect, we are aware of no complaints, accidents or injuries related to obscuration of high mount stoplamps on these vehicles by their decklid luggage racks."

Ford Motor Company believes this failure to meet the 5 degree down test visibility requirements of FMVSS No. 108, is inconsequential as it relates to motor vehicle safety because the stop lamps still radiate light of sufficient intensity in the required rearward directions to intercept the eyes of the drivers of the following vehicles.

The following table provides a comparative analysis of photometric output measurements in candela between Ford Tempo and Mercury Topaz cars manufactured without a luggage rack, equipped with a tall deck lid luggage rack, and equipped with a short deck lid luggage rack.

TABLE 1.—PHOTOMETRIC OUTPUT (IN CANDELA)

5 degree down test points	No luggage rack	Original tall rack	New short rack	Minimum photometric requirements of FMVSS 108
5D–10L	43.47	10.48	43.47	16.00
5L	57.02	15.00	57.02	25.00
V	63.74	17.51	63.74	25.00
5R	62.67	17.41	62.67	25.00
10R	48.37	10.96	48.37	16.00

Interested persons are invited to submit written data, views and arguments on the peitition of Ford Motor Company, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considerd to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 23, 1987.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 13, 1987.

Barry Felrice,

Associate Administrotor for Rulemaking.

[FR Doc. 87–3499 Filed 2–18–87 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Committee on Coinage, Medal and Currency Design

The Department of the Treasury has decided not to proceed with the establishment of the Advisory Committee on Coinage, Medal and Currency Design, which notice was published in the **Federal Register** January 8, 1987, Volume 52 No. 5. Instead, the Department will rely to a greater extent on the advice and counsel of the Commission of Fine Arts to guarantee the quality of future designs.

Dated: February 12, 1987.

John F. W. Rogers,

Assistant Secretary of the Treasury (Management).

[FR Doc. 87–3540 Filed 2–18–87; 8:45 am]

BILLING CODE 4810–25–M

Office of the Comptroller of the Currency

Privacy Act of 1974; Proposed New System of Records

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

ACTION: Notice of proposed new system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, the Office of the Comptroller of the Currency (OCC) gives notice of a new system of records entitled the Litigation Information System (LIS)—Treasury/Comptroller .016. The LIS is being established for records generated by the OCC in connection with civil and administrative proceedings in which it participates. Information contained in LIS will be used to enhance the OCC's ability to litigate judicial and administrative claims.

DATES: Comments must be received no later than March 23, 1987. The new system of records will become effective April 20, 1987.

ADDRESSES: Comments should be sent to Communications Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, Attn: Lynnette Carter, (202) 447–1800.

FOR FURTHER INFORMATION CONTACT: Rosa M. Koppel, Attorney, Litigation Division, (202) 447–1893, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Establishment of New System of Records

The LIS is being established to cover records generated in connection with civil and administrative proceedings brought by or against the OCC and/or officials or employees of the OCC in their capacity as such, or in which the OCC participates as a nonparty. The LIS contains the names of individuals who are parties to such litigation as well as other individuals, including actual or potential witnesses, involved in the litigation.

Purpose(s)

The purpose of the system is to maintain a system of records containing the names of individuals who are involved in litigation with the OCC. This information will be used to enhance the OCC's ability to litigate administrative and judicial claims brought by or against it and to effectively participate in litigation to which it is not a party.

Treasury/Comptroller .016

System name:

Litigation Information Sytem (LIS)—Treasury/Comptroller

System location:

Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219

Categories of individuals covered by the system:

LIS will cover: (a) Individuals who file administrative or judicial claims against the OCC and/or officials or employees of the OCC in their capacity as such, against whom the OCC files claims, or who are parties to claims in which the OCC participates but is not a party. (b) All other individuals, including actual or potential witnesses, involved in litigation brought by or against the OCC or in which the OCC participates as a nonparty.

Categories of records in the system:

All records generated in connection with the litigation including evidentiary material, transcripts of testimony, documents prepared for administrative or judicial proceedings, correspondence, and staff memoranda.

Authority for maintenance of the system:

12 U.S.C. 1 and 481; 15 U.S.C. 78c(a)(34), 781(i), 78o–4.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information contained in these records may be used: (a) To provide the Department of Justice with pleadings, memoranda, correspondence, litigation reports, and other documents that will assist it in the preparation of litigation involving the OCC. (b) To disclose information to the news media in accordance with guidelines contained in 28 CFR 50.2, which covers the release of information relating to civil and criminal proceedings. (c) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or potential or actual witnesses in the course of discovery, in litigation or settlement negotiations, or in response to a subpoena, where relevent or potentially relevant to the proceeding. (d) To provide information or records to any other appropriate domestic or foreign government agency or self-regulatory organization charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing statutes, rules, regulations or orders or pursuant thereto. (e) To disclose information to bank and consumer groups. (f) To disclose information to any person with whom the OCC contracts to reproduce,by typing, photocopy or other means, any record within the system of records for use by the OCC and its staff in connection with their offical duties or to any person who is utilized by the OCC to perform clerical or stenographic functions relating to the official business of the OCC.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records comprising this system are maintained in file folders kept in lockable file cabinets.

Retrievability:

Access to the records is by name of the individual litigant(s).

Safeguards:

Records are accessible only to authorized personnel.

Retention and disposal:

Records are updated periodically to reflect changes and are maintained as long as needed.

System manager(s) and address:

Director, Litigation Division, Law Department, Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washinton, D.C. 20219

Notification procedure:

Individuals wishing to be notified if they are named in the system or to gain access to records maintained in the system must submit a request containing the following elements: (1) Identity of the record system; (2) identity of the category and type of records sought; (3) the location of the Comptroller of the Currency office where the record might be stored; and (4) at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information).

Record access procedures:

Submit requests to Director, Public Affairs, 490 L'Enfant Plaza, East, SW, Washington, D.C. 20219

Contesting record procedures:

Submit comments to Director, Public Affairs, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

Record source categorieis:

Individuals who file claims against or otherwise are involved in legal proceedings with the OCC and/or an official or employee thereof in his or her capacity as such; communications and documents generated or received by the OCC, its officials or employees in the course of the legal proceedings; applications and other filings made with the OCC pursuant to law.

Systems exempted from certain provisions of the act:

None.

Dated: February 12, 1987.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

[FR Doc. 87–3541 Filed 2–18–87; 8:45 am]

BILLING CODE 4810-31-M

Customs Service

Public Meeting on Harbor Maintenance Fee

AGENCY: Customs Service, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces that a public meeting will be held at the Department of Commerce Auditorium in Washington, DC, on March 11, 1987, at 10:00 a.m., to discuss collection by the Customs Service of a harbor maintenance fee mandated by the Water Resources Development Act of 1986. The purpose of this meeting is to provide information and answer questions so the collection of the fee can be done in an orderly and efficient manner with minimal burdens or problems for affected parties. Persons planning to attend are requested to notify Customs in advance so that background materials can be provided.

DATE: March 11, 1987, at 10:00 a.m.

ADDRESS: The meeting will be held at the Department of Commerce Auditorium, 14th Street between Constitution Avenue and E Street, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Fred Boyett, Director, User Fee Task Force, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229, Room 2216 (202–566–5868).

SUPPLEMENTARY INFORMATION:

Background

Presently, there are no Federal fees assessed on port use, and there is no special trust fund relating to the Federal financing of ports and harbors. Federal expenditures for harbors and port development and maintenance have been financed from general revenues.

The Water Resources Development Act of 1986 (Pub. L. 99–662) imposes a fee for harbor maintenance effective on April 1, 1987. This fee will apply to port use associated with imported, exported, and domestic waterborne commercial cargo, and will be 0.04 percent of the value of the cargo involved. The money collected will be put in a special trust fund made available to the U.S. Army

Corps of Engineers for the improvement and maintenance of ports and harbors in the United States.

Because the Customs Service already has a strong presence at ports of entry, and is experienced with the appraisement and valuation of imported merchandise, and the collection of Customs duties and other fees, Customs will assess and collect this new fee. It is anticipated that interim regulations detailing procedures for collection of the fee will be published in the **Federal Register** in early March 1987. The interim regulations will provide for a 60-day comment period from the date of publication.

In the meantime, Customs is scheduling a meeting for March 11, 1987, at 10:00 a.m. at the Department of Commerce Auditorium in Washington, DC, to provide information to the public regarding collection of the new fee. Persons planning to attend are requested to notify Mr. Fred Boyett of Customs Service Headquarters at 202–566–5868 in advance so that background materials can be provided. At the meeting, questions will be accepted and written comments may be submitted. Customs will consider written comments submitted at the meeting together with the comments submitted in response to publication of the interim regulations.

All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)) between 9:00 a.m. and 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Dated: February 11, 1987.

Gerald J. McManus,

Assistant Commissioner Commercial Operations.

[FR Doc. 87–3498 Filed 2–18–87; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

Performance Review Board; Notice of Members

AGENCY: Internal Revenue Service.

ACTION: Notice of Members of Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective February 1, 1987.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, PM:HR:H:E, Room 3515, 1111 Constitution Avenue, NW, Washington, DC 20224, Telephone No. (202) 566–4633 (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives other than Assistant Commissioners, Regional Commissioners and executives in Inspection are as follows:

James I. Owens, Deputy Commissioner, Chairman
John L. Wedick, Jr., Assistant Commissioner (Planning, Finance & Research)
James D. Hallman, Regional Commissioner, Central Region
Percy P. Woodard, Jr., Assistant Commissioner (International)
Thomas P. Coleman, Regional Commissioner, Western Region
Michael P. Dolan, Assistant Commissioner (Human Resources Management and Support), Alternate
Michael J. Murphy, Regional Commissioner, Mid-Atlantic Region, Alternate

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978 (43FR52122).

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 87–3380 Filed 2–18–87; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 33
Thursday, February 19, 1987

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).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 24, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participating in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, February 26, 1987, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Draft Advisory Opinion 1987-3—Harry O'Connor and O'Connor Creative Services.
1987 Legislative Recommendations.
Proposed Rulemaking for Delegate Selection of Regulations (11 C.F.R. § 110.14).
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 87-3897 Filed 2-17-87; 3:18 pm]
BILLING CODE 6715-01-M

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2:00 p.m., Friday, February 27, 1987.

PLACE: In the Board Room 6th Floor, 1700 G St., NW., Washington, DC.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6679).

MATTERS TO BE CONSIDERED:

Regulation of direct investment by insured institutions

John F. Ghizzoni,
Assistant Secretary.
No. 1, February 17, 1987.
[FR Doc. 87-3637 Filed 2-17-87; 1:52 pm]
BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Monday, February 23, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of required forms on government securities broker/dealer status of financial institutions.
2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 13, 1987.
William W. Wiles,
Secretary of the Board.
[FR Doc. 87-3535 Filed 2-13-87; 4:33 pm]
BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Monday, February 23, 1987, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 13, 1987.
William W. Wiles,
Secretary of the Board.
[FR Doc. 87-3536 Filed 2-13-87; 4:33 am]
BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, February 27, 1987 at 2:30 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints
5. Inv. 303-TA-18, 701-TA-275, 277, and 278, 731-TA-327/331, 333, and 334 (Certain Fresh Cut Flowers from Canada, Chile, Colombia, Costa Rica, Ecuador, Israel, Mexico Netherlands, and Peru)—briefing and vote.
6. Any items left over from pervious agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

Kenneth R. Mason,
Secretary.
February 12, 1987.
[FR Doc. 87-3545 Filed 2-17-87; 8:52 am]
BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, March 6, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   Certain office filing cabinets (Docket Number 1376).
5. Inv. 731–TA–320(F) (Certain unfinished mirrors from Belgium)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

February 12, 1987.

[FR Doc. 87–3546 Filed 2–17–87; 8:52 am]

BILLING CODE 7020–02–M

Corrections

Federal Register
Vol. 52, No. 33
Thursday, February 19, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300119A; FRL 3131-9]

Revocation of DDT and TDE Tolerances

Correction

In rule document 86-28744 beginning on page 46658 in the issue of Wednesday, December 24, 1986, make the following corrections:

On page 46661, in Table 1, in the entry for "Milk", the information in the "TDE" column under "Tolerances . . ." should have appeared under the "Recommended action . . ." column; and in the entry for "Peaches", in the "DDT" column under "Tolerances . . .", "05" should read "0.5".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300121A; FRL-3131-8]

Revocation of Aldrin and Dieldrin Tolerances

Correction

In rule document 86-28745 beginning on page 46662 in the issue of Wednesday, December 24, 1986, make the following correction:

On page 46664, in Table 1, in the entry for "Peanuts", in the "Recommended action . . ." column, "0.5" should read "0.05".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-010-07-4212-12; I-12640]

Realty Action, Exchange of Public and State Lands in Owyhee County, ID

Correction

In notice document 87-1478 beginning on page 3060, in the issue of Friday, January 30, 1987, make the following corrections:

1. On page 3060, in the third column, in T.13 S., R. 3 E., in Sec. 26, "S1/2N1/2" should read "N1/2N1/2."

2. On the same page, in the third column, in T.13 S., R. 3 E., in Sec. 28, "N1/2N1/2" should read "S1/2N1/2."

3. On the same page, in the third column, in T.13 S., R. 3 E., in Sec. 29, "N1/2,SE1/4" should read "N1/2SE1/4."

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc. et al.

Correction

In notice document 87-3114 appearing on page 4670 in the issue of Friday, February 13, 1987, make the following correction:

In the third column, the 11th line should read "of the parties to the IN/2 Venture, and (2) the nature and objectives of the IN/2 Venture. The".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS-87-1]

Availability of Funds and Requests for Applications Under the Office of Community Services Discretionary Authority

Correction

In notice document 87-2648 beginning on page 4090 in the issue of Monday, February 9, 1987, make the following correction:

After the Assurance of Compliance form that appears on page 4114, the following form should have appeared:

BILLING CODE 1505-01-D

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

_____ (hereinafter called the "Applicant")

Name of Applicant (type or print)

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this Assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this Assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this Assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Applicant.

Date _____

_____

Applicant (type or print)

By _____

Signature and Title of Authorized Official

_____

_____

Applicant's mailing address

NOTE: If this form is not returned with the application for financial assistance, return it to DHHS, Office for Civil Rights, 330 Independence Ave., S.W., Washington, D.C. 20201

HHS-441 (Rev. 12/82)

BILLING CODE 1505-01-C

federal register

Thursday
February 19, 1987

Part II

Department of Labor

Employment and Training Administration

Reexamination of the Purpose and Role of the Employment Service; Summary of Public Comments; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Reexamination of the Purpose and Role of the Employment Service; Summary of Public Comments

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice, summary of public comments.

SUMMARY: The Employment and Training Administration is publishing for public information a summary of the public comments received at four public hearings on the purpose and role of the Employment Service; and of written comments received. The comments deal with five key issues identified by the Employment and Training Administration and other related issues raised by the commenters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Schaerfl, Director, United States Employment Service, Employment and Training Administration, United States Department of Labor, Room N4470, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–535–0157.

SUPPLEMENTARY INFORMATION: On September 15, 1986, the Employment and Training Administration (ETA) of the Department of Labor (DOL) published a notice in the **Federal Register** announcing that it would hold four public hearings around the United States for the purpose of reexamining the purpose and role of the Employment Service (ES) system, 51 FR 32772 (September 15, 1986).

The hearings were held as follows:

- San Francisco—Region IX (October 15, 1986).
- Denver—Region VIII (October 17, 1986).
- Atlanta—Region IV (October 21, 1986).
- Washington, DC—Region III (October 23, 1986).

The notice requested the public to provide written statements as well. Over 1,900 direct invitations to attend the hearings and submit written statements were sent to key groups/individuals by the national and regional offices. Over 31,000 copies of the **Federal Register** notice were distributed through a general mailing.

The notice invited the public to respond to a series of issues concerning the purpose and role of the Employment Service in the future given the labor market trends projected for the Year 2000. Comments made by respondents were analyzed according to the five key issues presented in the notice.

Question #1: Does the labor market of the future require a public labor exchange?

Question #2: What public labor exchange services would be most effective in addressing the future needs of the labor market?

Question #3: Which groups in the workforce should receive public labor exchange services or should the workforce as a whole receive such services?

Question #4: What roles should be played by the Federal, State, and local governments, and the private sector in the administration of public labor exchange activities?

Question #5: What should be the nature of the relationship between the public labor exchange system, the Unemployment Insurance system, the Job Training Partnership Act system, and other State economic development and human resource programs.

Public Response

Four hundred and fifty-three (453) people attended the hearings, including 138 speakers. In addition, 562 respondents who did not speak at the hearings submitted written comments. A total of 700 respondents offered their views. The following illustrates the number of respondents who provided comments in response to the notice—speakers by public hearing, and those who submitted written comments only.

Respondents	Number
Speakers	138
—San Francisco	(30)
—Denver	(33)
—Atlanta	(28)
—District of Columbia	(47)
Written (only)	562
Total all	700

Research and Analysis Methodology

The **Federal Register** notice invited the public to respond to the issues listed above concerning the purpose and role of the Employment Service in the context of future labor market trends. Respondents and their comments were tracked/analyzed according to Federal region/State (State of origin), institutional group, and responses to the issues raised by the Federal Register. Those responding addressed these issues in a variety of ways.

Issue area categories were developed to track comments in order to obtain a relative understanding of what respondents envision as the labor exchange of the Year 2000.

Given that most respondents addressed the issues in very broad terms—some addressed them directly, others did not—considerable interpretation was necessary in order to analyze and categorize responses.

Comments provided by some respondents did not address directly or indirectly any of the issues posed (25 respondents of 700). A summary of their concerns is provided, however. Most involve technical issues, such as the alien certification program administered by the ETA.

Respondents by Federal Region and State

The following four Federal regions accounted for 62.9% of all respondents. The States listed are those with the largest representation. Each number reflects a percentage of total respondents (700).

Region VI (27.0%)
—Texas (22.7%)
Region V (13.0%)
—Illinois (5.1%)
—Michigan (3.4%)
Region X (11.6%)
—Oregon (10.6%)
Region IX (11.3%)
—California (9.9%)

Texas and Oregon accounted for the largest response rates from States. Note that:

- A well organized write-in campaign resulted in 97 employers and 36 private individuals accounting for 83.6% of all comments from Texas.
- Oregon employers accounted for 68 of Oregon's 74 respondents. This represents 91.9% of all respondents from Oregon.

Respondents by Institutional Group

Institutional groups that accounted for the largest shares of total respondents are listed below, including subgroups of significant size. Each number reflects a percentage of total respondents (700).

- Business/Industry (52.4%)—Employers, including those representing an Employer Advisory Group, for example Job Service Employer Committees (JSEC) (49.7%).
- Target Population/Service Advocacy Group (12.1%)—Veterans (10.0%).
- Private Citizen (10.9%).
- State Government (9.1%).
- Job Training Partnership Act (JTPA) Training Institution (5.1%).

Over 50% of all respondents were from *Business/Industry*, with about 40% coming from the other four major groups listed above. The remaining 10% is composed of respondents in the *Academia/Consultant, Federal*

Government, Labor, Local Government, and *Private Employment Agency* groups.

Observations about these five primary groups follow.

• Employers accounted for almost all of the *Business/Industry* group. Most were from four States—Texas, Oregon, California, and Illinois. National business and industry associations providing comments included the U.S. Chamber of Commerce, National Alliance of Business, and National Association of Manufacturers.

• Most respondents categorized as *Target Population/Service Advocacy Group* were Veterans. National veterans' groups which provided their views include the Veterans of Foreign Wars of the United States, American Legion, Disabled American Veterans, Vietnam Veterans of America, and American Veterans Committee.

• Most of the *Private Citizen* group is composed of individuals from Texas, Michigan, and California. Most of these respondents are current or former ES employees. Note that most showed considerable knowledge and expertise about the employment and training system. Only a few represented the views of the jobseeker/client of the public labor exchange.

• *State Government* includes officials from 44 States, the District of Columbia, and Puerto Rico: 17 Governors and one Lieutenant Governor; 24 State Employment Security Agencies (SESAs); 15 Labor Cabinet Directors; 3 State Legislators; and 4 Other State Government agencies. (Note: included within the SESA subgroup are respondents from the Interstate Conference of State Employment Security Agencies (ICESA)—2; International Association of Personnel in Employment Security (IAPES)—1. The National Governors' Association (NGA) is part of the Other State Government subgroup).

• Although the *State Government* group accounted for only 9.1% of total respondents, the number of States wherein a government official provided comments represents 88% of all States (44 of 50).

• The *JTPA/Training Institution* group includes several Private Industry Council (PIC) and Service Delivery Area (SDA) representatives, and a few State Job Training Coordinating Council (SJTCC) spokespersons. Others represented various training institutions.

Under the category of *Labor* not many responses were received. The few that did respond were primarily from the AFL–CIO or American Federation of State, County, and Municipal Employees (AFSCME) State/local chapters. National-level representation came from the AFL–CIO and the Teamsters.

Analysis of Comments to Issues Raised by Federal Register Notice

Response rates are used to analyze the trends in comments on the five questions. Not all respondents addressed every question. The number of respondents who answered a particular question was used as the base for calculating a percentage response rate. Percentages provided herein should be interpreted carefully because they reflect only the relative frequency of each item mentioned. Failure to mention an item does not necessarily mean that the respondent considered the item (function, role, service, etc.) insignificant to the future of the public labor exchange. A summary of findings is provided below. The number of respondents addressing a given question is provided in parentheses.

Question #1: Does the labor market of the future require a public labor exchange? (667)

Of the 667 respondents answering this question, 97.6% agreed that a public labor exchange will be needed in the future. Many respondents recognized the problems associated with the many and varied current responsibilities of ES. They advocated streamlining the current system, or providing additional resources. A clearer mission and better defined functions were frequently mentioned as needed. As such, most respondents support DOL's effort to reexamine the ES system.

Question #2: What public labor exchange services would be most effective in addressing the future needs of the labor market? (447)

Many respondents to this issue referenced the need to streamline the ES system and return to providing basic public labor exchange activities. Definitions of what services are or should be included in the basic labor exchange varied, however.

Based on 447 respondents, the top seven response rates to services listed in the **Federal Register** notice, in addition to others that were mentioned, are provided below in rank order (highest to lowest). After these top seven services, the percentage response drops off significantly. Categories are not mutually exclusive as respondents could indicate one or any number of the services listed. In addition, there is some overlap in response with regard to intake/assessment/referral, screening, and testing services.

• Intake, general assessment, and referral to jobs, training or retraining opportunities, and/or support services, for example, day care (57.7%).

• Community labor market and occupational information (40.0%).

• Preliminary screening of applicants for employer job orders (37.1%).

• Basic skill/aptitude testing (31.3%).

• Direct placement of applicants into jobs (29.5%).

• Job search training, including tips on interviewing and/or career counseling (26.6%).

• Specialized recruitment for employers such as assisting new firms with large staffing requirements or maintaining ongoing relationships with specific employers to assist them in addressing their workforce needs (25.1%).

A review of these services suggests that the two basic functions respondents value most are:

• assessment (general and through use of specific tests); and

• information (labor market and career-related assistance).

Direct placement's fifth place ranking should be interpreted carefully as respondents generally did not clarify what they meant by the word "placement"—direct placement in, vs. referral to, jobs. This percentage may be somewhat low due to interpretation problems.

Question #3: Which groups in the workforce should receive public labor exchange services or should the workforce as a whole receive such services? (211)

A total of 211 respondents addressed this question. The top five responses ranked in order of highest to lowest percentage of response follow.

• All applicants/employers (52.6%).

• All applicants/employers with veterans' preference (14.7%).

• All applicants/employers with veterans' preference, and emphasis focused on the unemployed and/or those with barriers to employment (11.4%).

• Other, which includes different, assorted combinations of the categories used for analysis (7.6%).

• All applicants/employers with emphasis focused on the unemployed and/or those with barriers to employment (5.7%).

A synthesis of the responses suggests the following consensus view:

• provide public labor exchange services to all applicants/employers, devoting more resources to those with barriers to employment; and

• maintain veterans' preference (note that respondents other than veterans mentioned this as well).

Question #4: What roles should be played by the Federal, State, and local governments, and the private sector in the administration of public labor exchange activities? (260)

Although a total of 260 respondents answered some aspect of this question, they tended to address the sub-part most important to their concerns. For example, States seemed most concerned about Federal/State roles; private employment agencies seemed most concerned about cooperation with local ES offices. Percentages are therefore based on the number of respondents addressing a given sub-part: *Federal Government; State Government; Local Government;* and *Private Sector.* Categories used are not mutually exclusive and reflect only the relative frequency of each item mentioned. For each sub-part, one category in particular resulted in the most significant response as follows.

Federal Government (198)

• Maintain role as is, for example, set broad national priorities, provide "general" policy guidance to States, enforce Federal mandates (63.6%).

State Government (161)

• Maintain role as is, for example, plan, operate, and evaluate programs within broad Federal guidelines; establish goals, priorities, and objectives to address varied State/local needs (73.9%).

Local Government (108)

• Maintain role as is, for example, continue service delivery at the local level, including advising/providing feedback to the State (77.8%).

Private Sector (147)

• Maintain role as is, for example, maintain current level of employer advice and input and/or current relationship with private employment agencies (51.0%).

Respondents are thus generally satisfied with the current rules played by each level of government and the private sector. The Federal/State partnership outlined by the Wagner-Peyser Act, as amended, gained favorable comments, for the most part. In addition to the Federal government maintaining veterans' preference, relatively significant support was given for the following:

• The Federal Government should be active in ensuring uniformity in interstate matters (30.3%).

• The system needs increased employer input (26.5%).

• The ES could use private employment agency services in a cooperative manner, where feasible (22.4%).

• Local government control over the ES system should be increased (20.4%).

• The Federal Government should engage in research and development activities useful for State/local program planning, operation, and evaluation, for example, assessment tools, labor market information analysis techniques, management information systems; and facilitate the sharing thereof (19.2%).

The above suggests that while most are content with the current intergovernmental and private sector relationships, many see the need for improvements with regard to how these roles are operationalized.

Question #5: What should be the nature of the relationship between the public labor exchange system, the Unemployment Insurance system, the Job Training Partnership Act system, and other State economic development and human resource programs? (196)

Of the 196 respondents addressing this issue, the two primary views provided include:

• Cooperation/coordination must be enhanced to eliminate overlaps, gaps, and inconsistencies, especially between and among ES, Unemployment Insurance (UI), and JTPA, and the various agencies that administer support services (63.3%).

• Cooperation/coordination must be enhanced . . . through the development of institutionalized functional integration of related services, for example, organizational rearrangements and/or formal technological linkages—"one-stop-shop" (24.5%).

By far, the most prevalent response indicates that there is a need to enhance/encourage greater cooperation/coordination among related programs/agencies/services. The few specific strategies suggested for accomplishing this goal were varied. Significant trends did not emerge. However, many stated that a delineation of primary responsibilities of related programs would be useful in eliminating duplication. A review of those comments suggests the following primary roles:

• ES—placement.
• JTPA—training.
• UI—"policing."

In general, those suggesting integration maintained that it should be initiated by State and local governments with Federal support. Such support could include, for example, technical assistance and revising administrative, planning, eligibility, or cost-accounting procedures or requirements that impede State and local progress toward achieving greater program integration.

In addition, many commented that ES could become a central intake, assessment, and referral arm of the entire employment and training system (for some, this central function could encompass the entire human resource delivery system). Also, those advocating greater coordination or integration often mentioned the use of joint planning as an effective tool for accomplishing these goals.

Analysis by Institutional Group of Comments to Issues Raised in the Federal Register Notice

This analysis yielded some significant differences in opinion with regard to the following issues:

• Only 16 respondents (10 individual *Employers,* 2 *Private Citizens,* 2 representatives of *Private Employment Agencies,* and 2 from the *Other* category) advocated that a public labor exchange will not be needed in the future.

• *Private Employment Agencies* differed significantly from all other groups in their views toward who should receive public labor exchange services. They represent the only group which showed strong support for limiting services to those who need them most. For them, only those who are unemployed and/or have barriers to employment should receive services, with emphasis on those receiving UI payments. All other groups, for the most part, supported the availability of services to all employers/applicants, with priority given to veterans, and emphasis on those with barriers to employment.

• *Veterans,* of course, showed much more concern than other groups over assurances that veterans receive priority service.

• All groups showed relative satisfaction with the current Federal/State/Local/Private Sector roles. The *JTPA/Training Institution* respondents expressed strong support for reducing Federal and State authority, and increasing local government control over the ES system. This includes strong support for much greater involvement by the private sector. *Labor,* on the other hand, expressed strong support for a greater Federal role, stating that the system needs to be more Federalized in order to meet the needs of the Year 2000.

• All groups wanted coordination/cooperation enhanced through use of various techniques such as joint planning or the application of the functional integration concept. Only the *Veterans* expressed strong concern over one possible mechanism for overcoming duplication consolidation of ES and JTPA.

Analysis of Specific Recommendations Made by Respondents

The vast majority of respondents indicated that a nationwide, public labor exchange system should be maintained. Most of these respondents suggested that ES needs to be improved, rather than eliminated or radically changed. In addition to general trends in thinking, specific recommendations for improving ES were tracked.

Two hundred and sixty-eight (268) respondents, accounting for 38.3% of all respondents (700), submitted one or several specific recommendations for improving the public labor exchange system. Of the 268 respondents, three institutional groups provided most of the recommendations.

- Business/Industry (45.5%).
- State Government (17.5%).
- Target Population/Service Advocacy Group, mostly Veterans (11.6%).

The six recommendations receiving the most support are discussed below in order of frequency mentioned. The total number of respondents who provided the suggestion is indicated in parentheses.

Improve ES public image and promote the increased use of ES services (95).

Fifty-two (52) *Business/Industry* representatives and 17 *State Government* officials constituted the majority of respondents suggesting this need.

They noted that ES has a poor image among employers, for example, as a result of its close ties to the UI system and its mandate to serve a multitude of target populations. Many of these respondents noted that ES is funded by employer taxes and stated that services, therefore, should be geared to meet a variety of employer needs. Respondents also noted that many employers are not aware of the services that ES provides. In addition, several stated that ES should be more aggressive in soliciting employer job contacts and job listings.

This recommendation, combined with the fact that 26.5% advocated increased employer input, suggests that ES may want to consider ways in which the employer community can become more involved with the public labor exchange—as service users as well as information providers.

Respondents also remarked that the general public is not sufficiently aware of the job-finding and information services available through ES. In general, they noted that at the community level, people frequently link UI and ES as both concerned with unemployment benefits. In this context, the public's perception of ES has little to do with employment possibilities. In general, these respondents would like to see ES promote its image more effectively in the future.

Increase the use of automation/ Technology (77).

Respondents representing a wide variety of institutional groups suggested that more automation/technology should be used by ES. Groups showing the strongest support follow:

- Business/Industry (28).
- State Government (24).
- Target Population/Service Advocacy Group (11).—Veterans (10).

These respondents advocated strongly the need for increased use of automation to provide linkages among States and localities, and between related programs in the human resource system. In particular, respondents cited how automated information systems could assist in:

- matching jobseekers with job openings (job banks); and
- providing timely and more accurate labor market information that could be integrated with economic development data to obtain better labor force projections.

Revise Federal Unemployment Tax Act (FUTA) Tax System (70)

Of the respondents advocating the revision of the FUTA tax system, 55 *Business/Industry* representatives and 10 *State Government* officials constituted the majority.

In general, the various proposals were viewed by these respondents as mechanisms to:

- establish a stable source of funding for States;
- remove the system from the Federal budget process; and/or
- shift the responsibility for collection and disbursement of the FUTA tax to the States.

The most often suggested mechanism was an Equity Act legislative proposal strongly advocated by forty-seven (47) *Business/Industry* representatives, mostly *Employers* from Oregon, and two (2) *State Government* officials. This proposal would shift responsibility for collection of the FUTA tax and administrative funding for basic employment security programs to the States.

Develop Better ES Performance Standards and Incentive Systems (34)

State Government officials accounted for 13 of the 34 respondents in favor of developing better standards to evaluate ES performance. Seven (7) *Business/ Industry* representatives also voiced support, with the remaining respondents representing a variety of groups. They noted that current measures of ES performance are needed that:

- distinguish between placements in short-term vs. longer-term jobs;
- consider variations in local economic conditions; and
- evaluate ES activities other than placement.

In addition, several discussed the need for the development of performance incentive systems to promote competition and better performance among local offices.

Increase ES Staff Levels (22)

Twenty-two (22) respondents representing a variety of institutional groups urged that staff levels be increased. *Labor* (6) and *Business/ Industry* (5) together accounted for one-half of these respondents. They remarked that the addition of special programs and emphases to the ES role over the years, combined with declining funds and staff, have resulted in an overburdened ES system. Either ES activities must be cut or more staff resources provided to meet the needs.

Enhance ES Data Collection and Reporting Systems (22)

Twenty-two (22) respondents representing several institutional groups expressed support for the need to enhance data collection and reporting systems. *Business/Industry* (6) combined with *Labor* (5) accounted for the largest share of support for this proposal. They maintained that the quality of data used in ES program planning, operation, and evaluation needs improvement. In addition, efforts to improve the collection of labor market information are needed in order to build a better baseline of information for forecasting labor market trends.

Other suggested improvements include the following:

- Provide More Training of ES Staff (20).
- Develop Better Job Skills Assessment Tools (18).
- Increase ES Efforts to Provide Improved Labor Market Information (16)
- Develop A Voucher System That Can Be Used by Applicants to Purchase Services Directly (12).
- Increase Federal Support for State-level Program Integration Efforts (11).
- Develop Alternative Funding Sources to Finance ES Operations (8).

Other Key Issues of Concern to Respondents

Twenty-five (25) of the total number of respondents (700) discussed some concerns that did not relate to the questions as posed in the Notice. The primary other issue raised consistently

at all four public hearings and in written statements concerns the alien certification process.

Representatives of the American Immigration Lawyers Association; the American Council on International Personnel, Inc.; private practice lawyers; and a university professor provided comments on this issue (10 respondents in all).

In light of anticipated labor market trends concerning immigrants becoming an increasing part of our workforce/and our growing need as a nation to use alien labor, these respondents suggested that the following are some of the key problems that need to be addressed:

- unnecessarily complex rigid, and inconsistent administrative policies;
- lack of clear precedents needed to provide uniformity and clarity with regard to current conflicting interpretations of labor certification standards and practices;
- need to modify schedules pertaining to the certification of various types of alien labor to allow for a more streamlined and efficient process; and
- need to build into the schedules additional general-shortage labor categories (for example, college and university professors, among others).

Alternatives To be Considered

These data, along with the Department of Labor's consideration of the research, studies, and data, will provide the basis for developing proposals to be considered by the Department in refocusing the Employment Service to address current and emerging labor force trends, particularly those that will emerge in the Year 2000. Alternatives may include the submission of a legislative proposal and/or regulations to either implement any new legislation that may emerge or to achieve, administratively, the new direction. As any such legislative proposal or regulatory reform is developed and considered, the Department of Labor is committed to providing appropriate consultation with interested parties, particularly the States and Congressional representatives.

Signed at Washington, DC on February 9, 1987.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 87-3277 Filed 2-18-87; 8:45 am]

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federal register

Thursday
February 19, 1987

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Vouchers; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-87-1665; FR-2297]

Section 8 Housing Vouchers

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability.

SUMMARY: This Notice announces the availability of fiscal year 1987 funding authority for HUD's Housing Voucher Program authorized by section 8(o) of the United States Housing Act of 1937. The Notice also describes requirements for all of the different components of the Housing Voucher Program. The Department announces that fiscal year 1987 Housing Voucher funding will be available for the following purposes: (1) Housing vouchers distributed by formula allocation; (2) For families living in public housing units that are being demolished or disposed of with HUD approval; (3) For families living in Section 8 New Construction or Substantial Rehabilitation projects where the owner has sole discretion to "opt-out" of an additional term of assistance under the Section 8 Housing Assistance Payments Program and does so; (4) For families living in Section 8 Loan Management Set-Aside projects where the owner and HUD do not agree to renew the contract of assistance for an additional term; and (5) For families affected by the Rental Rehabilitation Program. Additional funding will not be available for the Freestanding (large PHA) Housing Voucher Demonstration Program, authorized in fiscal year 1984, or the Small PHA/Rural Area Housing Voucher Demonstration Program, authorized in fiscal year 1985.

EFFECTIVE DATE: February 19, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Housing Voucher Division, Room 6122, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6477. (This is not a toll-free telephone number.)

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I. Background

A. Housing Voucher Funding

In 1983, Congress authorized a demonstration Housing Voucher Program under section 8(o) of the United States Housing Act of 1937 (the 1937 Act) (see section 207 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181 (the 1983 Act)). In addition to the demonstration program authorized in fiscal years 1984 and 1985, section 8(o) mandated that substantially all of the housing vouchers be used in connection with the Rental Rehabilitation Program. In fiscal years 1986 and 1987 Congress again authorized housing vouchers for a variety of uses, but waived the requirements that substantially all of the housing vouchers be used in connection with the Rental Rehabilitation Program and that a demonstration program be conducted.

Since the initial 1983 authorization, HUD has published five Notices of Funding Availability. (*See* the **Federal Register** issues of July 12, 1984, 49 FR 28458; February 28, 1985, 50 FR 8196; May 8, 1985, 50 FR 19475; March 31, 1986, 51 FR 10932; and December 30, 1986, 51 FR 47064.)

Each of these preceding Notices has provided requirements for different uses of housing voucher assistance. The Department believes that housing voucher assistance is as functional as, and more flexible than, Section 8 certificate assistance. Housing vouchers provide participating families with a greater choice of units in a local housing market and allow the Department to assist families in a more cost-effective manner. The different uses of housing voucher assistance authorized under the Department's previous NOFAs should demonstrate clearly that the Housing Voucher Program is an effective means of delivering housing assistance.

B. Uses for Housing Vouchers Previously Allocated

Uses of housing vouchers previously allocated include: (1) A Freestanding Demonstration component designed to study the feasibility of a Housing Voucher Program administered by a large public housing agency (fiscal year 1984); (2) A Small PHA/Rural Area Demonstration component, designed to study the feasibility of a Housing Voucher Program administered by a small public housing agency or in a rural area (fiscal year 1985); (3) A Rental Rehabilitation component, authorizing housing vouchers in connection with the Department's Rental Rehabilitation Program (fiscal years 1984, 1985 and 1986); (4) Housing vouchers for families residing in public housing projects being demolished or disposed of with HUD approval (fiscal years 1985 and 1986); (5) Housing vouchers for families living in units in projects assisted under the Section 8 New Construction (Part 880) or Substantial Rehabilitation (Part 881) Housing Assistance Payments Program, in cases where the owner has the sole option whether to renew the housing assistance payments contract for an additional term, and exercises the option not to renew (fiscal years 1985 and 1986); (6) Housing vouchers for families residing in Section 8 Loan Management Set-Aside projects (Part 886, Subpart A) where the owner and HUD do not agree to renew the contract of assistance for an additional term (fiscal year 1986); and (7) A formula allocation of Housing Vouchers to the HUD Regional Offices (fiscal years 1985 and 1986).

C. Housing Voucher Rulemaking

The Department supports housing voucher assistance as the principal vehicle for providing housing assistance under Section 8 of the 1937 Act.

Housing voucher procedures have been published for public notice and comment in successive Notices in the **Federal Register**, but have not been incorporated into the Code of Federal Regulations (CFR). The Department has decided to codify the housing voucher procedures as a separate Part 887 in Title 24 of the CFR. This will eliminate the annual publication of a Notice of Funding Availability containing all of the applicable program requirements. In addition, once Part 887 is published, changes will be promulgated just as other amendments to HUD's rules are promulgated. The Department intends to use the substance of this NOFA (including the program requirements in Part III of this notice and the proposed changes described in section II.B. of this Notice) as the basis for a proposed rule. To this end, the Department will publish shortly a notice of proposed rulemaking seeking public comment on the Housing Voucher Program as reflected in this Notice of Funding Availability. The notice of proposed rulemaking will provide a 30-day comment period beginning from the date of its publication.

Several changes in this year's Notice are in response to public comments received on previous Notices of Funding Availability. There will be a complete discussion of all comments received, on the proposed rule and previous NOFAs, in the final rule.

II. This Document

The document presents general information and program requirements for the Department's Housing Voucher Program. Part I contains background information for the reader and Part III is a statement of program requirements. Part II, which follows immediately, summarizes and highlights features of the Housing Voucher Program.

Part II.A. provides summaries of the different uses for housing vouchers allocated in fiscal year 1987. Part II.B. highlights changes in the program—II.B.1. discusses changes in effect *this* year (and reflected in Part III of the Notice) and II.B.2. discusses *proposed* changes to the Housing Voucher Program which may be incorporated into the forthcoming program regulations. Part II.C. discusses the applicability of this year's requirements to past funding allocations.

A. Housing Voucher Funding Appropriated for Fiscal Year 1987

This Notice of Funding Availability (NOFA or Notice) announces the availability of the fiscal year 1987 appropriation of contract and budget authority for housing vouchers provided by section 101(g) of Pub. L. 99–500 (approved October 18, 1986), making appropriations as provided for in H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Representatives and by the Senate), to the extent and in the manner provided for in H.R. Rep. No. 977, 99th Cong., 2d Sess. (1986). The Department intends to use its FY 1987 housing voucher funding authority for the following purposes:

1. Headquarters Reserve

The Secretary is retaining a number of housing vouchers in a Headquarters' reserve, and, subject to the availability of sufficient contract and budget authority, the housing vouchers will be used for emergencies and for the following specific uses:

(a) A set-aside to assist public housing desegregation, when other methods have failed. (See a more detailed discussion in sections II.B.1. and III.D.(f) of this Notice.)

(b) A set-aside to facilitate reallocation of rental rehabilitation grants to provide housing vouchers to State or other multi-jurisdictional housing voucher programs, when offsetting procedures will not cover recaptures and reallocations of Rental Rehabilitation grant funds. (See a more detailed discussion in section III.X. of this Notice.)

(c) A set-aside to assist families in public housing projects being demolished or disposed of with HUD approval.

Part 970 of the Department's regulations sets out the procedures a PHA must follow to receive HUD approval of the demolition of buildings or disposition of real property owned by the PHA which contains public housing dwelling units (demolition/disposition). When the Department has granted approval for demolition or disposition of public housing units, there may be families living in the units who qualify for continued assistance using the Housing Voucher Program.

(d) A set-aside to assist families living in one of the following types of "opt-out" projects:

(1) For families living in Section 8 New Construction or Substantial Rehabilitation projects, where the owner has sole discretion to "opt-out" of an additional term of assistance under the Section 8 Housing Assistance Payments Contract and does so; or

(2) For families living in Section 8 Loan Management Set-Aside projects, where the owner and HUD do not agree to renew the Section 8 Housing Assistance Payments Contract for an additional term.

In each of these situations, there is need for continuing assistance to be provided to the families living in the projects. The Department recently authorized a portion of the fiscal year 1987 allocation of housing voucher funding authority for the situations described above—where the owner withdraws from the Housing Assistance Payments Program. (See the December 30, 1986 **Federal Register**, 51 FR 47064.)

2. Housing Vouchers Distributed by Formula Allocation

(a) *Allocation.* The Department will allocate a portion of the FY 1987 housing voucher funding authority to its Regional Offices, using an allocation procedure patterned on the procedures in 24 CFR Part 791.

(b) *Selection Criteria.* The Field Office also will be required to give a preference to applications from PHAs that demonstrate a level of locally generated housing assistance (see a more detailed discussion in section II.B.1. of this preamble). This preference is mandatory and will take precedence over the current two discretionary Field Office preferences—for applications from PHAs (1) whose Section 8 certificate or housing voucher needs previously have been underfunded in relation to the needs of other localities within the allocation area, or (2) that provide families with the broadest geographical choice of housing, including inter-jurisdictional and interstate housing choice.

3. Housing Vouchers in Connection with the Department's Rental Rehabilitation Program

Since 1984, housing vouchers have been made available for use in connection with the Rental Rehabilitation Program. (Certificates also were made available in fiscal year 1984.) Rental Rehabilitation Program requirements are contained in 24 CFR Part 511. Authorized by section 17 of the 1937 Act, the program's purpose is to help provide affordable standard rental housing for lower income families, and to increase the availability of housing units for holders of Section 8 housing vouchers or certificates.

The program makes grants to State and local governments to help support the rehabilitation of privately owned

real property to be used for primarily residential purposes. Grants are made on a formula basis to cities with populations of 50,000 or more, and to urban counties, States, and qualifying consortia of geographically proximate units of general local government within the same State.

Housing voucher funding allocated this fiscal year for use in connection with the Rental Rehabilitation Program is to be used to minimize the displacement of families residing in projects to be rehabilitated with rental rehabilitation grants. To meet this goal, and subject to the availability of sufficient contract and budget authority, as determined by HUD, the Department will allocate authority for up to one housing voucher for each $7,500 of rental rehabilitation grant amounts received by the grantee.

All of the program requirements for the use of housing vouchers in connection with the Rental Rehabilitation Program are contained in Part III of this Notice. Changes in the use of housing vouchers allocated in connection with the Rental Rehabilitation Program are discussed in detail in section II.B.1. of this preamble.

B. Changes in The Housing Voucher Program Requirements

Part III of this Notice contains the program requirements that apply to the Housing Voucher Program, including housing vouchers authorized in earlier years. This year's Notice includes changes the Department is making in some program requirements. The following section II.B.1., "Changes in Housing Vouchers Program Requirements Effective This Year", highlights changes contained in the Part III requirements. This discussion parallels the organization of the Part III requirements, with the particular section of Part III designated in parentheses at the beginning of the discussion.

In addition, the Department is considering other changes in Housing Voucher Program requirements that would be contained in its forthcoming housing voucher regulation. The Department will seek public comment on these proposed changes. (See section I.C., "Housing Voucher Rulemaking".) These proposed changes are discussed in section II.B.2., "Anticipated Changes in the Housing Voucher Program".

1. Changes in Housing Vouchers Program Requirements Effective This Year Definitions. (III.A.)

In the definitions section of this Notice, several terms have been added or revised to improve the clarity of the Notice. Examples of added definitions include that of "participant" and "housing assistance payment"—modeled on the existing Section 8 certificate regulations.

Equal Opportunity Requirements. (III.C.)

The Department has removed the requirement that PHAs comply with section 3 of the Housing and Urban Development act of 1968 and related rules, since the Housing Voucher Program does not involve assistance to projects.

Allocations of Funding and Invitations for Applications. (III.D.)

Paragraph (e) of section III.D. contains a new provision, stating that the invitation for applications will include the statement that the Department considers 50 units to be the minimum feasible program size. Accordingly, for first-time allocations of funding, the Department will provide funding authority for a minimum of 50 housing vouchers, unless the PHA's application specifically requests fewer. This minimum does not apply once the minimum initially has been met for the PHA's whole Housing Voucher Program, nor does it apply to housing vouchers issued from HUD Headquarters, which includes such allocations as those for demolition/disposition, rental rehabilitation, desegregation, opt outs, emergencies etc. Every effort will be made to provide sufficiently large allocations of housing vouchers to individual PHAs to facilitate program administration and economies of scale.

Paragraph (e) of section III.D. contains another new provision, identifying under what circumstances HUD may provide housing vouchers to a PHA to aid in the desegregation of public housing. These housing vouchers will be made available only when HUD determines that the following criteria have been met:

- That the PHA has been found to be in preliminary noncompliance with Title VI of the Civil Rights Act of 1964 because of discriminatory practices or policies that resulted in segregated public housing projects, and, consistent with that finding—

The PHA has entered into a compliance agreement and has carried out its obligations under the agreement but, because of circumstances beyond the PHA's control, has not succeeded in desegregating its projects; and

It is determined during the course of compliance agreement negotiations, that the PHA could not develop and implement a meaningful plan to desegregate its projects without housing vouchers; and

- The racial characteristics of the PHA's public housing project occupants and the length and racial composition of the public housing waiting list is such that providing housing vouchers to a limited number of public housing tenants or applicants would facilitate the desegregation of public housing projects. (The tenant or applicant may not use the housing voucher in the PHA's public housing projects but is free to use the assistance for a unit located anywhere in the PHA's jurisdiction in accordance with the finders keepers policy of the Section 8 program.)

This provision allows the PHA to target housing voucher assistance to public housing applicants currently on the PHA's public housing waiting list or to families residing in public housing. This targeting is designed to help desegregate public housing where it has been determined that segregation exists and other methods used to end it have not succeeded. Both the Fair Housing and Equal Opportunity Office and Housing Office staffs will participate in the decision concerning which PHAs are eligible for housing vouchers, and whether such an allocation is appropriate in the specific circumstances.

Submissions of Applications. (III.E.)

In paragraph (a) of section III.E., this year's NOFA requires all applicants to state in the application of the bedroom mix and family type. In previous notices, this requirement generally did not apply to the Rental Rehabilitation Program component, but now it does.

Processing of Housing Voucher Applications. (III.F.)

In paragraph (b) of section III.F., the Department introduces a preference on which we sought public comment in the 1986 Notice. Implemented this year, this preference will be applied to applications from PHAs that identify locally initiated efforts in support of their Section 8 Certificate and Housing Voucher Programs. The evaluation of the locality's contribution will be measured competitively, *i.e.*, by the extent to which a locality is able to provide services or cash contributions, as compared to other localities of like program size. Among PHAs with Section 8 programs of comparable size, an absolute funding preference will be given to those localities that provide some non-Federal contribution in support of their Section 8 Certificate and Housing Voucher Programs. The language in the preference, "in support of", is intended to admit of a variety of types of local contributions—whether

cash or in-kind, which enhance the locality's Section 8 Certificate and Housing Voucher Programs. The intent of "locally initiated efforts" is to emphasize both that the Department is seeking non-Federal participation and that it considers plans for programs to be implemented, as well as those already underway, as appropriate. This preference takes precedence over the current discretionary preferences; local HUD offices will be instructed to fund applications identifying local contributions before other applications are funded.

Procedures in Connection With the Rental Rehabilitation Program. (III.H.)

Section III.H. has been revised this year to reflect consolidated requirements related to all housing vouchers allocated in this and previous years in connection with rental rehabilitation grant funds. In addition, these procedures reflect limited phase-in of the Department's two-year plan to "decouple" (separate) rental rehabilitation grant funds and housing voucher funding authority.

This year, housing vouchers allocated in connection with rental rehabilitation projects are being allocated at a ratio of up to one housing voucher per $7,500 of rental rehabilitation grant funds. (Previous years' allocations were up to one per $5,000.) Also, as discussed earlier, there will be a Headquarters reserve of housing vouchers to facilitate the reallocation of rental rehabilitation grant funds. (See section III.X. of this Notice for additional information on offsetting.) This Headquarters reserve will be used to provide additional housing vouchers to States or similar multi-jurisdictional programs where offsetting procedures cannot cover recaptures and reallocations of rental rehabilitation program funds. Grantees receiving reallocated rental rehabilitation grant funds under these procedures and needing additional housing vouchers should contact their Field Office CPD Division which will, in turn, notify Headquarters CPD of the request and the circumstances involved. Headquarters CPD will coordinate with Housing to allocate the housing vouchers to the appropriate PHAs. This special allocation will be used on a first-come, first-served basis.

A second feature of decoupling, which the Department has made applicable to all housing vouchers allocated in connection with rental rehabilitation, is the provision that a PHA may use these housing vouchers for general program purposes *before* they are used for rental rehabilitation projects.

The PHA may use the housing vouchers for families on its Section 8 waiting list, if the PHA determines that it will have an adequate number of housing vouchers or Section 8 certificates available when needed in connection with a rental rehabilitation project. The PHA must develop a written plan to assure this availability. In determining whether this immediate use is feasible, the PHA must consult with the rental rehabilitation grantee. The PHA must include a statement in its cover letter returning the ACC to HUD for execution that the PHA has consulted with the rental rehabilitation grantee. A copy of the written plan must be provided to the rental rehabilitation grantee for its information.

The Department recognizes that immediate use is not always possible, nor is it appropriate in all cases. Such factors as program size, housing voucher and certificate bedroom distribution, turnover rates and the completion date for the rental rehabilitation projects must be considered by the PHA before it determines that immediate use is appropriate.

A third feature of decoupling is that, for housing vouchers allocated in fiscal year 1987 in connection with rental rehabilitation, the PHA may not target housing vouchers to applicants on its waiting list who agree to move initially into a rental rehabilitation project. However, the ability of the PHA to target to the PHA's waiting list is preserved for the number of housing vouchers allocated in previous fiscal years' funding in connection with rental rehabilitation.

And, finally, the fourth new feature requires the PHA to include information about local rental rehabilitation projects as a possible source of housing in the PHA's briefing packet for housing voucher and certificate applicants. Features for complete decoupling in fiscal year 1988 are described in section II.B.2. below.

Selecting Families and Issuing Housing Vouchers. (III.I.)

In paragraph (b) of section III.I., the Department describes the Section 8 assistance limitation imposed by section 16 of the United States Housing Act of 1937 for families with income above 50 percent of area median income. Section 16 restricts to five percent nationally the number of units in Section 8 and public housing that may be occupied by lower income families with incomes above 50 percent of median income. Paragraph (b) outlines specific circumstances in which families over 50 percent of median income may be assisted. These categories have been established by the Department after HUD determined that specific categories of applicants could receive housing vouchers or certificates without prior HUD approval, without threatening compliance with the five percent cap. In each case, however, the PHA is required to report to HUD the number of housing vouchers used for these categories. The change in the fiscal year 1987 NOFA includes the additional category of a housing voucher participant who wishes to move to another unit with housing voucher assistance. The PHA must report each case to HUD, so that HUD can track compliance with the national limit under section 16, but the PHA need not request prior HUD approval.

Paragraphs (d), (e), and (f) of section III.I. have been reorganized to reflect the new, consolidated approach to the treatment of housing vouchers allocated in connection with rental rehabilitation and to authorize targeting of housing vouchers that may be made available to facilitate the desegregation of public housing.

Housing Voucher Payments. (III.J.)

This year's section III.J. relfects a redesign of the housing voucher payment system—a single payment standard system replaces a three payment standard system previously used. The new system is designed to simplify the administration and financial management of the Housing Voucher Program and provides that a PHA will run its Housing Voucher Program using a single payment standard for each bedroom size.

A new payment standard must be adopted by all PHAs that administer a Housing Voucher Program. The new payment standard may be adopted at any time after the publication of this Notice, but no later than May 19, 1987. Any PHA that receives its first allocation of housing voucher funding this year or any PHA that had its first increment of funding reserved in a previous year, but does not yet have an executed ACC, must establish its payment standard at the Fair Market Rent published for effect or HUD-approved community-wide exception rent at the time the Annual Contributions Contract is executed by HUD.

A PHA that already is administering a Housing Voucher Program (whether or not the PHA receives an additional housing voucher allocation this year) may adopt a payment standard that is anywhere between its initial payment standard and the currently effective Fair Market Rent or HUD-approved community-wide exception rent. A

payment standard may never exceed the applicable Fair Market Rent published for effect or HUD-approved community-wide exception rent. If applicable, a current participant in the PHA's program would be held harmless (protected) from a reduced payment standard.

The affordability adjustment system also has been modified this year. The PHA may adopt two affordability adjustments for each unit size in each FMR area in any five-year period. The PHA is free to adopt an affordability adjustment for one or more unit sizes at one time. However, the PHA must tract to ensure no unit size receives more than two adjustments in five years. (Previously adopted new family/mover schedules were not considered affordability adjustments and should not be counted as such.) Allowing two affordability adjustments in each FMR area is intended to address a concern raised by multi-jurisdictional PHAs (such as States). Since there may be reason for an adjustment in one area of the State and not in another, the limitation of any affordability adjustment counting as one of the two-in-five allowed State-wide appears unnecessarily restrictive. Hence, the new provision. As previously required, the PHA must consult with the unit of general local government and the public before adopting an affordability adjustment. Since HUD will not provide additional funds to maintain the number of families assisted in the PHA's program, consultations with the unit of general local government and the public will provide a needed dialogue on the effect affordability adjustments could have on the ability to assist more families.

The Department recognizes that there may be jurisdictions that have been participating in the Housing Voucher Program since 1984 and that may have adopted already new family/mover schedules or adjustment standard schedules. Families receiving housing assistance payments under a previous payment standard schedule will not have their housing assistance payments reduced as a result of the new payment standard design. Families will be held harmless, and their housing assistance payments will be based on their currently applicable payment standard until the family's applicable payment standard falls within the PHA's new unified payment standard system.

Portability of Housing Vouchers. (III.L.)

Although this section remains substantially the same, one change should be noted. In paragraph (d)(5) of section III.L., Responsibilities of the Initial PHA, the provision regarding the initial PHA's discretion to deny a family's request to move has been revised to provide that the PHA may deny the request to move if the number of families moving under these portability procedures would be more than *15 percent* of the units under lease in the initial PHA's Housing Voucher Program. This reduction in the percentage has been made to assist PHAs in planning and anticipating fiscal responsibilities, without sacrificing any element of the portability feature. Data on portability received to date has indicated that a fifteen percent cap more than adequately assures the ability of any family to move under these portability procedures.

Eligible and Ineligible Housing. (III.M.)

Paragraph (a) of section III.M. lists types of housing that are not eligible for participation in the Housing Voucher Program. Paragraph (a)(4) indicates that owner-occupied housing is not eligible, with one exception. This exception was established by the 1937 Act to allow the PHA to use up to 5 percent of its housing voucher authority to provide assistance with respect to cooperative or mutual housing, if this type of housing has a resale structure that maintains affordability for low-income families and if the PHA determines that such assistance will help in maintaining affordability of the housing for lower income families. This year's NOFA eliminates the requirements that a PHA obtain prior HUD approval before using any of its housing voucher assistance for this purpose. It replaces that provision with the requirements that the PHA obtain prior HUD approval if the PHA wishes to exceed 5 percent of its housing voucher authority for use in cooperatives or mutual housing.

This year's Notice adds a category of ineligible housing, which is housing that is used as transitional housing in the Department's Transitional Housing Demonstration Program.

Maintenance, Operation and Inspections; Security Deposits. (III.O.)

This year's NOFA simplifies the security deposit provision to provide that the maximum allowable security deposit may not exceed the greater of $50 or 30 percent of the family's monthly adjusted income.

Administrative Fees Paid to the PHA. (III.U.)

Section III.U is new to Part III of the Notice of Funding Availability, but it is consistent with current practice. The principal fees provided to the PHA include the preliminary fee, the ongoing administrative fee, and the hard-to-house fee.

The ongoing administrative fee remains at 6.5 percent of the current Section 8 existing housing Fair Market Rent published in the **Federal Register** for a 2-bedroom unit. This year's Notice makes it clear that both the initial and receiving PHAs may be eligible for a preliminary fee when a family moves under the portability procedures for housing vouchers. The hard-to-house fee also is authorized for both the initial and receiving PHAs under portability, if applicable.

Deobligation of Rental Rehabilitation Grants and Effects on Housing Voucher Contract and Budget Authority Provided in Connection With the Rental Rehabilitation Grants. (III.X.)

Section III.X. generally describes the Department's procedures for reallocating rental rehabilitation grant amounts and for offsetting the amount of contract and budget authority reserved for certificates or housing vouchers for use in connection with the grantee's Rental Rehabilitation Program. The 1987 NOFA adds a new provision relating to a Headquarters reserve to be used to provide additional housing vouchers to States or similar multijurisdictional programs where offsetting procedures cannot cover recaptures and reallocations of rental rehabilitation program funds. This new paragraph (c) makes clear that grantees affected by this reallocation who need additional housing vouchers should contact their Field Office CPD division. The Field Office will work with Headquarters to determine the allocation of housing vouchers to the appropriate PHAs. These special allocations will be made on a first come, first served basis.

2. Anticipated Changes in the Housing Voucher Program

(a) *The decoupling of housing vouchers and rental rehabilitation project funds.* Changes in fiscal year 1988 anticipate the completion of the decoupling of housing vouchers and rental rehabilitation grant funds. Decoupling is designed to increase the PHA's flexibility in managing its Housing Voucher Program, because it will not have to track specific allocations in support of the Rental Rehabilitation Program. On the other hand, rental rehabilitation grantees should be assured that they will have access to certificates or housing vouchers from the PHA when the rental rehabilitation use arises.

Decoupling will be completed in fiscal year 1988 by eliminating any necessary

link between housing voucher allocations and rental rehabilitation grant funds and replacing it with two PHA obligations:

—The PHA must give a "preference" in making housing vouchers available to rental rehabilitation displaces; and
—The PHA must refer certificate and housing voucher holders to rental rehabilitation projects.

The PHA will be required to give a preference to families *living in* the rental rehabilitation projects. Referral consists of providing information in the Section 8 applicant's information packet on possible rental rehabilitation project units available for occupancy by housing voucher or certificate holders. Applicants have the freedom to choose a rental rehabilitation unit or any other qualifying unit.

(b) *Shared housing.* Section 211 of the Housing and Urban-Rural Recovery Act of 1983 requires the Department to permit assistance in shared housing arrangements in the Section 8 Existing Housing and Moderate Rehabilitation Programs for eligible elderly families. Section 211 also directs HUD to enact minimum habitability standards to ensure that shared housing is decent, safe and sanitary, taking into account special circumstances of this type of housing. HUD already has published a final rule implementing shared housing provisions for the Section 8 Existing Housing Certificate Program. Shared housing is designed to provide additional choices in living arrangements for assisted families. A PHA has discretion to determine whether to include shared housing in its existing housing program and to design the shared housing component to meet local needs and circumstances. It is the intention of the Department to implement shared housing for the Housing Voucher Program in its forthcoming rulemaking. Shared housing for housing vouchers will be analogous to the provisions published in final form for the Section 8 Certificate Program.

The Department believes that the Housing Voucher Program may provide increased opportunities for different types of shared housing arrangements, compared to the Section 8 Existing Housing Certificate Program. For example, it may be possible for housing voucher families to enter into a joint lease with the owner and have the PHA enter into a joint housing voucher contract for the participants, since in housing vouchers the Department does not establish a ceiling that a housing voucher holder may pay for rent. Accordingly, if one family leaves, the other family does not necessarily have to leave the dwelling unit. In addition, since assistance payments are fixed amounts that do not vary with the rent, there would be no increased financial liability for the PHA, since housing assistance payments for the departing family would stop. The assistance payments for the remaining family would continue at the same amount and the remaining family would be responsibile for the entire amount under the lease if another family does not move into the unit.

Another feature of shared housing for housing vouchers, which may differ from the Certificate Program, is how the amount of assistance for a family is determined, since housing voucher assistance is a fixed amount based on the payment standard for the number of bedrooms indicated on the housing voucher. (In addition, housing vouchers would require a minimum rent computation based on the prorating of the bedroom units on the housing voucher by the space occupied by the housing voucher participant.)

(c) *Interchangeability of housing vouchers and certificates.* The Department continues to support the use of housing vouchers as the principal means of providing housing assistance to families. Consistent with this policy, the Department is considering allowing families the opportunity voluntarily to trade in a Section 8 certificate for a Section 8 housing voucher, if available. The Department does not anticipate allowing the corollary provision—allowing Section 8 housing voucher holders to trade a housing voucher for a certificate—since it is inconsistent with its goal of promoting housing vouchers as the principal means of housing assistance.

(d) *Security deposits.* The current housing voucher requirements relating to security deposits provide for a maximum security deposit of the greater of $50 or 30 percent of the family's monthly adjusted income. The Section 8 Certificate Program allows a maximum security deposit of the greater of $50 or the "total tenant payment". The Department is considering revising the security deposit provisions for both programs. The Department considers the formulation of the security deposit provision to be appropriately a function of the rent for the unit, rather than a function of the family's income or a fixed dollar amount which cannot reflect shifts in price levels. Accordingly, the Department is considering developing a formula system for authorizing minimum security deposits based on the rent for the unit selected by the family.

(e) *Changes to the administrative plan.* The Department plans to redesign the administrative plan requirements. HUD recognizes that, over the years, the administrative plan has grown in size with the addition of new program features. Currently, the administrative plan is designed to be the guide for the planning and administration of the PHA's Section 8 Program, and it must articulate three things: (1) The PHA's objectives in administering its Section 8 Program; (2) the policies and procedures to achieve these objectives; and (3) the staffing necessary to perform all program functions.

The PHA's policies and procedures for the administration of its Section 8 Program supplement the statutory requirements of the 1937 Act and applicable Federal Section 8 regulations. The Department is considering revising the administrative plan to require that it specify policy and procedures only in those cases in which the PHA has discretion to establish local policy for the treatment of applicants or participants. Required elements would include:

(1) Procedures for maintaining its waiting list, including procedures for determining the method whereby acceptance of applications for housing assistance is suspended and later resumed.

(2) Policies and procedures for facilitating voluntary interjurisdictional mobility for certificate and housing voucher holders, if applicable.

(3) Policies and procedures for implementing portability for housing voucher holders.

(4) Policies and procedures for issuing certificates or housing vouchers to applicants consistent with its occupancy standards (procedures to determine consistently the number of bedrooms to enter on a housing voucher or certificate) and consistent with any preference or priority criteria. This could include applicable policies and procedures on administering the housing vouchers allocated in connection with rental rehabilitation.

(5) If applicable, policies and procedures for providing for shared housing, including eligible family types and scope of program.

(6) Procedures for acting on a request for an extension of a certificate or housing voucher.

(7) Procedures to implement grounds for denying issuance of a certificate or housing voucher to an applicant or a participant under § 882.210.

(8) Procedures for collecting amounts owed by an applicant or participant to the PHA or to another PHA.

(9) Procedures for informal reviews and informal hearings, when required by applicable regulations.

(10) Policies and procedures for recertification when the recertification would result in a reduction of housing assistance to the family.

(11) Policies and procedures for PHA direction of Section 8 Program activities in support of local or area-wide housing and community development initiatives, policies or programs, if applicable.

Provisions that the PHA must comply with, but which are required already by Federal law or regulation, would be eliminated from the administrative plan. However, the plan would include procedures to carry out the Federal requirements.

(f) *The payment standard for single room occupancy units.* Currently the payment standard for SRO units in the Housing Voucher Program is proposed by the PHA to HUD for approval. The request may be anywhere in the range of 75 percent to 100 percent of the published 0-bedroom Fair Market Rent or the HUD-approved community-wide exception rent for a 0-bedroom unit. Generally, the amount must be based on the presence or absence of food preparation or sanitary facilities.

In contrast to the Housing Voucher Program, the Section 8 Certificate and Moderate Rehabilitation Programs fix the Fair Market Rent for SRO units at 75 percent of the 0-bedroom FMR or the HUD-approved community-wide exception rent for a 0-bedroom unit.

The Department believes that it does not have adequate grounds for maintaining disparate provisions for the two principal Section 8 Finders-Keepers programs. The Department intends to conform the housing voucher SRO payment standard provision to the certificate provision, but seeks comment on the issue.

(g) *Ineligible housing.* Section III.M. of this Notice states that "a unit that is owned by the PHA administering the ACC under this Notice" is an *ineligible* type of housing. This provision will be amended to clarify that the ownership prohibition extends to any unit substantially controlled by the PHA, even if there is a nominally separate ownership entity. An example of this is a unit owned by the PHA controlled, nonprofit corporation.

(h) *Anticipated uses for housing vouchers.* The Department anticipates that future funding authority for housing vouchers will include all uses previously authorized for Section 8 Existing Certificates. Since the Department intends housing vouchers to be the principal vehicle for providing tenant-based rental housing assistance, it intends to use housing vouchers in appropriate circumstances for which budget authority is approved. Examples of planned future uses for housing vouchers include:

(1) For eligible families living in projects subsidized under section 221(d)(3) or section 236 of the National Housing Act where the owner may, and does, prepay the mortgage without Secretarial approval.

(2) For eligible families living in a HUD-owned multi-family project, if the Department sells the project or vacates the units.

(3) For eligible families living in a multi-family project with a HUD-held mortgage when HUD forecloses and a party other than HUD acquires the project.

(4) For eligible families living in projects selected for the Department's Transitional Housing Demonstration, who now seek eligible permanent housing under the Housing Voucher Program. This list is not intended to be inclusive, but, rather, to show the range of intended future uses for housing vouchers.

(i) *Changes to other portions of the Department's regulations.* The Department also plans to amend portions of Parts 812, 813, 511, 791 and 882 to conform provisions inconsistent with the housing voucher provisions as finally adopted in HUD's forthcoming rulemaking. Examples include amending § 813.105(d) to provide for additional categorical exclusions to the section 16 (1937 Act) requirements, and amending § 882.101(b)(2) to clarify that ineligible housing which is owned by the PHA includes units which are substantially controlled by the PHA—such as ownership by a nonprofit corporation that is controlled by the PHA. Future plans also may include rulemaking to provide the same organization and content of the housing voucher and certificate regulations, to the extent allowed by program characteristics.

C. Applicability of Part III of This Notice

The administration of all housing vouchers is governed by Part III of this Notice. In some cases, different procedures apply to different components of the Housing Voucher Program. The differing requirements that have limited applicability are noted clearly. There are other cases where a change is being implemented, but the change applies *across the board*, prospectively. (An example is the new method for computing the security deposit. Nothing is changed for families who have paid a security deposit in accordance with requirements in previous Notices. However, new security deposits collected by owners after the publication of today's notice must comply with Part III of this Notice.) Changes of this kind have been highlighted in Part II.B. of this preamble.

The Department announced the Freestanding Housing Voucher Demonstration in the July 12, 1984 NOFA. The Freestanding Demonstration component of the Housing Voucher Program is designed to compare the Housing Voucher Program with the Certificate Program to determine the effect of housing vouchers on families and PHAs, concentrating on PHAs administering Certificate Programs with at least 1,000 units. The issues to be evaluated include the rates at which families receiving housing vouchers are successful in finding units; the impact of the program on rent burdens of participating families; the percentages of participants who move and who rent in-place; the rate of turnover among participants; the cost of administering the program; and the quality of housing selected by participants. The demonstration also will compare these factors with similar information on the Section 8 Certificate Program.

The special requirements concerning start-up of the Freestanding Demonstration were contained in Part IV of the July 12, 1984 NOFA and remain unchanged (see 49 FR 28463–28464).

The Department announced the Small PHA/Rural Area Housing Voucher Demonstration in the May 5, 1985 NOFA. The Small PHA/Rural Area Housing Voucher Demonstration is complementary to the Freestanding Demonstration and is designed to test the feasibility of the Housing Voucher Program as administered by a small PHA or in a rural area. The issues to be evaluated are analogous to those described in the previous Freestanding Demonstration component discussion.

Special requirements concerning start-up of the Small/Rural Demonstration were contained in Part II of the May 5, 1985 NOFA and remain unchanged (see 50 FR 19476–19477).

None of the FY 1987 housing voucher funding authority will be used in support of the Freestanding Housing Voucher Demonstration or the Small PHA/Rural Area Housing Voucher Demonstration. However, the administration of these demonstrations must comply with the procedures contained in Part III of this Notice.

III. Housing Voucher Program Requirements

A. Definitions

For purposes of the Housing Voucher Program, the following definitions apply.

Act (1937 Act). The United States Housing Act of 1937.

Annual Contributions Contract (ACC). A written agreement between HUD and a PHA to provide annual contributions to the PHA for housing assistance payments and administrative fees.

Annual Income. See 24 CFR 813.106.

Congregate Housing. See section III.M.(b) of this Notice.

Decent, Safe, and Sanitary Housing. Housing that meets the housing quality standards of § 882.109.

Demolition/Disposition. The demolition of public housing buildings or disposition of public housing units. The PHA must obtain HUD approval for demolition or disposition under 24 CFR Part 970.

Eligible Family (Family). A family as defined in 24 CFR Part 812 that, at the time it initially receives assistance under the Housing Voucher Program, (1) qualifies as a very low-income family or as a lower income family displaced by rental rehabilitation program activity under 24 CFR Part 511 (see section III.I. of this Notice); or (2) has been continuously assisted under the 1937 Act.

Housing Assistance Payment. The monthly payment by the PHA to an owner on behalf of a family participating in the Housing Voucher Program. Generally, the amount of the housing assistance payment is determined by subtracting 30 percent of a family's monthly adjusted income from the payment standard that applies to the family. For additional details see section III.J. of this NOFA.

Housing Voucher. A document issued by a PHA declaring a family to be eligible for participation in the Housing Voucher Program and stating the terms and conditions for the family's participation.

Housing Voucher Contract (Contract). A written contract between a PHA and an owner, in the form prescribed by HUD for the Housing Voucher Program, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HUD. The Department of Housing and Urban Development or its designee.

Independent Group Residence (IGR). See section III.M.(b) of this Notice.

Initial PHA. A PHA administering a Housing Voucher Program with a housing voucher holder or housing voucher participant who desires to move or who has moved to another area under the portability procedures in section III.L.(d).

Lease. A written agreement between an owner and a family for the leasing of a dwelling unit by the owner to the family with assistance payments under a housing voucher contract between the owner and the PHA.

Lower Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

Occupancy Standards. Standards established by the PHA for determining the appropriate number of bedrooms for families of different sizes and compositions.

Opt Out. (1) A Section 8 New Construction (Part 880) or Substantial Rehabilitation (Part 881) project where the owner has the sole option to renew for an additional term of assistance under the Section 8 Housing Assistance Payments Program, but elects not to renew; or (2) A Section 8 Loan Management Set-Aside project (Part 886, Subpart A) where the owner and HUD do not agree to renew the Section 8 housing assistance payment contract for an additional term.

Owner. Any person or entity having the legal right to lease or sublease decent, safe, and sanitary housing.

Participant. A family becomes a participant in the PHA's Housing Voucher Program when the PHA executes a housing voucher contract with an owner for housing assistance payments on behalf of the family.

Payment Standard. (See section III.J. of this Notice).

PHA Jurisdiction. The area in which the PHA is not legally barred from entering into housing voucher contracts.

Public Housing Agency (PHA). Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of lower income housing.

Receiving PHA. A PHA administering a Section 8 Certificate or Housing Voucher Program that accepts a housing voucher holder or housing voucher participant from another PHA under the portability procedures of section III.L.(d) of this Notice.

Rent to Owner. The sum of the amount that will be paid by the PHA to the owner on behalf of a family under the housing voucher contract and the amount that will be paid by the family to the owner to cover the balance of the rent payable to the owner under the lease.

Single Room Occupancy (SRO) Housing. A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities (as those facilities are defined in 24 CFR 882.109 (a) and (b)), and which is suitable for occupancy by a single eligible individual capable of independent living. (See also section III.M.(c) of this Notice.)

Targeted Housing Voucher. Term used to describe circumstances in which HUD provides housing voucher funding specifically for families living in certain types of projects. These types of projects include: demolition/disposition projects, opt out projects, rental rehabilitation projects, and public housing units for desegregation purposes.

Unit Size. The number of bedrooms in a dwelling unit.

Utility Allowance. An amount that applies when the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the rent to owner and is instead the responsibility of the family. The allowance is an amount equaling the estimate made or approved by the PHA of the monthly costs of a reasonable consumption of these utilities and other services for the unit by an energy-conservative household of modest circumstances, consistent with the requirements of a safe, sanitary and healthful living environment.

Utility Reimbursement. Concept applies when the rent to the owner does not include some or all of the utilities and the family is responsible for them. The utility reimbursement is the excess of the housing assistance payment over the amount payable to the owner by the PHA.

Very Low-Income Family. A lower income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

Voucher. See Housing Voucher.

Voucher Contract (Contract). See Housing Voucher Contract.

B. Applicability and Purpose

(a) *Applicability.* The provisions of this Part III apply to the use of contract

and budget authority for all housing voucher assistance authorized by Section 8(o) of the 1937 Act. Requirements that apply to some, but not all, Housing Voucher Program components also are contained in Part III, but are distinguished from the generally applicable requirements. By cross reference, provisions of the regulations for the Section 8 Existing Housing (Certificate) Program (24 CFR Parts 812, 813 and 882, Subparts A and B) are incorporated in this Notice and also apply to the Housing Voucher Program Unless otherwise specified, references to particular section numbers (e.g., § 882.110) are to regulations in Title 24 of the Code of Federal Regulations. Provisions that apply only to a limited number of components of the Housing Voucher Program are noted within the generally applicable provisions.

(b) *Purpose.* The purpose of the Housing Voucher Program is to assist eligible families in affording rents for decent, safe, and sanitary housing.

C. Equal Opportunity Requirements

Participation in the Housing Voucher Program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all related rules, regulations and other requirements. In addition, failure to comply with these equal opportunity requirements will result in the imposition of sanctions under applicable civil rights law.

D. Allocations of Funding and Invitations for Applications

(a) *Invitations for Applications for Housing Voucher Assistance in Connection with the Rental Rehabilitation Program.* (1) In fiscal year 1987, HUD will allocate funds for up to one housing voucher for every $7,500 of the rental rehabilitation grant funds. After HUD has determined the amount of contract and budget authority to allocate for housing vouchers in connection with a particular grantee's Rental Rehabilitation Program, it will invite one or more PHAs to submit applications. HUD will invite the PHA administering the Certificate or Housing Voucher Program in the grantee's jurisdiction ("local PHA"), unless the grantee has indicated that it wants one or more other PHAs to administer the housing voucher assistance. Where the grantee has so indicated, the grantee, the local PHA, and HUD will discuss the matter. If the local PHA wants to administer the assistance in connection with the grantee's Rental Rehabilitation Program, HUD will decide which PHA or PHAs to notify, based on HUD's determination of which can provide the most efficient and effective program administration. If the local PHA does not want to administer the assistance, HUD may notify the other PHA or PHAs indicated by the grantee, or one or more other PHAs, based on HUD's determination of which can provide the most efficient and effective program administration.

(2) An invitation for an application will state:

(i) The HUD has allocated housing voucher authority in connection with the Rental Rehabilitation Program as provided in this Notice;

(ii) The amount of authority available and the estimated number of units (based on all units having two bedrooms) that the authority will support;

(iii) The name of the rental rehabilitation grantee, with a statement that before the annual contributions contract is executed (A) the PHA and grantee (or the State recipient as defined in 24 CFR 511.2 where a State is distributing the grant to units of local government) must enter into a memorandum of understanding (see section III.F.(c)); and (B) the PHA must certify in the transmittal letter returning the ACC to HUD for execution that the PHA has consulted with the grantee concerning use of the housing vouchers for the PHA's general program purposes until needed for the rental rehabilitation project;

(iv) That the PHA's application for housing voucher assistance must be submitted at the same time as the grantee submits its program description, or at such other time as HUD designates;

(v) That relevant information and forms are included with the invitation and that the PHA may obtain additional information from the HUD Field Office; and

(vi) Any additional information or documentation the PHA must submit.

(b) *Procedures for State Rental Rehabilitation Programs.* Where a State is the grantee under the Rental Rehabilitation Program, and the identity of the PHAs that will administer the Housing Voucher Programs within the State is not known, or the applications for the PHAs that will administer the Housing Voucher Programs in connection with the State program have not been approved, HUD will reserve the contract and budget authority for use in connection with the State's program at the time HUD provides the State with written notification of grant approval under 24 CFR Part 511, or as soon as possible thereafter. When the identity of the PHAs becomes known, HUD will invite them to apply in accordance with this Notice, and the authority reserved will be transferred when HUD approves a PHA's application. For fiscal year 1987 housing voucher allocations, States will have until September 30, 1988 to transfer the authority reserved for them to specific local PHAs. If a State does not identify specific local PHAs by September 30, 1988, HUD will make these funds available for use in other non-formula allocation communities within the same State.

(c) *Invitations for Applications for Formula Allocation Housing Vouchers—Allocation of Funding.* The Department will allocate a portion of the current year's housing voucher funding to its Regional Offices or Field Offices, using a formula allocation that is patterned after 24 CFR Part 791. If allocated to the Regional Offices, each Regional Office may determine the amounts of housing voucher funding to be used for individual PHAs or its may delegate these decisions to its Field Offices.

(d) *Invitations for Applications for Formula Allocation Housing Vouchers—Contents of Invitation.* (1) Upon receipt of its funding allocation, the Regional or Field Offices will invite PHAs to submit applications to the appropriate Field Office.

(2) The Department generally considers 50 housing vouchers to be the minimum program size for cost-effective administration of a Housing Voucher Program. For this reason, HUD will not approve an initial application for fewer than 50 housing vouchers unless a PHA specifically requests fewer housing vouchers. (This initial minimum need only be net once and does not apply to additional allocations. This minimum does not apply to any of the special use allocations made by Headquarters.) Every effort will be made to provide sufficiently large allocations of housing vouchers to individual PHAs to facilitate program administration and economies of scale.

(e) *Allocations for Desegregation of Public Housing.* HUD may provide housing voucher funding to a PHA for desegregation of public housing projects. The funding must be used, in accordance with the PHA's HUD-approved administrative plan, modified to reflect revisions required by HUD to provide housing vouchers for families living in public housing projects or applicants on the PHA's public housing waiting list. The funding may be

provided if HUD determines the following criteria have been met:

(1) The PHA has been found in preliminary noncompliance with Title VI of the Civil Rights Act of 1964 because of discriminatory practices or policies that resulted in segregated public housing projects, and, consistent with that finding—

(i) The PHA has entered into a compliance agreement and has carried out its obligations under the agreement but, because of circumstances beyond the PHA's control, has not succeeded in desegregating its projects; or

(ii) It is determined during the course of compliance agreement negotiations that the PHA could not develop and implement a meaningful plan to desegregate its project(s) without housing vouchers; and

(2) The racial characteristics of the PHA's public housing project occupants and the length and racial composition of the public housing waiting list is such that providing housing vouchers to a limited number of public housing tenants or applicants would facilitate the desegregation of public housing projects.

E. Submission of Applications

(a) The PHA must submit its application for the Housing Voucher Program in accordance with § 882.204, with the following exceptions:

(1) *Equal Opportunity Housing Plan.* Each PHA Must submit an equal opportunity housing plan as required under § 882.204(b)(1), except that it must be a combined plan covering the PHA's entire Certificate Program and Housing Voucher Program. The plan must include any special rules for use of housing vouchers in connection with any program component identified in this Notice.

(2) *Administrative Plan.* Each PHA Must submit an administrative plan as required under §882.204(b)(3), except it must be a combined plan covering the PHA's Certificate Program and Housing Voucher Program. Applicable special functions related to housing vouchers, such as special procedures for selection of families in connection with the Rental Rehabilitation Program, targeted, freestanding, or small/rural components, must be covered. (Some functions, such as computation of the family rent in accordance with section 3(a) of the U.S. Housing Act of 1937, and contract rent adjustments, do not apply to the Housing Voucher Program.)

(b) For all components of the Housing Voucher Program, the application must include estimates of gross family income of families to be assisted.

(c) For targeted housing vouchers only, the application must include the identification of the size and the composition of families to be assisted.

(d) If applicable, the PHA must describe its local housing initiatives in support of its Section 8 Certificate and Housing Voucher Programs. The application should specify the size of its combined Section 8 Existing Certificate and Housing Voucher Programs and what local services, facilities or funding are provided in support of the program. If the PHA operates a Section 8 Program that currently does not receive local support but there are plans for locally generated support in fiscal year 1987 (and beyond), the PHA should describe these plans, including a schedule for implementation.

F. Processing of Housing Voucher Applications

(a) *Processing of Applications.* (1) HUD will send applications for more than 12 units to the appropriate chief executive officer of the unit of general local government for review and comment. This submission will be in accordance with 24 CFR Part 791, as required by section 213 of the Housing and Community Development Act of 1974.

(2) HUD will evaluate each application on the basis of the requirements of this Notice and other program requirements, and will consider any comments received from the unit of general local government. HUD also will take into account the PHA's ability to administer the Housing Voucher Program, as evidenced, in part, by its performance in operating the Certificate Program, where applicable.

(b) *Application Preferences.* (1) Preference will be given to an application from a PHA that demonstrates locally initiated efforts in support of its Section 8 Certificate and Housing Voucher Programs. This preference takes precedence over the other two preferences listed, and Field Offices will attempt to fund applications which demonstrate these locally-generated efforts before evaluating applications indicating eligibility only for the other preferences. Evaluation of a locality's contribution will be measured competitively—that is, by the extent to which a locality is able to provide services or cash contributions or demonstrate its intention to provide this kind of support in the future, as compared to services or contributions provided by other localities of like program size.

(2) Preference may be given to applications from PHAs that provide families with the broadest geographical choice of housing, including interjurisdictional and interstate housing choice.

(3) Preference may be given to applications from PHAs whose needs previously have been underfunded in relation to the needs of other localities within the allocation area.

(c) *Approval or Disapproval of Applications.* HUD will notify the PHA and, if applicable, the Rental Rehabilitation Program grantee, whether HUD has approved or disapproved the PHA's application. Where HUD has disapproved an application, HUD will include a statement of the reasons and, where applicable, the changes required to make the application approvable. HUD will not approve a PHA's application for housing vouchers in connection with the Rental Rehabilitation Program where HUD disapproves the related program description submitted by a Rental Rehabilitation Program grantee.

(d) *Processing of Applications: Procedures (Memorandum of Understanding) for the Rental Rehabilitation Program.* In processing applications for housing vouchers, HUD requires that the PHA and the grantee under the rental Rehabilitation Program execute a memorandum of understanding setting forth the responsibilities of each party and the procedures to be followed in coordinating the use of authority for housing vouchers allocated for use with rental rehabilitation grant amounts. Where a State is distributing the Rental Rehabilitation grant amounts to units of general local government (State recipients), the PHA and the State recipient must execute the memorandum of understanding. Before HUD and the PHA execute an ACC for the housing vouchers, the memorandum must be executed by both parties and the PHA must submit a certification to HUD that both parties have executed the memorandum and it is consistent with the PHA's HUD-approved administrative and equal opportunity plans. If there is any inconsistency between the PHA's administrative plan and the memorandum of understanding, the administrative plan prevails.

G. Annual Contributions Contract

(a) *ACC Execution.* HUD will execute the ACC with the PHA, in a form prescribed by HUD, in accordance with § 882.206, after HUD approves the application for housing voucher assistance. In addition, in the case of the rental rehabilitation component, HUD will not execute the ACC unless HUD also has received the PHA certification

that the PHA has consulted with the grantee (if applicable) and immediate use of the housing vouchers for the PHA's Housing Voucher Program until needed by families living in the rental rehabilitation project, and has received the PHA certification that the PHA and the grantee under the Rental Rehabilitation Program have executed a memorandum of understanding as required under section III.F.(d) of this Notice.

(b) *Term of ACC.* The ACC term for each funding increment under the ACC is five years.

(c) *Single ACC.* HUD and the PHA will execute one ACC covering all of the authority for the PHA's Housing Voucher Program. However, where (as in the case of some statewide PHAs) the area for which the PHA may execute housing voucher contracts is within the jurisdiction of more than one HUD Field Office, HUD may require one ACC for each Office.

(d) *Amount of Annual Contributions.* (1) The total amount of annual contributions contracted for the ACC for the five-year ACC term for each funding increment will be five times the total of (i) the average HUD-estimated annual PHA administrative fee plus (ii) 115 percent of the amount that HUD estimates would be required in the first year of the ACC for housing assistance payments to owners, assuming a full year of occupancy.

(2) The PHA must plan administration of its Housing Voucher Program in a manner that will ensure its operation within the amounts originally contracted for under the ACC, taking into account (i) the amounts available from reserving 15 percent more than the estimated housing assistance payments for the first year and (ii) the number of families that may be assisted (including consideration of the effect of a revised payment standard under section III.J., to assure continued affordability, changes in family income and composition, and portability of housing vouchers). HUD does not intend to make any ACC amendments to provide additional funding for the purpose of maintaining a particular number of assisted families.

H. Procedures in Connection With the Rental Rehabilitation Program

(a) Housing vouchers are a scarce resource, to be used to the fullest extent possible. Accordingly, the Department authorizes the following procedures designed to maximize the use of housing vouchers and certificates allocated in connection with the Rental Rehabilitation Program. By means of a two-year plan, the Department will "decouple" housing vouchers and rental rehabilitation grant funds. These steps are taken to enhance the PHA's flexibility in administering its Housing Voucher Program, while providing rental rehabilitation grantees assurance that housing voucher assistance will be available to avoid displacement of families residing in rental rehabilitation projects.

(b) The Department is simplifying the procedures applicable to housing vouchers allocated in connection with rental rehabilitation. The new procedures are as follows:

(1) The PHA must determine how many housing vouchers it has received in connection with rental rehabilitation. Allocations in previous years were up to one housing voucher for every $5,000 rental rehabilitation grant funds and allocations in fiscal year 1987 are up to one housing voucher for every $7,500 of rental rehabilitation grant funds. The PHA must determine the total number of housing vouchers it has been allocated and also must note how many housing vouchers are allocated for fiscal year 1987. For example, if a PHA has received the equivalent of 20 housing vouchers in fiscal year 1985 and is receiving an additional 25 housing vouchers in fiscal year 1987, it must note that it has received a total of 45 housing vouchers, 25 of which are fiscal year 1987.

(2) The PHA is free to use all (in our example, 45) of its housing vouchers (and certificates, if it received any) immediately for its ongoing Housing Voucher Program, if it meets the following:

(i) The PHA assesses its program and determines that there is need for immediate use of some or all of the housing vouchers and that using these housing vouchers will not jeopardize the availability of the housing vouchers or certificates for rental rehabilitation purposes.

(ii) The PHS consults with the rental rehabilitation grantee (or State recipient) to determine the grantee's rehabilitation schedule and the timing of the PHA's issuance of certificate and housing vouchers in connection with the rental rehabilitation project.

(iii) The PHA develops a plan to ensure that housing vouchers or certificates will be available when the rental rehabilitation need arises.

(iv) The PHA certifies in its cover letter transmitting its ACC to HUD for HUD execution that it has consulted with the rental rehabilitation grantee.

(3) HUD will not amend the PHA's ACC to provide any additional authority for housing vouchers or certificates because the PHA has assessed incorrectly the future availability of housing vouchers or certificates. If no housing voucher or certificate is available when the rental rehabilitation need arises, the PHA may not issue replacement housing vouchers or certificates until funding becomes available.

(4) In issuing the housing vouchers or certificates for rental rehabilitation purposes:

(i) The PHA may issue a housing voucher or certificate to an eligible family living in a rental rehabilitation building prior to rehabilitation that would be displaced by the rental rehabilitation activities.

(ii) The PHA may issue a certificate to a lower income family living in a rental rehabilitation if the family would pay over 30 percent of its income for rent as the result of the rehabilitation.

(iii) The PHA may target assistance to families on its waiting list who agree to move initially into a rental rehabilitation project. The PHA only may target the equivalent of its total number of housing vouchers and certificates allocated in connection with rental rehabilitation *minus* the number of housing vouchers allocated to the PHA in connection with rental rehabilitation in fiscal year 1987. (In our example, the PHA is free to target 20 (45–25) housing vouchers or certificates to families on its waiting list.)

(iv) The PHA must include as part of its briefing packet to all housing voucher and certificate applicants information concerning the availability of rental rehabilitation projects for housing voucher and certificate holders.

I. Selecting Families and Issuing Housing Vouchers

(a) *Eligible Families.* (1) A family is eligible for assistance under the Housing Voucher Program if, at the time it initially receives assistance under the program, the family:

(i) Qualifies as a very low-income family;

(ii) Qualified as a lower income family (other than very low-income) and is displaced by rental rehabilitation activity under 24 CFR Part 511; or

(iii) Has been continuously assisted under the U.S. Housing Act of 1937.

(2) A lower income family in a rental rehabilitation project that is forced to vacate a unit because of physical construction, housing overcrowding, or a change in use of the unit, is considered "displaced". A lower income family that lives in a project undergoing rental rehabilitation activities whose post-rehabilitation rent would not be affordable is not considered "displaced" for this reason alone, for purposes of

determining housing voucher eligibility. (Such a targeted family may be issued a certificate to assist in paying the higher rent or in finding another unit; unlike housing vouchers, certificates are not subject to the statutory requirement for actual displacement as a condition of eligibility for a lower income family, but not very low-income family.) However, certificates are subject to section 16 restrictions discussed in § 813.105.

(3) Although the family may qualify under this paragraph (a), the PHA may be unable to issue a housing voucher to an applicant, or to a participant who wants to move to a new unit, because of the limitations described in paragraph (b) of this section.

(b) *Compliance with Section 16 of the U.S. Housing Act of 1937.* (1) *Five Percent Cap.* A PHA may issue a housing voucher to an eligible family with an income above 50 percent of area median income as provided in paragraph (a) of this section, subject to the requirements of section 16 of the 1937 Act. Section 16 restricts to five percent nationally the number of lower income families with incomes above 50 percent of median income that may be assisted under the 1937 Act (both Section 8 and public housing).

(2) *Rental Rehabilitation Displacee.* The Technical Amendments Act of 1984 (Pub. L. 98-479, 97 Stat 2218), approved October 17, 1984, extended housing voucher eligibility to families determined to be lower income families at the time they initially receive assistance and that are displaced by Rental Rehabilitation Program activities. However, because of the requirements of section 16 of the 1937 Act, HUD must authorize the issuance of housing vouchers for families under this paragraph (b)(2). The PHA must report each case to HUD.

(3) *Eligible Family with Income Greater than 50 percent of Median Income that has been Continuously Assisted under the 1937 Act.* The PHA may issue a housing voucher to a family with an income greater than 50 percent of median income that has been continuously assisted under the 1937 Act only in the following circumstances:

(i) The PHA may, without requesting prior HUD approval, issue a housing voucher to a family living in a public housing unit that is being demolished or disposed of with HUD approval. The PHA must report each case to HUD.

(ii) The PHA may, without requesting prior HUD approval, issue a housing voucher to a family residing in a unit that was assisted under a project-based Section 8 housing assistance payments contract that is being terminated. The PHA must report such initial issuance to HUD, unless the family uses the housing voucher assistance to remain in the same unit. If the family initially used its housing voucher assistance to remain in the same unit, but the family later requests a housing voucher to move to a new unit and its income at that time is greater than 50 percent of area median, the PHA must report each case to HUD.

(iii) The PHA may, without requesting prior HUD approval, issue a housing voucher to a family, if the family is a current housing voucher participant who wishes to move to another unit with housing voucher assistance and its income is greater than 50 percent of area median income. The PHA must report each case to HUD.

(iv) In all other cases, the PHA must request prior HUD approval before issuing a housing voucher to a family, if the family is assisted under another program under the 1937 Act and requests to transfer to the Housing Voucher Program (for example, issuance of a housing voucher to a family living in a public housing project).

(c) *Activities to Encourage Participation by Owners and Others.* The PHA must encourage participation by owners and others in the Housing Voucher Program as required under § 882.208 for the Section 8 Certificate Program.

(d) *Selecting Families; Issuing Housing Vouchers: Generally Applicable Procedures.* (1) The PHA must select eligible families for participation in accordance with § 882.209(a), except for the provisions in § 882.209(a)(4)(ii), which are specifically modified by paragraphs (e) and (f) of this section.

(2) The PHA must verify the sources of income and other information concerning the family necessary to determine eligibility and the amount of the housing assistance payment.

(3) The PHA must issue housing vouchers in accrodance with its occupancy standards established under § 882.209(b) and this Notice; however, if a family rents a unit with a larger or smaller number of bedrooms than stated on the housing voucher, section III.N.(c) of this Notice applies. The PHA must issue a housing voucher for a particular number of bedrooms consistent with its occupancy standards and consistently for all families of like composition.

(4)(i) If an applicant on the PHA's Section 8 waiting list is offered a housing voucher (except the offer of assistance in paragraphs (4)(ii) or (4)(iii) of this section) the family will not lose its place for refusing the housing voucher if it desires to wait for a certificate. Conversely, the family will not lose its place on the waiting list if the family refuses a certificate if it desires to wait for a housing voucher. However, if the family then refuses the second form of assistance when it is offered, the family must be taken off the waiting list. If the family so requests, it will be reinstated on the waiting list, but only in conformance with the PHA's HUD-approved administrative plan and equal opportunity housing plan.

(ii) In selecting applicants for participation in the Freestanding Demonstration, the PHA must offer an available certificate and housing voucher to a pair of families on the waiting list that qualify for the same size unit under the PHA's occupancy policy.

(iii) In selecting applicants for participation in the Small/Rural Demonstration, the PHA must offer an available housing voucher to the next family on the waiting list that qualifies for the unit size of the available housing voucher under the PHA's occupancy standards.

(iv) If an applicant is offered a housing voucher on the condition that the applicant initially must use the housing voucher in a Part 511 rental rehabilitation project, the refusal of the applicant to accept the housing voucher will not be counted as refusal of one form of assistance under paragraph (d)(4)(i) of this section.

(e) *Selecting families—Targeting Assistance to Applicant Living in Certain Projects.* (1) As a general rule, the PHA may not establish a selection preference based on the identity or location of the housing which is occupied by the applicant. However, if the Assistant Secretary for Housing provides housing vouchers funding for families living in any of the following types of projects, the PHA must use the funding initially to assist families living in the projects.

(i) Public housing units that are being demolished or disposed of with HUD approval;

(ii) Section 8 New Construction (Part 880) or Substantial Rehabilitation (Part 881) projects where the owner has sole discretion to opt-out of an additional term of assistance under the Section 8 Housing Assistance Payment Program and does so;

(iii) Section 8 Loan Management Set-Aside projects (Part 886, Subpart A) where the owner and HUD do not agree to renew the contract of assistance for an additional term;

(iv) Public housing units, where HUD has made a determination under section III.D.(f) of this Notice that housing voucher funding is necessary for the desegregation of the PHA's public housing (but, see also paragraph (f)(1) of

this section, which describes a concurrent use authorized for these housing vouchers); and

(v) Part 511 Rental Rehabilitation projects (but see also section III.H. of this Notice and paragraph (f) of this section). After the grantee approves a rental rehabilitation project, the PHA must issue any needed housing vouchers to families living in the project to be rehabilitated sufficiently in advance of the time assistance will begin to give families time to decide whether to move (where they are not required to move) or to give them time to locate another unit (where they are required to move or choose to move).

(2) If the PHA issues a housing voucher to a family living in any of the projects identified in paragraphs (e)(1)(i) through (e)(1)(v) of this section, the family may use the assistance for an eligible unit located anywhere in the PHA's jurisdiction, consistent with the "finders-keepers" policy described in section III.K. of this Notice.

(f) *Selecting Families—Targeting Assistance to Families on the PHA's Waiting List.* The following rules also apply to the PHA in selecting families to assist.

(1) If HUD has provided housing voucher assistance based on a determination under section III.D.(e) of this Notice, to assist in the desegregation of the PHA's public housing, the PHA must issue housing vouchers to eligible families on the PHA's *public housing* waiting list (or to families living in public housing in accordance with paragraph (e)(1)(iv) of this section). The family may use the assistance for an eligible unit located anywhere in the PHA's jurisdiction, consistent with the "finders-keepers" policy described in section III.K. of this Notice.

(2) If HUD has provided housing voucher assistance in connection with Part 511 Rental Rehabilitation projects, and the grantee so requests, the PHA may choose families from its Section 8 waiting list who agree to move initially into a rehabilitated project. The following rules apply:

(i) A family who accepts a housing voucher under this paragraph (f)(2) must first use the housing voucher to occupy a dwelling unit rehabilitated under the Part 511 Rental Rehabilitation Program and specifically identified by the PHA when the housing voucher was offered.

(ii) Any housing vouchers issued under this paragraph must be issued to the families selected from the PHA's waiting list approximately 60 days before the estimated completion date for the rehabilitation work.

(iii) In using the housing vouchers for the families selected from the PHA's waiting list, the PHA is limited to the total number of housing vouchers allocated in connection with rental rehabilitation minus any housing vouchers allocated in fiscal year 1987 in connection with rental rehabilitation. (For example, if the PHA received 15 housing vouchers in connection with a fiscal year 1984 rental rehabilitation project; 50 in connection with a fiscal year 1986 rental rehabilitation project; and 20 housing vouchers in connection with a fiscal year 1987 rental rehabilitation project, the PHA may target 65 to families on its waiting list (sum of all years (85) minus fiscal year 1987 (20)=65).

(g) *PHA Briefing of Families.* The PHA must brief each family in accordance with § 882.209(c), and must include information on the range of neighborhoods in which the family may find units meeting program requirements and information on possibilities for participating in available portability programs as described in section III.L. of this Notice. Section 882.209(c)(7) does not apply. Instead, the PHA must brief the family on the function of the payment standard, determination of the housing assistance payment, the incentive for selecting a unit renting for less than the payment standard, and the minimum rent the family must pay. In jurisdictions in which the PHA is administering both a Section 8 Certificate Program and a Housing Voucher Program, the PHA also must explain how the principal features of the Housing Voucher Program differ from the Section 8 Existing Certificate Program.

(h) *Housing Voucher Packet.* The PHA must give each family a housing voucher packet in accordance with § 882.209(b)(4), except that instead of information on the Total Tenant Payment and the Tenant Rent, the PHA must give the family information on how the PHA computes the housing assistance payments. The PHA also must provide to the family as complete information as possible about available rental rehabilitation projects as possible places for the family to find housing.

(i) *Term of Housing Voucher.* Section 882.209(d), Expiration and Extension of Certificate, applies to housing vouchers issued in the Housing Voucher Program.

J. Housing Voucher Payments

(a) *Overview.* The determination of the amount of assistance provided a family in the Housing Voucher Program is based on the concept of the payment standard. Each PHA adopts a schedule of payment standard amounts, broken down by unit size and Fair Market Rent area. The amount of housing assistance paid on behalf of a family is determined by subtracting 30 percent of a family's monthly adjusted income (as determined under Part 813) from the payment standard amount applicable to the family (and subject to the minimum rent calculation in paragraph (d)(3) of this section). To assure affordability, the PHA may revise its payment standard amounts twice in any five-year period. The family's housing assistance payment also may change if the family's income or composition changes. This section J. explains how the housing assistance payments system works.

(b) *Definition.* (1) *General.* A payment standard is an amount used to calculate the housing assistance a family will receive in the PHA's Housing Voucher Program. The PHA must establish a schedule of payment standard amounts by unit size (single room occupancy, zero-bedroom, one-bedroom, etc.) and Fair Market Rent area. There is only one payment standard schedule in effect at any given time.

(2) *Single Room Occupancy Payment Standard.* Any PHA that wishes to utilize SRO housing must propose for HUD approval an SRO payment standard for the PHA's jurisdiction. The PHA may propose a payment standard amount that is within the range of 75 to 100 percent of the applicable published 0-bedroom Fair Market Rent or the HUD-approved, community-wide exception rent. Within this range, the proposed payment standard must reflect the presence of sanitary facilities or food preparation facilities, or the absence of both and what must be paid to obtain privately owned, existing, decent, safe and sanitary rental SRO housing of modest (non-luxury) nature with suitable amenities.

(3) *Independent Group Residence Payment Standard.* The payment standard for a participant in an IGR is determined by dividing the dollar amount of the payment standard for the entire residence (for example, the 4-bedroom payment standard for a 4-bedroom residence) by the total number of potential occupants (assisted or unassisted), excluding a resident assistant (if any) occupying no more than one bedroom.

(c) *Adoption of Payment Standard.* Each PHA administering a Housing Voucher Program must adopt a schedule of payment standard amounts no later than May 19, 1987. The following apply:

(1) For a PHA that receives its first increment of funding in fiscal year 1987, or a PHA that had its first increment of funding reserved in a previous year, but

does not yet have an executed ACC, the payment standard schedule amounts must be the same as the Fair Market Rents published for effect or the HUD-approved community-wide exception rents at the time the ACC is executed by HUD.

(2) For a PHA that has received a previous increment of funding (for which the ACC was executed before February 19, 1987, the payment standard schedule amounts may be anywhere between (i) its initial payment standard (*i.e.*, the Fair Market Rents in effect when the ACC was executed for the first funding increment) and (ii) the Fair Market Rents published for effect or the HUD-approved community wide exception rents at the time of adoption of the payment standard schedule.

(3) A payment standard may never exceed the applicable Fair Market Rent published for effect or the HUD-approved community-wide exception rent.

(d) *How to Use the Payment Standard.* (1) The PHA uses the payment standard schedule to determine what payment standard amount applies to a particular family's circumstances. The appropriate amount is determined by the family size and composition and the PHA's occupancy standards. Once the payment standard amount is determined from the schedule, the PHA subtracts 30 percent of the family's monthly adjusted income (as computed under Part 813) to arrive at the amount of assistance the PHA will provide to the owner on behalf of the family. (For example, if a family qualified for a four-bedroom housing voucher and has a monthly adjusted income of $500, and the payment standard for a four-bedroom housing voucher is $600, the housing assistance payment for the family is the payment standard ($600) minus 30 percent of the family's monthly adjusted income ($150) or $450.) Before entering into a housing voucher contract with the owner for this amount, the PHA must complete the "minimum rent" calculation in paragraph (d) (3) of this section to ensure that the family is paying at least the minimum amount required by law.

(2) If a unit rents for more than the payment standard, the housing assistance payment is not increased, nor is the family told it must find another unit, as in the Certificate Program. Instead, the family may pay the entire difference between the rent to the owner and the housing voucher assistance. If the unit rents for less than the payment standard, the family benefits by paying less than 30 percent of its monthly adjusted income toward rent, subject to the minimum rent calculation.

(3) The family must contribute at least 10 percent of its monthly gross income for rent. The PHA must ensure that the housing assistance is not greater than the difference between the rent to owner plus any applicable utility allowance and 10 percent of the family's monthly gross income, determined in accordance with Part 813. (This is the only time that actual rent for a unit is used to make a housing assistance payment calculation).

(4) The payment standard schedule adopted by May 19, 1987 by a PHA already administering the Housing Voucher Program is the payment standard schedule the PHA use to determine all houing assistance payments for all families in the PHA's Housing Voucher Program, until the payment standard schedule is amended by an affordability adjustment under the procedures of paragraph (e) of this section.

(e) *Changing the payment standard: affordability adjustments.* (1) *General.* To assure continued affordability, the PHA may, in its discretion, adopt up to two affordability adjustments for each unit size and each FMR area in any five-year period. The PHA must examine when the two previous affordability adjustments were adopted to ensure that no more than two are adopted within any five-year period.

(2) *Previously adopted affordability adjustments.* Affordability adjustments may be adopted for a single unit size. Any previous adjustment standard schedules that adjusted the payment standard amounts for particular unit sizes are counted only as affordability adjustments for the particular unit size(s) for which the payment standard amount was increased, but not as an affordability adjustment for the PHA's entire Housing Voucher Program. (Previoulsy adopted new family/mover schedules were not considered affordability adjustments and should not be counted as such.)

(3) *Affordability cap.* An affordability adjustment may not cause the payment standard amount for the unit size to exceed the dollar amounts of the published FMRs or the HUD-approved community-wide exception rent for the unit size in effect at the time of the adjustment.

(4) *Required consultation.* Before adopting an affordability adjustment, the PHA must consult with the public and the unit of general local government in the PHA's jurisdiction concerning the impact of the adjustment on the number of families that can be assisted.

(f) *Changing the payment standard schedule: lower FMRs.* When FMRs are published for effect in the **Federal Register** and the FMRs are lower than the amounts in the PHA's payment standard schedule (as amended by any affordability adjustments), the PHA must adopt new payment standards, using the lower, effective FMRs or the HUD-approved, community-wide exception rents. Since this revision of the payment standard schedule is required by HUD because of lower FMRs, it is not subject to the two-in-five-year limitation on the PHA's discretionary authority to adopt adjustments in order to assure continued affordability.

(g) *When a family's payment standard may change.* The only times the payment standard that is applied to a family may change are:

(1) At regular reexamination (see rules for regular reexamination in paragraph (h) of this section); or

(2) At the time a family moves to another unit (see paragraph (i) of this section for additional details).

(h) *Rules at regular reexamination.* (1) The payment standard that applied to a family at the time of initial lease approval for the unit or at its most recent regular reexamination continues to be used to determine the amount of housing assistance to be paid on behalf of the family unless one of the following circumstances applies:

(i) The PHA has adopted an affordability adjustment revising the payment standard applicable to the family;

(ii) The PHA has adopted new occupancy standards. In this case, the payment standard for the appropriate unit size under the PHA's new occupancy standards is used;

(iii) The family' size or composition has changed. In this case, the payment standard for the appropriate unit size is used.

(2) Unless there has been a change in family size or composition or a change in the PHA's occupancy standards, the payment standard for a particular family at the time of reexamination may not be determined to be less than the payment standard previoulsy used for the family.

(i) *Rule when a family moves.* The payment standard that applied to a family at the time of initial lease approval for the unit or at its most recent regular reexamination continues to be used to determine the amount of housing assistance to be paid on behalf of the family, unless one of the following circumstances applies:

(i) The PHA had adopted a new payment standard or an affordability adjustment revising the payment standard applicable to the family;

(ii) The PHA has adopted new occupancy standards. In this case, the payment standard for the appropriate size under the PHA's new occupancy standards is used;

(iii) The family's size or composition has changed. In this case, the payment standard for the appropriate unit sizes is used.

(j) *Request for interim reexamination.* A family may request an interim reexamination of income, as provided for in section III.Q. of this Notice, which may result in a change in family income or adjusted income, but not in the payment standard applicable to the family.

(k) *Prohibition Against Double Subsidy.* In no event may any family receive the benefit of housing voucher assistance while receiving one of the following: other section 8 or section 23 housing assistance; section 101 rent supplements; section 236 rental assistance payments; or other duplicative Federal, State or local housing subsidy, as determined by HUD. In the case of section 236 units having only interest reduction subsidy (insured or noninsured) the duplicative subsidy must be prevented by the owner's setting the unit rent to owner for a housing voucher participant at the lesser of the market rent for the unit, as approved by HUD, or the payment standard, but not less than basic rent.

(l) *No Payments for Vacancies.* If a family moves from the unit, the owner must notify the PHA promptly, and the PHA may not make any additional housing assistance payments to the owner for any month after the month during which the family moves. The owner may retain the housing assistance payment for the month during which the family moves.

(m) *Utility Reimbursement.* (1) Where the rent to the owner does not include some or all utilities and the family pays the utility company directly, occasionally the housing assistance payment will exceed the rent to the owner for the unit. In such a case, the PHA must pay to the family as a utility reimbursement the excess of the housing assistance payment over the rent payable to the owner. (Without this reimbursement, the family's housing assistance payment would be less than the amount for which the family is eligible under the subsidy formula.) For example, if the payment standard amount is $500, and $120 is 30 percent of a family's monthly adjusted income, the housing assistance payment would be $380. If the rent to owner is $350, and the utility allowance is $150, the PHA pays $350 to the owner and the remaining $30 of the housing voucher payment to the family as a utility reimbursement.

(2) If the family and the utility company consent, the PHA may pay the utility reimbursement jointly to the family and the utility company or directly to the utility company.

(n) *Assisting More Families.* If a PHA determines that some or all of the available annual contributions under its ACC are not needed for participating families, including future adjustments of housing assistance payments and portability moves, it may assist more families.

K. Finders-Keepers Policy

Except as described in paragraph K.(c) below, this section sets forth the same policy that applies to the Certificate Program.

(a) A Family with a housing voucher is responsible for finding a housing unit suitable to the family's needs and desires in any area where the PHA (including the receiving PHA when the family is participating under the portability procedures in section III.L. of this Notice) determines that it is not legally barred from entering into contracts. A family may select the dwelling unit that it already occupies, if the unit is approvable. Upon request, the PHA must assist a family in finding a unit in circumstances where, because of age, handicap, large family size or other reasons, the family is unable to locate an approvable unit. The PHA also must provide assistance where the family alleges that illegal discrimination on grounds of race, color, religion, sex, national origin, age or handicap is preventing it from finding a suitable unit, and in appropriate cases must provide the family with a copy of a Form HUD–903 for use in filing a housing discrimination complaint. This assistance must be in accordance with the PHA's approved equal opportunity housing plan.

(b) Neither in assisting a family in finding a unit nor by any other action may the PHA directly or indirectly reduce the family's opportunity to choose among the available units in the housing market.

(c) This section III.K. applies to any family to which a housing voucher is issued by a PHA. The finders-keepers policy does not apply to the first occupancy by a family on the PHA's waiting list that is issued a Housing Voucher because the family agrees to move initially into a project rehabilitated under the Rental Rehabilitation Program, when applicable (see section III.I.(f)(2) of this Notice). However, after initial use of the housing voucher in the rehabilitated project, the family is free to move to any other approvable unit in the PHA's jurisdiction, consistent with the Finders-Keepers policy, or to move to another PHA's jurisdiction under section III.L. of this Notice.

L. Portability of Housing Vouchers

(a) *General Introduction.* (1) This section III.L. describes portability procedures for families participating in the Housing Voucher Program. Housing voucher portability procedures are not intended to supplant current voluntary mobility programs for the Section 8 Certificate Program that PHAs may determine to extend to housing voucher participants.

(2) If a PHA is administering a Housing Voucher Program in the location to which a family (housing voucher holder or participant) wishes to move, the PHA must accept the family and provide services to the family as if the family were a participant in its Housing Voucher Program. Where a PHA is not administering a Housing Voucher Program, the PHA is encouraged to administer the housing voucher assistance on behalf of the family or to issue the family one of the receiving PHA's available Section 8 certificates. The details of the housing voucher portability program are discussed in paragraph (d) of this section.

(b) *Mobility Under Current Section 8 Procedures.* Current § 882.103(c) of the regulations for the Section 8 Certificate Program encourages PHAs to promote greater choice of housing opportunities for eligible families by:

(1) Seeking participation of owners within the PHA's jurisdiction;

(2) Advising families of their opportunities to lease housing throughout the PHA's jurisdiction;

(3) Cooperating with other PHAs by issuing certificates to families already receiving the benefit of Section 8 housing assistance payments who wish to move from the operating area of one PHA to another; and

(4) Entering into administrative arrangements with other PHAs in order to permit certificate holders to seek housing in the broadest range of areas.

(c) *Applicability of Current Mobility Procedures.* Current procedures for the Section 8 Existing Housing Certificate Program designed to facilitate mobility of assisted families, discussed in paragraph (b) of this section, apply to the Housing Voucher Program, wherever feasible to increase the opportunities of families participating in the Housing Voucher Program. If the family desires to move and can move with the

opportunity for continued housing voucher or certificate assistance under a voluntary mobility program described in paragraph (b) of this section, the PHA is not required to use the portability procedures described in paragraph (d) of this section.

(d) *Portability Under the Housing Voucher Program.* (1) *Scope.* The procedures in this paragraph (d) are to be used only for the Housing Voucher Program.

(2) *General.* The purpose of this paragraph (d) is to establish procedures to be used in the Housing Voucher Program when a family desires to stay in the program, but wishes to move outside its current PHA's jurisdiction.

(i) Portability will provide an opportunity to a housing voucher holder or participant to move to any other housing voucher jurisdiction, by requiring the receiving PHA to accept the family, subject to the limitations identified in this paragraph (d). The receiving PHA may choose to bill the initial PHA for assistance payments made on behalf of the family, or it may decide to provide housing voucher assistance to the family under its own ACC.

(ii) This portability feature also promotes moves of housing voucher holders or participants to non-housing voucher jurisdictions by encouraging PHAs with certificate programs to participate on a voluntary basis. If the family chooses to move to an area without a Housing Voucher Program, the receiving PHA is not required to accept the family. The receiving PHA may administer the housing voucher and bill the initial PHA, or it may issue the family one of its certificates.

(3) *Eligibility for portability.* A family is eligible for portability if it lives in the initial PHA's jurisdiction and holds a current housing voucher, or if the family is a current participant (see § 882.209(a)) in the initial PHA's Housing Voucher Program.

(4) *Determination to deny or terminate assistance.* Either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance to the family in accordance with § 882.210, as modified by section III.S. of this Notice.

(5) *Responsibilities of the Initial PHA.* (i) The initial PHA must manage its Housing Voucher Program in a manner that will assure that it has the financial ability to provide continued housing voucher assistance in accordance with these portability procedures.

(ii) The initial PHA may deny the request to move if the number of families assisted under these portability procedures would constitute more than 15 percent of units under lease in the initial PHA's Housing Voucher Program.

(iii) If a Family eligible for portability notifies the initial PHA that it wants to move under these procedures and informs the PHA concerning the area to which the family wants to move, the initial PHA must determine whether the PHA in the new area administers a Housing Voucher Program and, if it does not, but operates a Certificate Program, whether the receiving PHA is willing to accept the family under paragraph (d)(ii) of this section III.L.

(iv) If the family is going to move under the portability provisions above, the initial PHA must notify the receiving PHA to expect the family. The initial PHA must verify to the receiving PHA that the family met income-eligibility requirements for admission to the program, and that the initial PHA issued the family a housing voucher consistent with section III.I. of this Notice, and must state the date (as determined in accordance with § 882.209(d)) by which the family must submit a request for lease approval in the jurisdiction of the receiving PHA.

(v) When the family moves out of the initial PHA's jurisdiction, the initial PHA retains funding for the housing voucher under its ACC.

(vi) The initial PHA must reimburse the receiving PHA for the full amount of the housing assistance payments made by the receiving PHA on behalf of the family. The amount of housing assistance is based on the payment standard in effect at the receiving PHA. If the receiving PHA elects to provide assistance to the family utilizing funding under the ACC for its own Certificate or Housing Voucher Program, the initial PHA is not required to reimburse the receiving PHA.

(vii) The initial PHA must reimburse the receiving PHA in the amount of 80 percent of the initial PHA's ongoing administrative fee for each unit month that the family under a housing voucher contract is receiving housing assistance in the receiving PHA's jurisdiction.

(viii) The initial PHA also may receive the preliminary fee for any new unit (limited by cost-justified expenses submitted up to the maximum amount allowed for this purpose), if the portable housing voucher qualified for the preliminary fee and a hard-to-house fee, if the family housed with the portable housing voucher qualified for the hard-to-house fee.

(ix) If the portability family leaves the Housing Voucher Program, or if the receiving PHA elects to provide assistance to the family utilizing funding under the ACC for its own Housing Voucher or Certificate Program, the initial PHA may use for other families the funding previously needed to support payment of subsidy for the portable housing voucher.

(6) *Responsibility of the Receiving PHA.* (i) A receiving PHA that administers a Housing Voucher Program must issue a housing voucher to a family moving from the Housing Voucher Program of another PHA. (But see paragraphs (c) and (d)(4) of this section L.) A receiving PHA that administers a Housing Voucher Program may not limit the number of housing vouchers issued to such families. The receiving PHA may either bill the initial PHA for the housing assistance payments on behalf of the family or may provide assistance to the family utilizing funding under the ACC for its own Housing Voucher or Certificate Program.

(ii) A receiving PHA that does not administer a Housing Voucher Progam, but does administer a Certificate Program may:

(A) Refer the initial PHA to a Statewide or other multi-jurisdictional PHA that administers a Housing Voucher Program in its jurisdiction;

(B) Administer the housing voucher assistance on behalf of the family and bill the initial PHA for amounts authorized in this paragraph (d); or

(C) Issue a certificate to the family, utilizing funding under the ACC for its own Certificate Program.

(iii) The receiving PHA must recertify the family's income initially and at least annually thereafter for purposes of determining the housing assistance payments. The receiving PHA may not deny the family a housing voucher on the ground that the family's income exceeds the income limits for housing voucher eligibility in the receiving PHA's jurisdiction.

(iv) The receiving PHA promptly must notify the initial PHA if a family fails to submit a request for lease approval by the date specified by the initial PHA.

(v) The amount of housing assistance payments to be made on behalf of the family is determined in accordance with section III.J. of this Notice. A non-housing voucher PHA must adopt a payment standard based on the appropriate Fair Market Rent or HUD-approved community-wide exception rent in effect in the receiving PHA's jurisdiction at the time of the family's initial lease approval, and must use all other applicable procedures in section III.J. of this Notice in determining assistance payments.

(vi) The receiving PHA must perform all of the functions normally associated with providing assistance to a family in a Housing Voucher Program, including

lease approval, annual recertification of income and annual inspection of the unit.

(vii) The receiving PHA may bill the initial PHA for an amount equal to 80 percent of the initial PHA's administrative fee, unless it elects to provide assistance to the family utilizing funding under the ACC for its own Certificate or Housing Voucher Program. The receiving PHA also may bill the initial PHA for up to the preliminary fee for housing vouchers for cost-justified expenses and for the hard-to-house fee.

(viii) The receiving PHA is responsible for making payments on behalf of the family to the owner. If the receiving PHA does not elect to provide assistance to the family utilizing funding under the ACC for its own Housing Voucher or Certificate Program, the receiving PHA bills the initial PHA for the amount of the housing assistance payments. The receiving PHA should notify the HUD Headquarters' Office of Elderly and Assisted Housing if the initial PHA neglects to respond to timely billing by the receiving PHA.

(ix) The receiving PHA must notify the initial PHA promptly if the family ceases to be a current participant in the initial PHA's Housing Voucher Program.

(7) *Subsequent moves.* (i) A family may move more than once using the portability procedures in this paragraph (d), although the initial PHA may limit family moves to not more than once in any twelve-month period.

(ii) When the family wishes to move from an area in which the receiving PHA has been billing the initial PHA, the PHA in the new jurisdiction to which the family moves becomes the receiving PHA. It then has all of the choices and obligations of a receiving PHA as described in this section. The first receiving PHA is no longer involved, because the initial PHA retains funding authority for the housing voucher.

(iii) When a family wishes to move from an area in which the receiving PHA has elected to provide assistance to the family utilizing funding under the ACC for its own Housing Voucher Program, this receiving PHA becomes the new initial PHA. It has all of the choices and obligations of an initial PHA as described in this section. The PHA in the new jurisdiction to which the family moves becomes the receiving PHA and has all of the choices and obligations of a receiving PHA as described in this section. In this situation, the initial PHA that originally selected the family is no longer involved.

M. Eligible and Ineligible Housing

(a) Housing that is eligible for use in the Housing Voucher Program is any existing dwelling unit determined by the PHA to be decent, safe, and sanitary (meeting the housing quality standards in § 882.109, except § 882.109(q)), except for the following types of housing:

(1) A unit that is owned by the PHA administering the ACC under this Notice, including both the receiving PHA and initial PHA under the portability provisions of section III.L. of this Notice;

(2) A unit that is receiving other assistance under the 1937 Act, other than assistance under section 17;

(3) Nursing homes, units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, or facilities that provide continual psychiatric, medical or nursing services; and

(4) A housing unit that is occupied by its owner (including the owner of a manufactured home leasing a manufactured home space). However, the 1937 Act provides that a PHA may use up to five percent of housing voucher authority to provide assistance with respect to cooperative or mutual housing that has a resale structure that maintains affordability for lower income families, if the PHA determines that such assistance will assist in maintaining affordability of such housing for lower income families. The PHA must obtain prior HUD Headquarters approval if the PHA wishes to exceed five percent of its housing voucher funding authority for this purpose.

(5) A housing unit used as transitional housing in the Department's Transitional Housing Demonstration Program.

(b) Elderly, handicapped, disabled, or displaced families and individuals may use congregate housing. Eligible elderly, handicapped or disabled families and individuals who require a planned program of continual supportive services may use independent group residences. The definitions of and relating to congregate housing and independent group residences in § 882.102 and the housing quality standards for independent group residences and congregate housing under § 882.109 apply to the Housing Voucher Program.

(c) SRO housing may be used only if: (1) The property is located in an area in which there is a significant demand for SRO units, as determined by the HUD Field Office; (2) the PHA and the unit of general local government in which the property is located approve the use of SRO units for such purpose; and (3) the unit of general local government and the local PHA certify to HUD that the property meets applicable local health and safety standards for SRO housing. Specific housing quality standards for SRO housing are in § 882.109, and they apply to the Housing Voucher Program.

(d) The 40 percent limitation under § 882.110(c) on the number of certain subsidized units in specified types of federally assisted housing shall apply. The PHA must count housing voucher units in determining compliance with the 40 percent limitation.

N. Approving Units and Executing Leases and Housing Voucher Contracts

(a) *Information to Owners and Requests to PHA for Lease Approval.* (1) The PHA must respond to inquiries from owners who have been approached by housing voucher holders by explaining the major program procedures, including lease provisions, lease approval procedures, housing quality inspections, contract provisions and payment procedures, and by furnishing copies of pertinent forms.

(2) When a family has found a unit it wants and the owner is willing to lease, the family must submit to the PHA a request for lease approval signed by the owner of the unit and the family. At the same time, the family must submit a copy of the proposed lease for the unit, which must include the lease provisions prescribed by HUD for the Housing Voucher Program. At the time of submission of the lease, it must be complete except for execution.

(b) *Decent, Safe, and Sanitary Condition of the Unit.* In accordance with § 882.209(h), the PHA must inspect a unit to determine whether the unit meets the housing quality standards before the housing voucher contract is executed.

(c) *Unit Sizes That Vary from Housing Voucher.* (1) Regardless of the number of bedrooms stated on a housing voucher, the PHA may not prohibit a family from renting an otherwise acceptable unit on the ground that it is too large for the family.

(2) The PHA may not prevent a family from renting a unit with fewer bedrooms than stated on the housing voucher. However, the unit must meet the space requirements of the housing quality standards under § 882.109(c), or such variation as HUD may have approved.

(3) If the PHA determines that the assisted unit occupied by a participant family does not meet the space requirements of the housing quality standards under § 882.109(c) because of an increase in family size or a change in family composition, the PHA must issue the participant family a new housing voucher, and the family and the PHA must try to find an acceptable unit as soon as possible.

(4) The policies stated in paragraphs (c)(1)–(3) of this section are similar to policies applied in the Certificate Program (see §§ 882.209(i) and 882.213). References to compliance with maximum rent restrictions are not included, since there are no maximum rents in the Housing Voucher Program.

(d) *Lease Requirements.* (1) *General.* (i) The lease between the owner and the family must be in accordance with section III.P. of this Notice and any applicable HUD requirements. The lease must include all provisions required by HUD and may not contain any provisions prohibited by HUD.

(ii) In addition to the requirements identified in this paragraph (d), a lease for an independent group residence must comply with § 882.209(j)(2).

(2) *Term of Lease.* (i) The term of the lease begins on a date stated in the lease and continues until:

(A) A termination of the lease by the owner in accordance with section III.P. of this Notice.

(B) A termination of the lease by the family in accordance with the lease or by mutual agreement during the term of the lease. The lease must permit a termination of the lease by the family without cause, at any time after the first year of the term of the lease, on not more than 60 days' written notice by the family to the owner (with a copy to the PHA); or

(C) A termination of the housing voucher contract by the PHA.

(ii) The term of the lease must begin at least one year before the end of the term of the last funding increment under the ACC. The contract and the lease shall end if the PHA determines, in accordance with procedures prescribed by HUD, that funding under the ACC is insufficient to support continued assistance.

(iii) The owner may offer the family a new lease for execution by the family after approval by the PHA for a term beginning at any time after the first year of the term of the lease. The owner must give the tenant written notice of the offer, with a copy to the PHA, at least 60 days before the proposed beginning date of the new lease term. The offer may specify a reasonable time limit for acceptance by the family.

(e) *Approval and Disapproval of Leases and Execution of Housing Voucher Contracts and Related Documents.* The PHA must approve or disapprove leases and provide for execution of HUD-prescribed forms of housing voucher contracts and related documents in accordance with §§ 882.209(k) and (l) and § 882.215(b). References to approving the amount of rent payable to the owner and the rent reasonableness certification under § 882.106(b) do not apply, since there is no maximum rent payable to the owner under the Housing Voucher Program.

O. Maintenance, Operation and Inspections; Security Deposits

(a) *Maintenance, Operation and Inspections.* The requirements of § 882.211 concerning maintenance, operation and inspections of units apply. In addition, the PHA may not make any housing assistance payments for a unit that fails to meet the housing quality standards, unless the owner promptly corrects the defect and the PHA verifies the correction.

(b) *Security Deposits and Utility Deposits.* (1) If at the time of the initial execution of the lease the owner wishes to collect a security deposit, the amount shall be the greater of $50 or 30 percent of the family's monthly adjusted income. The amount of the security deposit also is limited by any applicable limitation under State or local law. If a housing voucher family rents its pre-program unit, a security deposit collected in excess of the maximum amount that was collected before PHA approval of a lease under the Housing Voucher Program does not have to be refunded until the family vacates the unit subject to the lease terms. The family is expected to pay security deposits and utility deposits from its own resources or from other public or private sources.

(2) Subject to State and local law, the owner may use the security deposit, including any interest on the deposit, in accordance with the housing voucher lease, as reimbursement for any unpaid rent payable by the family or for other amounts the family owes under the lease. The owner must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the family.

(3) If the family moves from the unit, the owner may claim reimbursement from the PHA for the amount the family owes under the lease (but not more than one month's rent to the owner), minus the greater of

(i) The security deposit actually collected or,

(ii) The maximum security deposit the Owner could have collected at initial lease execution in accordance with paragraph (b)(1) of this section.

(4) Any reimbursement under this section must be applied, first, toward any unpaid rent due under the lease, and then to any other amounts owed. No reimbursement may be claimed from the PHA for unpaid rent for the period after the family vacates the unit.

P. Termination of Tenancy by Owners

(a) The owner may not terminate the tenancy except for:

(1) Serious or repeated violation of the terms and conditions of the lease;

(2) Violation of Federal, State, or local law which imposes obligations on a tenant in connection with the occupancy or use of the dwelling unit and surrounding premises; or

(3) Other good cause. However, during the first year of the term of the lease, the owner may not terminate the tenancy for "other good cause", unless the termination is based on malfeasance or nonfeasance by the family.

(b) The following are some examples of "other good cause" for termination of tenancy by the owner:

(1) Failure by the family to accept the offer of a new lease in accordance with section III.N.(d)(iii) of this Notice;

(2) A family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or property;

(3) Criminal activity by family members involving crimes of physical violence to persons or property;

(4) The owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit; or

(5) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to rent the unit at a higher rental).

(c) The list of examples in paragraph (b) of this section is intended as a non-exclusive statement of some situations included in "other good cause", but may in no way be construed as a limitation on the application of "other good cause" to situations not included in the list. The owner may not terminate tenancy during the first year of the term of the lease for "other good cause" (see paragraph (a)(3) of this section for the grounds stated in paragraph (b)(1), (b)(4), or (b)(5) of this section).

(d) Any notice required under this section III.P. or section III.N.(d) of this Notice may run concurrently with any notice required under State or local law.

Q. Reexamination of Family Income and Composition

(a) The PHA must reexamine family income and famiy size and composition at least annually, and in accordance with 24 CFR Part 813.

(b) After reexamination, the PHA must adjust the amount of the housing assistance to reflect any changes in

family monthly adjusted income or monthly income, using the payment standard provisions in section III.J. of this Notice.

(c) If one year has elapsed since the date of the last housing assistance payment in accordance with section III.J. of this Notice, the housing assistance payments contract will terminate automatically.

(d) At any time, a family may request a redetermination of the housing assistance payment on the basis of a change in family income or adjusted income.

R. Family Obligations

(a) A family must:

(1) Supply any certification, release, information or documentation that the PHA or HUD determines to be necessary in the administration of the program, including information required for use by the PHA in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements;

(2) Allow the PHA to inspect the dwelling unit at reasonable times and after reasonable notice;

(3) Notify the PHA before vacating the dwelling unit; and

(4) Use the dwelling unit solely for residence by the family, and as the family's principal place of residence.

(b) A family may not:

(1) Sublease or assign the lease or transfer the unit;

(2) Own or have any interest in the dwelling unit, except as provided in section III.M.(a)(4) of this Notice;

(3) Commit any fraud in connection with the Housing Voucher Program; or

(4) Receive duplicative assistance under the Housing Voucher Program while occupying, or receiving assistance for occupancy of, any other unit assisted under any other Federal, State, or local housing assistance program (including any Section 8 program).

S. Grounds for Denial or Termination of Assistance

Section 882.210 applies to the Housing Voucher Program. However, the applicable family obligations are covered in section III.R. of this Notice, not in § 882.118.

T. Informal Review or Hearing

(a) The informal review or hearing requirements of § 882.216 apply to applicants and participating families. References to a participant's right to an informal hearing in cases involving the amount of the total tenant payment or tenant rent under § 882.216(b)(i) should be considerd to be references to computation of the amount of housing assistance payment for the family. Section 882.216(b)(1)(iii), concerning hearings where the PHA determines a family is residing in a unit with a larger number of bedrooms than appropriate, does not apply.

(b) If the housing voucher holder or participant wants to move with continued assistance under the Housing Voucher Program using the portability procedures in section III.L.(d) of this Notice, the family must be given the opportunity for an informal hearing in accordance with § 882.216(b) if the initial PHA or the receiving PHA decides to deny or terminate such continuing assistance. However, a receiving PHA that does not administer a Housing Voucher Program is not required to give the opportunity for an informal hearing on the PHA's election not to administer housing voucher assistance on behalf of the family.

U. Administrative Fees Paid to the PHA

(a) *General.* The ACC authorizes three types of fees to be paid to the PHA for HUD-approved costs associated with administering the Housing Voucher Program. The three types of fees are discussed below.

(b) *Preliminary fee: use.* HUD pays the PHA a preliminary fee for cost-certified tasks involved in taking families into the program to lease the number of units that can be supported with a new increment of housing voucher funding authority. This fee is intended to cover expenses incurred in helping families who inquire about or apply for the program (but never receive housing assistance for whatever reason), as well as all of the intake functions associated with achieving utilization of newly authorized funds. Examples of eligible costs include the following:

(1) The PHA's cost of preparing its Section 8 Housing Voucher Program application;

(2) The PHA's administrative overhead during initial lease-up, including rent, staff salaries, equipment and supplies;

(3) Publicizing the program;

(4) Briefing applicants and landlords;

(5) Reviewing applicants for assistance;

(6) Determining eligibility, including initial determination and verification of income;

(7) Conducting initial unit inspections;

(8) Reviewing leases; and

(9) Preparing housing voucher contracts.

(c) *Preliminary fee: amount:* For each funding increment, a PHA will receive a preliminary fee to cover actual expenses incurred before the housing voucher contract is executed. The preliminary fee equals the lesser of actual expenses approved by HUD or $215 for each housing voucher that results in an initial lease or housing voucher contract.

(d) *Preliminary fee: portable housing vouchers.* HUD will pay the initial PHA an additional preliminary fee when the initial PHA is billed for such a fee by a receiving PHA for one of the initial PHA's portable housing vouchers. All requirements of paragraphs (b) and (c) of this section apply. (For procedures on portable housing vouchers, see section III.L. of this Notice.)

(e) *Ongoing administrative fee: use.* The PHA earns the ongoing fee based on the number of units under housing voucher contracts on the first day of each month. The ongoing administrative fee is designed to cover the PHA's cost of administering assistance on behalf of the program participants. Examples of tasks include the following:

(1) Making housing assistance payments to owners;

(2) Reexamining family income;

(3) Conducting annual and special unit inspections;

(4) Maintaining continued occupancy after initial lease-up; and

(5) The PHA's administrative overhead after initial lease-up.

(f) *Ongoing administrative fee: amount.* The ongoing administrative fee equals 6.5 percent per month of the current Section 8 Existing Housing Fair Market Rent for the PHA's two-bedroom unit, published in the **Federal Register** in accordance with § 888.115 of this chapter.

(g) *Hard-to-house fee: use.* A hard-to-house fee is provided to cover the cost of special assistance given to a family with three or more minors to enable the family to find suitable housing. Special assistance includes the following:

(1) Maintaining up-to-date lists of owners with large units;

(2) Increasing outreach efforts to owners, real estate organizations and property management firms;

(3) Taking applications at home; and

(4) Following up weekly with housing voucher holders.

(h) *Hard-to-house fee: amount.* The PHA will receive a hard-to-house fee of $45 for special assistance provided to each family with three or more minors that results in a unit coming under lease in the Section 8 Housing Voucher Program. A family that rents in place does not qualify the PHA to receive a hard-to-house fee. The PHA qualifies for a hard-to-house fee each time an eligible family moves and a new housing voucher contract is signed for a different unit.

(i) *Hard-to-house fee: portable housing vouchers.* HUD will pay the initial PHA an additional hard-to-house fee when the initial PHA is billed for such a fee by a receiving PHA for one of the initial PHA's portable housing vouchers. All requirements of paragraphs (g) and (h) of this section apply. (For procedures on portable housing vouchers, see section III.L. of this Notice.)

V. Reporting Requirements for the Freestanding Component and the Small/Rural Component

In addition to the reporting required for all components of the Housing Voucher Program, a PHA administering the freestanding or small/rural component of the Housing Voucher Program must collect complete and accurate records, as required by HUD, on certificates and housing vouchers issued under the component. The PHA must send copies of required forms to HUD or its designee, as HUD may specify for each certificate or housing voucher.

W. Subsequent Use of Housing Voucher Authority Targeted for Specific Uses

If HUD provides housing voucher funding for families living in particular kinds of projects (see section III.I.(e) of this Notice for a complete list), for desegregation of pubic housing projects (see section III.D.(e) of this Notice), or for use in connection with rental rehabilitation, the PHA must use the funding initially for the specified purpose. A housing voucher is considered as intitially used for the purpose provided where the PHA has approved a lease and executed a housing voucher contract for that purpose. Once this initial use is achieved, the PHA may use the authority for any purpose in furtherance of its approved Housing Voucher Program.

X. Deobligation of Rental Rehabilitation Grants and Effect on Housing Voucher Contract and Budget Authority Provided in Connection With the Rental Rehabilitation Grants

(a) If HUD deobligates rental rehabilitation grant amounts in accordance with 24 CFR 511.33, there also may be an effect on the amount of contract and budget authority available to the Department to fully allocate housing vouchers in connection with new rental rehabilitation grantees. To the extent fiscal year 1984, 1985 or 1986 Rental Rehabilitation *grant* funds have been deobligated and reallocated, HUD may offset previous housing voucher allocations to these areas with increases or decreases of FY 1987 housing voucher funds reflecting grant reallocations. This offsetting will attempt to maintain consistency with the level of allocations in fiscal years 1984, 1985 and 1986.

(b) Funds to support a reserve of housing vouchers will be held in Headquarters to provide additional housing voucher funding authority to States or similar multijurisdictional programs where offsetting cannot cover recaptures and reallocations of Rental Rehabilitation Program funds. Grantees that reallocate funds under these circumstances and, therefore, need additional housing voucher funding authority should contact their Field Office Community Planning and Development Division who will, in turn, notify Headquarters CPD of the request and the circumstances involved.

Y. Waivers

Upon determination of good cause, the Assistant Secretary for Housing-Federal Housing Commissioner may, subject to statutory limitations, waive any provision of this Notice. Each such waiver will be in writing and will be supported by documentation of the pertinent facts and grounds.

VI. Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since the Certificate Program and the Housing Voucher Program are part of the Section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. Currently approved requirements have been assigned the following OMB Control Numbers: 2502–0123; 2502–0154; 2502–0161; 2502–0185; 2502–0348; 2502–0350; 2577–0067 and 2577–0083.

Authority: Section 8(o) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)); section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d).

Dated: February 11, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

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